

STATE OF FLORIDA

Commissioners:  
JOE GARCIA, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.



DIVISION OF WATER & WASTEWATER  
DANIEL M. HOPPE, DIRECTOR  
(850) 413-6900

Public Service Commission

January 18, 2000

Ms. Gena F. Larison  
533 E. Crystal Lake Drive  
Avon Park, Florida 33825

Re: Docket No. 991889-WS, Application for transfer of Certificate Nos. 525-W and 454-S in Highlands County from Crystal Lake Club to CWS Communities LP d/b/a Crystal Lake Club.

Dear Ms. Larison:

The above referenced application has been received and reviewed by my staff. This letter is a follow up to the review and subsequent telephone call to your office concerning deficiencies which need to be cured and additional clarifications or corrections necessary to process the application.

Deficiencies

- Complete name and address of the seller: Pursuant to Rule 25-30.037(2)(a), Florida Administrative Code (F.A.C.), the complete name and address of the seller of the utility must be included in the application. Our records indicate that the seller should be: Crystal Lake Community, Limited Partnership; Diamond Valley Associates, Ltd.; Friendly Village Lancaster Associates, Ltd. d/b/a Crystal Lake Club. Please confirm the complete name and address of the seller.
- Complete name and address of the buyer: Pursuant to Rule 25-30.037(2)(b), F.A.C., the complete name and address of the seller of the utility must be included in the application. The information in the Real Estate Exchange and Contribution Agreement provided by you indicates that the buyer is Crystal Lake Community, L.P. d/b/a Crystal Lake Community, Limited Partnership. This information is different from that provided in the application. Please provide the correct name and address of the buyer.
- Copy of the contract for sale and all additional agreements: Pursuant to Rule 25-30.037(2)(g) and (h), F.A.C., a copy of the contract for sale and all auxiliary or supplemental agreements are to be submitted. The agreements shall include, if applicable:

AFA \_\_\_\_\_  
 APP \_\_\_\_\_  
 CAF \_\_\_\_\_  
 CMU \_\_\_\_\_  
 CTR \_\_\_\_\_  
 EAG \_\_\_\_\_  
 LEG \_\_\_\_\_  
 MAS \_\_\_\_\_  
 OPC \_\_\_\_\_  
 RRR \_\_\_\_\_  
 SEC \_\_\_\_\_  
 WAW \_\_\_\_\_  
 OTH \_\_\_\_\_

DOCUMENT NO.  
 00957.00  
 T-21-00

- (a) Purchase price and terms of payment.
- (b) A list of and the dollar amount of the assets purchased and liabilities assumed or not assumed, including those of nonregulated operations or entities.
- (c) A description of all consideration between the parties, for example, promised salaries, retainer fees, stock, stock options, assumption of obligations.

The contract for sale shall also provide for the disposition, where applicable, of the following:

- (1) Customer deposits and interest thereon;
- (2) Any guaranteed revenue contracts;
- (3) Developer agreements;
- (4) Customer advances;
- (5) Debt of the utility; and
- (6) Leases.

A review of the Real Estate Exchange and Contribution Agreement does not address these issues. Please provide copies of agreements that address these issues.

- 4. Additional statements: Pursuant to Rule 25-30.037(2)(j), F.A.C., a statement is to be provided which addresses: how the transfer is in the public interest; a summary of the buyer's experience; a showing of the buyer's financial ability to provide service; and that the buyer will fulfill the commitments, obligations and representations of the seller with regard to utility matters. The application does contain a summary of the buyer's experience and a showing of the buyer's financial ability to provide service. However, no statement was provided addressing how the transfer is in the public interest nor addressing that the buyer will fulfill the commitments, obligations and representations of the seller with regard to utility matters. Please provide a statement addressing the two missing subject areas.
- 5. Proposed net book value: Pursuant to Rule 25-30.037(2)(l), F.A.C., the application is to include a statement addressing the proposed net book value of the system as of the date of the proposed transfer. This statement is to include the rate base established by this Commission, including the order number and date issued, and all adjustments made to update the rate base to the date of transfer. The application indicated that this was addressed in Exhibits A & H, however no Exhibit A was included and Exhibit H appears to only address CWS Communities LP's financial condition. Please submit the requested statement concerning the utility.
- 6. Evidence the utility owns the land: Pursuant to Rule 25-30.037(2)(q), F.A.C., evidence that the utility either owns or has a 99-year lease for the property the utility is located on is to be submitted. Exhibit B submitted for this purpose provides evidence that CWS Communities

LP owns the property, not that CWS Communities LP d/b/a Crystal Lake Club owns the property. Please provide a recorded deed which shows the correction.

7. Outstanding fees, fines, or refunds: Pursuant to Rule 25-30.037(2)(r), F.A.C., a statement is to be provided which addresses the disposition of any outstanding regulatory assessment fees, fines, or refunds owed. Please provide a statement addressing this issue.
8. Tariff Sheets: Pursuant to Rule 25-30.037(2)(s), F.A.C., an original and two copies of tariff sheets reflecting the change in ownership are to be submitted. Please submit new tariffs, including the same information on the existing tariffs with the exceptions of the name, which should read "CWS Communities LP d/b/a Crystal Lake Club" and changing the name and title of the issuing officer, if appropriate.
9. Notices of actual application: Pursuant to Rule 25-30.030, F.A.C., specific styled notices are to be submitted to government bodies and other utilities as well as customers and for publication. None of the notices submitted contained all of the required information. All notices must be reissued according to the Rule. For your convenience, a copy of Rule 25-30.030, F.A.C., is attached as well as a recommended format for the notices. The territory description included in the notices must include, at a minimum, Section, Township and Range served by the utility. A copy of your territory description, found in your tariff, is enclosed for your convenience. Also, all affidavits must be resubmitted. An updated copy of the government bodies and other utilities to be noticed is also attached.
10. Transfer without prior Commission approval: Pursuant to Section 367.071, Florida Statutes, no transfer is to take place without prior Commission approval. This section was modified effective June 11, 1999, to allow for transfer prior to commission approval if the contract for sale, assignment, or transfer is made contingent upon commission approval. Therefore, if the closing took place prior to June 11, 1999, or if the sales contract did not have wording making the contract contingent upon approval of the Commission, please provide a statement explaining why the closing took place prior to receiving Commission approval.

The original and four copies of the response to the information requested in this letter should be filed with the Commission on or before **March 17, 2000**. When filing the response, please be sure to reference the docket and to direct the response to :

**Director, Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850**

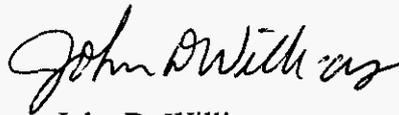
Ms. Gena F. Larison

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January 18, 2000

Should you have any questions concerning the information requested in this letter, please contact Ms. Stephanie Clapp, of my staff, at (850) 413-6997.

Sincerely,



John D. Williams  
Chief, Bureau of Policy Development  
and Industry Structure

JDW/sc  
attachments

cc: Division of Water and Wastewater (lowe, Messer, Clapp, Redemann)  
Division of Legal Services (Crosby)  
Division of Records and Reporting

**RULE 25-30.030 FLORIDA ADMINISTRATIVE CODE**  
**NOTICE OF APPLICATION**

(1) When a utility applies for a certificate of authorization, an extension or deletion of its service area, or a sale, assignment or transfer of its certificate of authorization, facilities or any portion thereof or majority organizational control, it shall provide notice of its application in the manner and to the entities described in this section.

(2) Before providing notice in accordance with this section, a utility shall obtain from the Commission a list of the names and addresses of the municipalities, the county or counties, the regional planning council, the Office of Public Counsel, the Commission's Director of Records and Reporting, the appropriate regional office of the Department of Environmental Protection, the appropriate water management district, and privately-owned water and wastewater utilities that hold a certificate granted by the Public Service Commission and that are located within the county in which the utility or the territory proposed to be served is located. In addition, if any portion of the proposed territory is within one mile of a county boundary, the utility shall obtain from the Commission a list of the names and addresses of the privately-owned utilities located in the bordering counties and holding a certificate granted by the Commission. The utility's request for the list shall include a complete legal description of the territory to be requested in the application that includes:

(a) a reference to township(s), range(s), land section(s) and county; and

(b) a complete and accurate description of the territory served or proposed to be served in one of the following formats. The description may reference interstates, state roads, and major bodies of water. The description shall not rely on references to government lots, local streets, recorded plats or lots, tracts, or other recorded instruments.

1. Sections: If the territory includes complete sections, the description shall only include the township, range, and section reference. If the territory includes partial sections, the description shall either identify the subsections included or excluded.

2. Metes and bounds: A point of beginning which is referenced from either a section corner or a subsection corner, such as a quarter corner. The perimeter shall be described by traversing the proposed territory and closing at the point of

beginning. The description shall include all bearings and distances necessary to provide a continuous description.

(3) The notice shall be appropriately styled:

(a) Notice of Application for an Initial Certificate of Authorization for Water, Wastewater, or Water and Wastewater Certificate;

(b) Notice of Application for an Extension of Service Area;

(c) Notice of Application for Deletion of Service Area;

(d) Notice of Application for a Transfer of Water, Wastewater, or Water and Wastewater Certificate(s); or

(e) Notice of Application for a Transfer of Majority Organizational Control.

(4) The notice shall include the following:

(a) the date the notice is given;

(b) the name and address of the applicant;

(c) a description, using township, range and section references, of the territory proposed to be either served, added, deleted, or transferred; and

(d) a statement that any objections to the application must be filed with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, no later than 30 days after the last date that the notice was mailed or published, whichever is later.

(5) Within 7 days of filing its application, the utility shall provide a copy of the notice by regular mail to:

(a) the governing body of the county in which the utility system or the territory proposed to be served is located;

(b) the governing body of any municipality contained on the list obtained pursuant to (2) above;

(c) the regional planning council designated by the Clean Water Act, 33 U.S.C. 1288(2);

(d) all water or wastewater utilities contained on the list(s) obtained pursuant to (2) above;

(e) the office of Public Counsel;

(f) the Commission's Director of Records and Reporting;

(g) the appropriate regional office of the Department of Environmental Protection; and

(h) the appropriate Water Management District.

(6) No sooner than 21 days before the application is filed and no later than 7 days after the application is filed, the utility shall also provide a copy of the Notice, by regular mail or personal service, to each customer, of the system to be certificated, transferred, acquired, or deleted.

(7) The Notice shall be published once in a newspaper of general circulation in the territory proposed to be served, added,

deleted, or transferred. The publication shall be within 7 days of filing the application.

(8) A copy of the notice(s) and list of the entities receiving notice pursuant to this rule shall accompany the affidavit required by sections 367.045(1) (e) and (2) (f), Florida Statutes. The affidavit shall be filed no later than 15 days after filing the application.

(9) This rule does not apply to applications for grandfather certificates filed under section 367.171, Florida Statutes, or to applications for transfers to governmental authorities filed under Section 367.071, Florida Statutes, or to name changes.

**Specific Authority:** 350.127(2), 367.121(1), F.S.

**Law Implemented:** 367.031, 367.045, 367.071, F.S.

**History:** New 4/5/81, formerly 25-10.061, Transferred from 25-10.0061 and Amended 11/9/86, Amended 1/27/91, Amended 11/30/93.

SAMPLE PUBLICATION / LEGAL NOTICE FOR  
APPLICATION FOR TRANSFER OF CERTIFICATE

(Section 367.071, Florida Statutes)

LEGAL NOTICE

Notice is hereby given on \_\_\_\_\_ (Date) \_\_\_\_\_, pursuant to Section 367.071, Florida Statutes, of the application for a transfer of Water Certificate No. \_\_\_\_\_ and/or Wastewater Certificate No. \_\_\_\_\_ held by \_\_\_\_\_ (Name of Utility) \_\_\_\_\_ from \_\_\_\_\_ (Name of Seller) \_\_\_\_\_ to \_\_\_\_\_ (Name of Buyer) \_\_\_\_\_, providing service to the following described territory in \_\_\_\_\_ (County) \_\_\_\_\_, Florida.

(Insert a brief description of the area proposed to be served. Use the Survey of Public Lands method (township, range, section, and quarter section) if possible, or a metes and bounds description, and also the subdivision or project name. The description should NOT refer to land grants or plat books, but may use geographic boundaries (i.e., road right-of-ways, railroads, rivers, creeks, etc.). The object is to make the description as brief, but as accurate as possible.)

Any objection to the said application must be made in writing and filed with the Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within thirty (30) days from the date of this notice. At the same time, a copy of said objection should be mailed to the applicant whose address is set forth below. The objection must state the grounds for the objection with particularity.

(Utility name and address)

**SECTION 367.071, FLORIDA STATUTES**  
**SALE, ASSIGNMENT, OR TRANSFER OF CERTIFICATE OF**  
**AUTHORIZATION, FACILITIES, OR CONTROL**

(1) No utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without determination and approval of the commission that the proposed sale, assignment, or transfer is in the public interest and that the buyer, assignee, or transferee will fulfill the commitments, obligations, and representations of the utility. **However, a sale, assignment, or transfer of its certificate of authorization, facilities or any portion thereof, or majority organizational control may occur prior to commission approval if the contract for sale, assignment, or transfer is made contingent upon commission approval.** (NOTE: The statement in bold became effective on June 11, 1999.)

(2) The commission may impose a penalty pursuant to s. 367.161 when a transfer occurs prior to approval by the commission. The transferor remains liable for any outstanding regulatory assessment fees, fines, or refunds of the utility.

(3) An application for proposed sale, assignment, or transfer shall be accompanied by a fee as provided by s. 367.145. No fee is required to be paid by a governmental authority that is the buyer, assignee, or transferee.

(4) An application shall be disposed of as provided in s. 367.045, except that:

(a) The sale of facilities, in whole or part, to a governmental authority shall be approved as a matter of right; however, the governmental authority shall, prior to taking any official action, obtain from the utility or commission with respect to the facilities to be sold the most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions-in-aid-of-construction. Any request for rate relief pending before the commission at the time of sale is deemed to have been withdrawn. Interim rates, if previously approved by the commission, must be discontinued, and any money collected pursuant to interim rate relief must be refunded to the customers of the utility with interest.

(b) When paragraph (a) does not apply, the commission shall amend the certificate of authorization as necessary to reflect the change resulting from the sale, assignment, or transfer.

(5) The commission by order may establish the rate base for a utility or its facilities or property when the commission approves a sale, assignment, or transfer thereof, except for any sale, assignment, or transfer to a governmental authority.

(6) Any person, company, or organization that obtains ownership or control over any system, or part thereof, through foreclosure of a mortgage or other encumbrance, shall continue service without interruption and may not remove or dismantle any portion of the system previously dedicated to public use which would impair the ability to provide service, without the express approval of the commission. This provision may be enforced by an injunction issued by a court of competent jurisdiction.

**History.**-s. 1, ch. 71-278; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 9, 25, 26, ch. 80-99; ss. 2, 3, ch. 81-318; ss. 7, 15, ch. 82-25; ss. 6, 26, 27, ch. 89-353; s. 2, ch. 90-166; s. 4, ch. 91-429; s. 5, ch. 99-319.

NAME OF COMPANY CRYSTAL LAKE CLUB

WATER TARIFF

(Continued from Sheet No. 3.0)

DESCRIPTION OF TERRITORY SERVEDDESCRIPTION OF TERRITORY SERVED

All that part of the SE1/4 and the SE1/4 of the NE1/4 of Section 2, Township 34 South, Range 28 East, lying West of the A.C.L. Railroad right-of-way together with that part of lots 9 to 14 inclusive, of WARREN AND MONDAY'S SUBDIVISION as recorded in P.B. 1, Page 10, Highlands County, Florida, lying within the following described boundary.

Commence at the SE corner of Sec. 2, T. 34 S., R. 28 E.; run thence N.1°08'50"W. along the line between Section 1 and 2 for 242.14 feet for a point of beginning, thence N.89°48'08"W., 2042.29 feet; thence N.1°16'18"W. in and parallel with the West line of said SE1/4 for 2352.93 feet to intersect the North line of said SE1/4 (being also the South line of said WARREN AND MONDAY SUBDIVISION); thence run N.20°20'23"W. 899.56 feet to a point herein designated point "A" which is the Westerly end of a control line along Lake Denton; thence continue N.20°20'23"W. 30 feet, more or less, to the shore of Lake Denton, thence Easterly along the meanders of Lake Denton, 370 feet, more or less to intersect the North line of lot 9 of WARREN AND MONDAY SUBDIVISION; thence N.88°38'32"E., 50.0 feet, more or less along said North line to a point of the aforesaid control line which bears N.68°29'12"E., 417.65 feet from said point "A", thence continue N.88°38'32"E. along said North line of Lot 9, 626.48 feet to intersect the East line of SW1/4 of NE1/4, thence N.1°12'34"W., 331.46 feet to the NW corner of SE1/4 of NE1/4, thence N.88°38'48"E. along North line of SE1/4 of NE1/4, 220.95 feet to the Westerly R/W line of the A.C.L. Railroad R/W, thence S.18°15'58"E. along said Westerly R/W, 3746.87 feet to the East line of Section 2; thence S.1°08'50"E., along the section line 149.60 feet to the point of beginning. Lying in Section 2, Township 34 South, Range 28 East, Highlands County, Florida. Also a 50 foot easement whose centerline is described as beginning at a point 437.82 feet North and 2051.50 feet West of the Southeast corner of Section 2, Township 34 South, Range 28 East, Highlands County, Florida, run N.89°48'08"W., 1548.40 feet, to the beginning of a 100 foot easement, thence continue N.89°48'08"W., 300.0 feet to a point in the East right-of-way boundary of SR-17A.

JOSEPH SHERWOOD

ISSUING OFFICERREGISTERED AGENT, CLAYTON, WILLIAMS, &  
TITLE SHERWOOD

LIST OF WATER AND WASTEWATER UTILITIES IN HIGHLANDS COUNTY

(VALID FOR 60 DAYS)  
01/18/2000-03/17/2000

UTILITY NAME

MANAGER

HIGHLANDS COUNTY

BUTTONWOOD BAY UTILITIES, INC. (WS387) % ROSE, SUNDSTROM & BENTLEY, LLP 2548 BLAIRSTONE PINES DRIVE TALLAHASSEE, FL 32301-5915	MARTIN S. FRIEDMAN (850) 877-6555
C & H UTILITIES, INC. (SU526) P. O. BOX 1088 SEBRING, FL 33871-1088	WENDELL L. FAIRCLOTH (941) 471-1400
C & H UTILITIES, INC. (WU649) P. O. BOX 1088 SEBRING, FL 33871-1088	WENDELL L. FAIRCLOTH (941) 471-1400
COUNTRY CLUB OF SEBRING (WS654) 4800 HAW BRANCH ROAD SEBRING, FL 33872-4706	R. GREG HARRIS (941) 382-8538
CREOLA, INC. (SU658) P. O. BOX 1346 SEBRING, FL 33871-1346	DAVID L. HICKMAN (941) 385-0981
CRYSTAL LAKE CLUB (WS636) % CLAYTON, SHERWOOD, WILLIAMS 2500 MAITLAND CENTER PARKWAY, STE. 105 MAITLAND, FL 32751-4165	JOE SHERWOOD (407) 660-0050
DAMON UTILITIES, INC. (WS551) 47 LAKE DAMON DRIVE AVON PARK, FL 33825-8902	LISA DAVIS (941) 453-0773
FAIRMOUNT UTILITIES, THE 2ND, INC. (SU648) P. O. BOX 488 AVON PARK, FL 33826-0488	ROGER E. MILLER (941) 385-8542
FLORIDA WATER SERVICES CORPORATION (WS618) P. O. BOX 609520 ORLANDO, FL 32860-9520	BRIAN P. ARMSTRONG (407) 598-4152
HARDER HALL - HOWARD, INC. (SU644) 122 EAST LAKE DRIVE BLVD. SEBRING, FL 33872-5018	PAUL E. HOWARD (941) 382-8725

LIST OF WATER AND WASTEWATER UTILITIES IN HIGHLANDS COUNTY

(VALID FOR 60 DAYS)  
01/18/2000-03/17/2000

UTILITY NAME

MANAGER

HIGHLANDS COUNTY (continued)

HEARTLAND UTILITIES, INC. (WU566)  
P. O. BOX 1991  
SEBRING, FL 33871-1991

HOWARD SHORT  
(941) 655-4300

HIGHLANDS RIDGE ASSOCIATES, INC. (WS672)  
3003 EAST FAIRWAY VISTA DRIVE  
AVON PARK, FL 33825-6001

ROB REED  
(941) 471-9976

HIGHLANDS UTILITIES CORPORATION (SU299)  
720 U.S. HIGHWAY 27 SOUTH  
LAKE PLACID, FL 33852-9515

DIXON PUGH  
(941) 465-1296

HOLMES UTILITIES, INC. (WU760)  
760 HENSCRATCH ROAD  
LAKE PLACID, FL 33852-8397

DANIEL HOLMES  
(941) 465-6044 OR -6911

LAKE JOSEPHINE WATER (WU349)  
760 HENSCRATCH ROAD  
LAKE PLACID, FL 33852-8397

DARALD E. PUGH  
(941) 465-2916

LAKE PLACID UTILITIES, INC. (WS709)  
% UTILITIES, INC.  
200 WEATHERSFIELD AVENUE  
ALTAMONTE SPRINGS, FL 32714-4099

DONALD RASMUSSEN  
(407) 869-1919

LANDMARK ENTERPRISES, INC. (SU686)  
62 LAKE HENRY DRIVE  
LAKE PLACID, FL 33852-6000

DAVID S. PLANK  
(941) 382-3030

PLACID LAKES UTILITIES, INC. (WU193)  
2000 JEFFERSON AVENUE, NORTH  
LAKE PLACID, FL 33852-9749

ROLAND TOBLER  
(941) 465-0345

SEBRING RIDGE UTILITIES, INC. (WS345)  
3625 VALERIE BLVD.  
SEBRING, FL 33870-7814

CHRISTOPHER F. MILLER  
(941) 385-8542

LIST OF WATER AND WASTEWATER UTILITIES IN HIGHLANDS COUNTY

(VALID FOR 60 DAYS)  
01/18/2000-03/17/2000

UTILITY NAME

MANAGER

GOVERNMENTAL AGENCIES

CENTRAL FL. REGIONAL PLANNING COUNCIL  
P.O. BOX 2089  
BARTOW, FL 33831

CLERK, BOARD OF COUNTY COMMISSIONERS, HIGHLANDS COUNTY  
590 SOUTH COMMERCE AVENUE  
SEBRING, FL 33870-3867

DEP SOUTH DISTRICT  
2295 VICTORIA AVE., SUITE 364  
FORT MYERS, FL 33901

MAYOR, CITY OF AVON PARK  
110 EAST MAIN STREET  
AVON PARK, FL 33825-3945

MAYOR, CITY OF SEBRING  
368 SOUTH COMMERCE AVENUE  
SEBRING, FL 33870-3606

MAYOR, TOWN OF LAKE PLACID  
50 PARK DRIVE  
LAKE PLACID, FL 33852-9693

S.W. FLORIDA WATER MANAGEMENT DISTRICT  
2379 BROAD STREET  
BROOKSVILLE, FL 34609-6899

SO. FLORIDA WATER MANAGEMENT DISTRICT  
P.O. BOX 24680  
WEST PALM BEACH, FL 33416-4680

LIST OF WATER AND WASTEWATER UTILITIES IN HIGHLANDS COUNTY

(VALID FOR 60 DAYS)  
01/18/2000-03/17/2000

UTILITY NAME

MANAGER

STATE OFFICIALS

STATE OF FLORIDA PUBLIC COUNSEL  
C/O THE HOUSE OF REPRESENTATIVES  
THE CAPITOL  
TALLAHASSEE, FL 32399-1300

DIVISION OF RECORDS AND REPORTING  
FLORIDA PUBLIC SERVICE COMMISSION  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850