ORIGINAL

STATE OF FLORIDA

OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

June 10, 2003

Mr. Carroll Webb
Joint Administrative Procedures
Committee
Room 120 Holland Building
Tallahassee, Florida 32399-1300

Re: PSC Docket No. 030470-WS

Dear Mr. Webb:

The Commission has received a Petition for Declaratory Statement from Florida Water Services Corporation on May 30, 2003. A copy of the petition is enclosed. A notice will be published in the Florida Administrative Weekly on June 20, 2003.

Sincerely,

Richard C. Bellak

Richard C. Bellak
Senior Attorney

cc: Division of the Commission Clerk
and Administrative Services

Enclosure

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a Declaratory Statement concerning individual water metering for Grand Isle, a multi-unit residential structure by Florida Water Services Corporation.	Docket No. 030470-WS Filed: May 30, 2003

FLORIDA WATER SERVICES CORPORATION'S
PETITION FOR DECLARATORY STATEMENT

Florida Water Services Corporation ("Florida Water"), by and through undersigned counsel, and pursuant to Section 120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code, hereby files this Petition for a Declaratory Statement authorizing Florida Water to provide water service to the residents of the Grand Isles Condominium in Lee County ("Grand Isles") through individual water meters, pursuant to Order No. PSC-03-0484-TRF-WS issued April 14, 2003, in Docket No. 020761-WU (the "Order"). In support of this Petition, Florida Water states as follows:

1. The name, address, telephone number and facsimile number of the Petitioner is as follows:

Florida Water Services Corporation
1000 Color Place
Apopka, Florida 32703
(407) 598-4165 (Telephone)
(407) 598-4241 (Facsimile)

2. The names, address, telephone number and facsimile number of Florida Water's counsel in this docket are:

Kenneth A. Hoffman, Esq.
Martin P. McDonnell, Esq.
Rutledge, Ecenia, Purnell & Hoffman, P.A.
P. O. Box 51
Tallahassee, Florida 32302
(850) 681-6788 (Telephone)
(850) 681-6515 (Facsimile)

BACKGROUND

3. Florida Water is a Class A utility which provides water and wastewater service in twenty-one of Florida's counties located in four of the five water management districts. In 1996, Florida Water implemented a policy mandating installation and use of individual meters for all newly constructed multi-residential buildings. The policy was adopted as a water conservation measure and is consistently implemented on a statewide basis.

4. Florida Water's individual metering policy is founded upon the uniformly held belief that water metering is a critical component of water conservation. Individual metering and other conservation measures are becoming increasingly important to Florida's consumers, utilities, and regulatory authorities. Indeed, a number of Florida's water management districts require utilities seeking water use permits to demonstrate implementation of water conservation measures, and individual metering is viewed favorably as such a measure.

5. For example, the St. Johns River Water Management District recently issued a consumptive use permit ("CUP") to Florida Water conditioned upon the absolute prohibition of the use of master meters to supply potable water to any multi-family or a multi-unit structure (excluding hospitals or hotels) developed after April 11, 2000. See Exhibit A to this Petition.

6. On April 26, 2002, the Florida Department of Environmental Protection ("DEP") issued a water conservation initiative report that restated and confirmed the importance of individual metering to address Florida's commitment to sound water conservation policies. DEP stated that the primary advantage of individual metering is its known ability to improve water conservation. Individual metering allows customers to see how much water they are using, the cost of increased usage, and the savings that result from implementation of conservation practices. When compared to master metering, individual metering also ensures the most equitable billing to customers as it ensures that the cost causer pays for increased use of potable water. DEP recommended that programs and measures to require meters, sub-meters and other methods used to measure water use be implemented at multiple levels.

7. In two non-jurisdictional counties, Citrus and Hernando, Florida Water has requested and received approval of tariffs that mandate individual meters for all multi-residential structures, which would include condominiums such as Grand Isles.[1]

8. On July 16, 2002, Florida Water filed a proposed tariff with the Commission requiring individual metering for the new construction of residential homes, and multi-family structures.[2]

9. In the Order, the Commission denied Florida Water's proposed individual metering

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[1]Florida Water also filed for a proposed individual metering tariff in Collier County. The Collier County Water and Wastewater Authority denied Florida Water's request and that denial is currently on appeal before the Second District Court of Appeal in Case No. 2D03-675.

[2]The proposed tariff excluded the following structures from the individual metering requirement: hospitals, nursing homes and related facilities, college dormitories, convents, sorority houses, fraternity houses, motels, hotels; and trailer, mobile home and recreational vehicle parks and marinas where permanent residency is not established.

tariff and ordered that a Commission workshop be scheduled to address various issues relating to individual metering. In the Order, however, the Commission repeatedly emphasized the importance of individual metering as a conservation measure, stating:

> [W]e believe that individual metering tends to promote customer awareness regarding water conservation... (Order at p. 2).
>
> . . .
>
> [M]aster metering multi-family and multi-unit structures is in accordance with our rules. However, we recognize that master metering may not promote conservation goals. (Order at p. 2).
>
> . . .
>
> We believe that individual metering of multi-family and multi-unit structures can be beneficial to water conservation for residents of these types of housing structures. (Order at p. 2).
>
> . . .
>
> It has been our experience that single-family residential customers conserve water when going from a flat to metered charge. (Order at p. 3).
>
> . . .
>
> We have a memorandum of understanding with all five water management districts in which the parties recognize that it is in the public's interest to engage in a joint goal to ensure the efficient and conservative utilization of water in Florida. (Order, p. 5-6).

10. In denying the proposed tariff, the Commission expressed a concern that approval of Florida Water's tariff mandating individual metering in all multi-residential structures throughout its service territory was "premature." The Commission decided to conduct a feasibility analysis of

the financial and economic impact of requiring individual metering of all multi-family and multi-unit structures. The Order did not, however, preclude Florida Water from continuing to implement its individual metering policy for new multi-unit structures on a case by case basis. On that issue, the Commission held:

> Since we currently do not have any policy or rules on individual metering of multi-family and multi-unit structures, *the only way it can be implemented is through a developer agreement between a developer and the utility.* (Emphasis supplied). (Order, at p. 2).

> *Denial of this tariff does not prohibit Florida Water from continuing its policy of negotiating for individual metering of multi-family in multi-unit structures.* (Emphasis supplied). (Order, at p. 3).

11. On April 4, 2003, in accordance with Rule 25-22.032(7), Florida Administrative Code, Commission staff issued a letter in response to a complaint regarding Florida Water's policy of individual metering for new multi-unit residential buildings.[3] In the letter, Commission staff stated that "FWS cannot unilaterally require individual metering because the tariff does not require it."

12. Florida Water maintains that it has the authority under the Order to require individual metering at Grand Isles through the negotiation of a developer agreement. However, the letter issued April 4 by the Commission Staff has placed Florida Water in doubt as to its rights and authority to individually meter the Grand Isles condominium units pursuant to the Order. Accordingly, Florida Water is in need of a declaratory statement from this Commission.

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[3]The April 4, 2003 letter is attached hereto as Exhibit B.

WHEREFORE, for the foregoing reasons, Florida Water requests the Commission to issue a Declaratory Statement declaring that;

A. Florida Water is authorized to require individual water metering at Grand Isles pursuant to the dictates of Order No. PSC-03-0484-TRF-WU; and

B. At the request of Florida Water or Grand Isle, the Commission shall resolve the issue of individual metering at Grand Isle in the event the parties are not successful in negotiating a developer agreement that addresses this issue.

Respectfully submitted,

Kenneth A. Hoffman, Esq.
Martin P. McDonnell, Esq.
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P. O. Box 51
Tallahassee, Florida 32302
(850) 681-6788 (Telephone)
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Attorneys for Florida Water Services Corporation

Flawater\grandisle.petition

St. Johns River
Water Management District
Kirby B. Green III, Executive Director • John R. Wehle, Assistant Executive Director

Post Office Box 1429 • Palatka, FL 32178-1429 • (386) 329-4500

June 28, 2002

Florida Water Service
Attn: Christine Russell
P O Box 609520
Orlando FL 32860-9520

Subject: Consumptive Use Permit 50087
FWS Amelia PWS

Dear Ms. Russell:

Enclosed, please find a courtesy copy of the above referenced revised Technical Staff report. You will find the revisions in the following section(s):

Date
Authorization Statement: corrected 2020 to 2021
Permit Application Review, Section III, corrected the spelling of occuring to occurring
Other Condition 19: inserted "and similar type uses"
Other Condition 20: corrected the spelling of analyz to analyze

If you have any questions, please do not hesitate to contact Jay Lawrence in the Jacksonville Service Center at (904) 448-7918.

Sincerely,

Gloria Lewis, Director
Division of Permit Data Services
Department of Resource Management

Enclosure

LM/s

cc: District File
Lynn Minor
Jay Lawrence
Andreyev Engineering
Nicolas Andreyev
4055 St. Johns Parkway
Sanford Fl 32771

EXHIBIT
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CONSUMPTIVE USE TECHNICAL STAFF REPORT
HOUSEHOLD, WATER UTILITY AND ESSENTIAL TYPE USES
June 2928, 2002
2-089-50087-5
(formerly 2-089-0006)

APPLICANT:	Florida Water Services Attn: Ms. Christine Russell, P.E. 1000 Color Place PO Box 609520 Orlando, FL 32860-9520 Ph: (407) 598-4100
AGENT:	Andreyev Engineering, Inc. Attn: Mr. Nicolas E. Andreyev, P.E. 4055 St. Johns Parkway Sanford, FL 32771 Ph: (407) 330-7763
COMPLIANCE CONTACT:	Florida Water Services Attn: Ms. Christine Russell, P.E. 1000 Color Place PO Box 609520 Orlando, FL 32860-9520 Ph: (407) 598-4100
PROJECT NAME:	FWS Amelia Island PWS
LOCATION:	Amelia Island - Nassau County Section 14, Township 2N, Range 28E
ACREAGE:	Total Acres Owned: 22.07
WATER USE:	
Requested Use:	1,060.325 million gallons per year (MGY) of ground water from the Floridan aquifer to serve an estimated population of 9,986 in 2021 with water for household, commercial/industrial, essential and water utility uses, and unaccounted for water losses.
Recommended Allocation:	1,060.325 million gallons per year (MGY) of ground water from the Floridan aquifer to serve an estimated population of 9,986 in 2021 with water for household, commercial/industrial, essential and water utility uses, and unaccounted for water losses.

Allocation Based On: Historic Use/Industry Standards/Staff

Recommended Permit Duration and Compliance Reporting: 20 year permit with 5 year compliance reports required pursuant to section 373.236(3), Florida Statutes. In addition to submittal of the compliance reports, the permittee is also required to comply with, and submit all information and data required by the limiting conditions set forth in the permit.

Objectors: No

PREVIOUSLY PERMITTED USE:

CUP Number:	2-089-0006
Date Initial Permit Issued:	June 11, 1985
Date Previous Permit Issued:	September 9, 1997
Expiration Date:	June 9, 2007
Allocation:	683.43 million gallons per year (MGY) of groundwater from the Floridan aquifer in 2007 for household use and 4.032 million gallons per day for essential use
Associated Permits:	FDEP Public Water Supply Identification No. 2450022 FDEP Wastewater Site Identification No. 3145P04522

USE STATUS:
This is a renewal of a previously issued permit with a request for an increase in allocation.

AUTHORIZATION:
This District authorizes, as limited by the attached conditions, the use of 1,060.325 million gallons per year (MGY) of ground water from the Floridan aquifer to serve an estimated population of 9,986 with potable water for household, commercial/industrial, water utility and essential uses, and unaccounted for water losses in ~~2020~~2021.

PROJECT DESCRIPTION:

Timeframes:	
Date application received:	July 24, 2001
Date of 1st RAI:	August 14, 2001
Date of response to 1st RAI:	November 16, 2001
Did the response complete the application:	No
Date of 2nd RAI:	December 11, 2001
Date of response to 2nd RAI:	April 12, 2002
Did the response complete the application:	Yes
Date application deemed complete by reviewer:	April 12, 2002
90th day:	July 11, 2002
Last possible board date:	July 9, 2002

Background and Project Location:
Florida Water Services provides water and wastewater services to more than 120 different communities throughout the State. The service area under consideration in this application covers the southern portion of Amelia Island in Nassau County. The service area is limited to the coastal barrier island that extends from the southern boundary of the Fernandina airport to the northern edge of the Nassau Sound and Crane Island, excluding the American Beach subdivision. Water use within the service area is primarily for household and limited commercial uses. There is one secondary user (The Ritz-Carlton) connected to the distribution system.

Water Supply System Description:
Currently, raw water is withdrawn from 2 Floridan aquifer wells located at the water treatment facility. The applicant is proposing to construct 2 additional wells within the confines of the site in order to increase capacity and improve reliability. All ground water withdrawn is processed through aeration and chlorination chambers and then supplied to the potable distribution system. The distribution system grids the southern portion of the coastal barrier island community that measures approximately 6 miles long by 1 mile wide. There are approximately 20 lineal miles of water mains within the grid.

The water and wastewater treatment facilities were constructed and placed into initial operation in 1974. Since then there have been 2 major improvement projects at the site with the upgrades authorized in this permit constituting the 3rd.

A water audit of the distribution system is conducted annually. The last audit was conducted by the Florida Rural Water Association and reflected an unaccounted for water loss of 4.1%. Since operations began in 1974, unaccounted for water has remained below 5%.

Water Use Information:
The applicant's water use has steadily increased due to resort and residential development associated with projected growth. The County Planning Department is projecting population increases of approximately 220 people per year in this service area through 2020, which equates to approximately 5% per year. Historic growth has averaged approximately 5% during the past 10 years. Due to the attractive living environment of the area, growth is expected to be steady through the duration of this permit.

Water Use Trends	2001	2021
Population Served	6,038	9,986
Average daily use (mgd) (household + comm/industrial)	1.637	2.763
Water Utility daily (mgd)	.008	.013
Unaccounted for Water Loss (mgd)	.081	.129
Total Average Daily Use	1.726	2.906
Average gpcd (household)	177	177
Use Classifications (2020):		
Household and Commercial/Industrial:	94.5%	94.5%
Water Utility:	.5%	.5%
Unaccounted for Water:	5%	5%

Well Information: (PS=Public Supply, ESS=Fire Protection, Well, WU=Unaccounted/Water Utility, MW= Monitoring Well)

WELL ID#	DISTRICT ID	Casing Diameter (inches)	TOTAL DEPTH (feet)	PUMP RATE (gpm)	Existing or Proposed	Type Use
1-AI	11419	16	1016	1400	Existing	PS, WU, ESS
2-AI	11420	16	759	1400	Existing	PS, WU, ESS
3-AI	33941	16	1000	1500	Proposed	PS, WU, ESS
4-AI	33942	16	1000	1500	Proposed	PS, WU, ESS
5-Monitoring Well	34637	4	1000	N/A	Proposed	MW

PERMIT APPLICATION REVIEW:

Section 373.223, Florida Statutes, and Section 40C-2.301, Florida Administrative Code (F.A.C.), require an applicant to establish that the proposed use of water:

(a) is a reasonable-beneficial use;
(b) will not interfere with any presently existing legal use of water; and,
(c) is consistent with the public interest.

In addition, the above requirements are further interpreted in chapter 40C-2, F.A.C., and in the District's Applicant's Handbook: Consumptive Uses of Water, April 10, 2002. District staff have reviewed the consumptive use permit application pursuant to the above described requirements and have determined that the application meets the conditions for issuance of this permit, as limited by the attached permit conditions.

Subsection 373.019(4), Florida Statutes, defines "Reasonable Beneficial Use" as "the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest." In order to establish that the proposed use is a reasonable beneficial use, the applicant must meet the criteria in section 10 of the Applicant's Handbook (A.H.). In reviewing the applicant's request, staff determined that the applicant has demonstrated that the requested use is necessary and the environmental or economic harm caused

by the consumptive use requested for public supply use would be reduced to an acceptable amount as required by paragraph 10.3 (d), A.H. Highlights of the staff's review are discussed below.

I. Description of Ground Water Resources: At this site the surficial aquifer extends from land surface to approximately 90 feet below land surface (BLS). Surficial deposits consist of interbedded sands, hardpan, clay and occasional limestone lenses. Due to the proximity of seawater surrounding the barrier island, water quality is generally poor. The Hawthorn Formation underlies the surficial system to a depth of 470 feet BLS. The Hawthorn serves collectively as a confining unit for the Floridan aquifer and is comprised primarily of clay and silt deposits with occasional sand and limestone lenses. The top of the Floridan aquifer is encountered at a depth of 470 feet below land surface. It consists of two primary flow zones, the Upper and Lower Floridan aquifers, which are separated by approximately 400 feet of the lower producing dolomitic/limestone layers. The Floridian aquifer is the area's primary freshwater production aquifer.

II. Groundwater Impacts: Staff have evaluated whether the proposed withdrawal of water meets the requirements of subsection 10.3(c), (d) and (j), A.H. Subsection 10.3(c)(d) and (j), A.H., provides that the source of the water be capable of producing the requesting amounts and there be no water quality degradation or saline water intrusion. Raw water samples have been collected and analyzed for naturally occurring inorganic compounds on an annual basis. These analyses reflect that chloride values (as well as others) have remained stable over the past ten years and have ranged from 15 to 29 milligrams per liter (mg/l). Total dissolved solids have remained equally as low, in the range of 400 mg/l. Also, water levels within the upper zone of the Florida aquifer have averaged 20 feet above sea level (15 feet above ground level) for the same period.

Based on historic water quality analyses and aquifer potentiometric levels, staff have concluded that the ground water resources in the area will not be adversely impacted by the applicant's proposed use. However, the applicant has agreed to construct a dedicated Floridan aquifer monitoring well in order to obtain real time water level data and to obtain water samples that are not affected by well field operational schedules. The monitoring of a dedicated well will allow for a higher quality of data collection.

III. Saline Water Intrusion: Section 9.4.2, A.H. provides that the issuance of a permit may be denied if the permit would allow withdrawals of water that would cause significant saline water intrusion. Significant saline water intrusion is defined as saline water encroachment, which detrimentally affects the applicant or other existing legal users of water, or is detrimental to the public interest. Additionally, subsection 10.3(h) of the Applicant's Handbook requires that the consumptive use not cause significant saline water intrusion or further aggravates currently existing saline water intrusion problems. After a review of the applicant's water quality analysis reports and reports from adjacent CUP holders, staff have concluded that there is no evidence of saline water encroachment in this area. In addition, the use of a dedicated monitoring well will

provide an enhanced capability for assessing any trends or changes in water quality that may indicate saline water intrusion is ~~occuring~~occurring.

IV. Interference with Existing Legal Uses: Staff have evaluated whether the proposed withdrawal of ground water from the Floridan aquifer would interfere with existing legal uses. Section 9.4.4, A.H. provides that the issuance of a permit will be denied as inconsistent with the public interest if the permit would allow withdrawals of water that would cause an interference with a legal use of water that existed at the time of the permit application. Section 9.4.4, A.H. also provides that interference occurs when the withdrawal capability of any individual withdrawal facility of a presently existing legal use of water experiences a 10% or greater reduction in withdrawal capacity or when the existing legal users experiences economic, health, or other type of hardship as a result of the new use.

The Fernandina Beach area has historically experienced drawdowns in the Floridan aquifer in the range of 60 to 110 feet due to two pulp processing mills (Rayonier and Jefferson Smurfit) located in the northern portions of the Island. In the summer of 1980, drawdowns in some of the mills production wells were up to 346 feet below sea level (Brown 1984, pg. 64). At current pumping rates, drawdowns average approximately 50 to 60 feet at the well fields and during peak pumping periods drawdowns can be as much as 120 feet. The area of influence is very broad and encompasses the entire Amelia Island community. The pulp mills collectively account for approximately 89% of the permitted water use on Amelia Island, with the remainder being accounted for by public supply and golf course irrigation uses.

The applicant has requested to continue to withdraw ground water at the existing Water Treatment Plant site. This site is within the area of influence of the pulp mills. An aquifer performance test was conducted at the site in October of 2000. The aquifer parameters that were calculated from the evaluation of the aquifer performance test were input into a MODFLOW numerical ground water model. The MODFLOW model was run at withdrawal rates that correspond to 2020 population projections. At these withdrawal rates, the applicant's wells will increase the existing drawdown impacts of the paper mills by approximately 4.5 feet at the applicant's wells. At a distance of ½ mile the drawdown is approximately 2 feet and reduces to 1 foot, approximately 1 mile from the site.

Based on an analysis of the calibrated MODFLOW modeling runs, and an analysis of the existing adjacent users wells and withdrawal capabilities, staff has concluded that the drawdown due to the withdrawals authorized by this permit will not interfere with any existing legal uses pursuant to section 9.4.4, A.H. The additional drawdown is considered minor compared to the historic fluctuations of the potentiometric surface in this area.

WATER CONSERVATION:
The staff evaluated whether the proposed withdrawals of water by the applicant for public supply type use meets the District's water conservation requirements set forth in

section 10.3 and 12.2.5, of the Applicant's Handbook. Subsection 10.3(e), A.H., provides that all available water conservation measures must be implemented unless the applicant demonstrates that implementation is not economically, environmentally or technologically feasible. The rule, however, provides that satisfaction of this criterion may be met by demonstration that the applicant is meeting, or will meet, the water conservation requirements set forth in subsection 12.2.5, A.H.

Florida Water Services provides water and wastewater services to more than 120 different communities throughout the state. Because of this unique statewide service area, the company is able to initiate conservation programs on a uniform basis. This is more efficient for the utility than implementing measures on a system-by-system basis.

The applicant has created one of Florida's leading public information/education programs on water conservation. The program has received the Governor's Environmental Education award, sponsored by the Education Foundation of Florida and first place in the Innovative Water Conservation Competition, sponsored by the American Water Works Association. Through the use of the following educational approaches, this program is designed to continuously educate and enhance Florida's water customers on the critical need to protect and conserve our precious water resources.

Current Measures: The following components are highlighted in the applicant's SJRWMD Water Conservation Plan:

1. A comprehensive water audit has been conducted annually for the past several years. The last audit was performed by the Florida Rural Water Association and reflected an unaccounted for water loss of 4.1%. Since operations began in 1974, unaccounted for water has remained below 5%.

2. A leak detection survey of the entire distribution system was conducted by the Florida Rural Water Association in the summer of 1999. No major leaks were found.

3. The applicant has a statewide water conserving rate structure that has been approved by the District.

4. All service meters are replaced on a 10-year schedule and production meters are calibrated annually.

5. Low flow plumbing fixtures and/or low-flow restriction devices have been retrofitted at all of the production facilities and at the utility office.

6. The installation of low-flow plumbing fixtures is mandated through the enforcement of the state building code in all newly constructed houses and commercial buildings,

7. All utility customers are encouraged to use water-conserving practices through the distribution of brochures and other printed materials.

8. As discussed above, an intensive educational program has been developed on the critical need to protect and conserve Florida's water resources. This program is highlighted with:
   - regular correspondence with customers through publications and billing messages,
   - a speakers bureau for adult and children presentations,
   - media, opinion leader, and legislative programs,
   - facility open houses, customer meetings, and plant tours,
   - landscaping programs which promotes a xeriscape concept,.
   - maintaining a conservation library,
   - educational videos,
   - educational advertising and placement of published articles,
   - resources and programs for teachers,
   - media tracking,
   - web site information,
   - home water use audit kits, and
   - the willingness to take on special water use and conservation projects.

9. 100% of the discharge from the associated wastewater treatment facility is used to irrigate 3 adjacent golf courses.

Proposed Measures: The applicant has updated their water conservation plan during the submittal of this permit application. They have committed to continue to employ all existing water conservation measures throughout the duration of this permit.

USE OF REUSE:
The District requires the reuse of reclaimed water as stated in Section 10.3(f) A.H., when it is readily available unless the applicant demonstrates that its use is not economically, environmentally or technologically feasible. The applicant supplies 100% of their treated wastewater to three local golf facilities comprising 54 holes of golf and two driving and putting ranges. Contracts exist to supply 100% of their reclaimed water for irrigation projects, through permit duration.

LOWEST QUALITY SOURCE:
Staff have evaluated whether the proposed withdrawal of water meets the requirements of subsection 10.3(g) of the Applicant's Handbook. Subsection 10.3(g), A.H., provides that the lowest quality water source be utilized for each consumptive use whenever feasible. Based on this requirement, in order to use a higher quality water source, an applicant must establish that the use of all available lower quality water sources will not be economically, environmentally, or technologically feasible. The applicant is requesting water primarily for household and commercial uses, which require potable water. Ground water from the Floridan aquifer is currently the only economically feasible source in the region that can meet this need. Therefore, staff has concluded

that the lowest acceptable water source that is feasibly available is being used for this application.

COMPLIANCE REPORTS:
The District is authorized to require the submittal of compliance reports pursuant to section 6.5.4, A.H., when it has been determined necessary in order to maintain reasonable assurance that the conditions for permit issuance of a twenty year permit can continue to be met during the term of the permit. Staff believes that the compliance reports are necessary in accordance with section 6.5.4, A.H., in order to verify that changes in water quality and potentiometric levels are not occurring due to cumulative withdrawals in the area, and to verify that that the unaccounted for water losses in excess of 10% are adequately addressed. Therefore, staff is recommending that the applicant be required to submit a compliance report 5, 10, and 15 years from the date of issuance of this permit.

PERMIT DURATION:
The applicant has requested a 20-year permit. Section 6.5.1, A.H., states that when requested by an applicant, a consumptive use permit shall have a duration of 20 years provided that the applicant provides reasonable assurance that the proposed use meets the conditions for issuance in section 40C-2.301, F.A.C., and the criteria in part II, A.H., for the requested 20-year permit duration. Staff has concluded that the applicant has met the above requirements and is therefore recommending issuance of a 20-year permit.

RECOMMENDATION:
Staff have concluded that the proposed use, as limited by the attached permit conditions, is reasonable-beneficial, will not cause or contribute to interference with existing legal uses, and is consistent with the public interest. Staff, therefore, recommends approval of this application.

GENERAL CONDITIONS: 1-4, 6-9, 12 and 13

SPECIAL CONDITIONS:

OTHER CONDITIONS:

1. All submittals made to demonstrate compliance with this permit must include the CUP number 50087-5 plainly labeled on the submittals.

2. This permit will expire December 31, 2021.

3. Maximum annual groundwater withdrawals from the Floridan aquifer for household and commercial/industrial uses must not exceed:

623.420 million gallons in 2002	652.985 million gallons in 2003
683.280 million gallons in 2004	713.210 million gallons in 2005
743.505 million gallons in 2006	767.960 million gallons in 2007

793.145 million gallons in 2008
848.625 million gallons in 2010
894.615 million gallons in 2012
923.815 million gallons in 2014
954.475 million gallons in 2016
987.690 million gallons in 2018
1,008.495 million gallons in 2020 and
826.360 million gallons in 2009
871.620 million gallons in 2011
909.215 million gallons in 2013
938.780 million gallons in 2015
977.835 million gallons in 2017
997.910 million gallons in 2019
1,008.495 million gallons in 2021.

4. Maximum annual groundwater withdrawals from the Floridan aquifer for water utility use must not exceed:
2.290 million gallons in 2002
3.285 million gallons in 2004
3.650 million gallons in 2006
4.015 million gallons in 2008
4.380 million gallons in 2010
4.380 million gallons in 2012
4.745 million gallons in 2014
4.745 million gallons in 2016
4.745 million gallons in 2018
4.745 million gallons in 2020 and
3.285 million gallons in 2003
3.650 million gallons in 2005
4.015 million gallons in 2007
4.015 million gallons in 2009
4.380 million gallons in 2011
4.380 million gallons in 2013
4.745 million gallons in 2015
4.745 million gallons in 2017
4.745 million gallons in 2019
4.745 million gallons in 2021.

5. Maximum annual groundwater withdrawals from the Floridan aquifer for unaccounted for losses must not exceed:
31.390 million gallons in 2002
34.310 million gallons in 2004
37.960 million gallons in 2006
40.515 million gallons in 2008
42.705 million gallons in 2010
44.895 million gallons in 2012
45.990 million gallons in 2014
46.720 million gallons in 2016
47.085 million gallons in 2018
47.085 million gallons in 2020 and
33.215 million gallons in 2003
36.135 million gallons in 2005
39.055 million gallons in 2007
41.610 million gallons in 2009
43.800 million gallons in 2011
45.625 million gallons in 2013
46.355 million gallons in 2015
47.085 million gallons in 2017
47.085 million gallons in 2019
47.085 million gallons in 2021.

6. Maximum annual groundwater withdrawals from the Floridan aquifer for all uses must not exceed:
657.100 million gallons in 2002
720.875 million gallons in 2004
784.845 million gallons in 2006
837.675 million gallons in 2008
895.710 million gallons in 2010
943.890 million gallons in 2012
974.550 million gallons in 2014
1,005.940 million gallons in 2016
1,039.520 million gallons in 2018
1,060.325 million gallons in 2020 and
689.485 million gallons in 2003
752.995 million gallons in 2005
811.030 million gallons in 2007
871.985 million gallons in 2009
919.800 million gallons in 2011
959.220 million gallons in 2013
989.880 million gallons in 2015
1,029.665 million gallons in 2017
1,049.740 million gallons in 2019
1,060.325 million gallons in 2021.

7. Maximum daily groundwater withdrawals from the Floridan aquifer for essential (fire protection) use must not exceed 4.03 million gallons.

8. Legal uses of water existing at the time of the permit application may not be significantly impacted as a result of the consumptive use. If significant impacts occur (including interference with other existing legal users), the District may revoke the permit in whole or in part to abate the adverse impact unless otherwise mitigated by the permittee. In those cases, where other permit holders are identified by the District as also contributing to the adverse impact, the permittee may choose to mitigate in a cooperative effort with these other permittees. The permittee must submit a mitigation plan to the District for approval prior to implementing such mitigation.

9. Whenever feasible, the permittee must use native or drought tolerant vegetation that requires little supplemental irrigation for landscaping within the service area of this project.

10. The permittee must ensure that each potable service connection and each reclaimed water connection point (each discharge location or distribution point) is individually metered with a totalizing flow meter by December 31, 2002. There must be no unmetered uses or discharges from the reclaimed water distribution system after December 31, 2002. Each of these totalizing flow meters must remain for the duration of the permit, must maintain 95% accuracy, be verifiable and be installed according to manufacturer specifications.

11. Ground water wells "1-AI" (GRS ID 11419) and "2- AI" (GRS ID 11420), as listed on the application, have each been equipped with a mechanical compound flow meter. Ground water wells "3- AI" (GRS ID 33941) and "4- AI" (GRS ID 33942), as listed on the application, must each be equipped with a totalizing flow meter prior to being placed into service. These master totalizing flow meters must remain for the duration of the permit, must maintain 95% accuracy, be verifiable and be installed according to manufacturer specifications.

12. Total withdrawals from ground water wells "1-AI" (GRS ID 11419), "2- AI" (GRS ID 11420), "3- AI" (GRS ID 33941) and "4- AI" (GRS ID 33942), as listed on the application, must be recorded continuously, totaled monthly, and reported to the District at least every six months from the initiation of the monitoring using Form #EN-50. The reporting dates each year will be as follows for the duration of the permit:

Reporting Period	Report Due Date
January - June	July 31
July - December	January 31

13. Permittee must maintain all flow meters for the duration of this permit. In case of failure or breakdown of any master meter, the District must be notified in writing within 5 days of its discovery. Any defective meter must be repaired or replaced within 30 days of its discovery.

14. Permittee must have all ground water source flow meters (master meters) and reclaimed water distribution meters checked for accuracy at least once every 3 years within 30 days of the anniversary date of permit issuance, and recalibrated if the difference between the actual flow and the meter reading is greater than 5%. District Form #EN-51 must be submitted to the District within 10 days of the inspection/calibration.

15. The permittee must implement the Water Conservation Plan submitted to the District on July 24, 2001, in accordance with the schedule contained therein.

16. A dedicated Floridan aquifer monitoring well ("5-Monitoring Well", GRS ID 34637) must be constructed at the water treatment plant site at a centrally located position relative to the four Floridan aquifer production wells. The monitoring well must be cased to the top of the Floridan aquifer and completed to a minimum total depth of 700 feet below land surface. The construction of the monitoring well must be completed by December 31, 2002.

17. The Permittee must collect a water quality sample from wells "1-AI" (GRS ID 11419), "2- AI" (GRS ID 11420), "3- AI" (GRS ID 33941) and "4- AI" (GRS ID 33942), quarterly, in February, May, August and November of each year, and have the sample analyzed for the following:

Chlorides	Total Iron
Sulfates	Total Hardness
Calcium	Magnesium
Field Temperature	Sodium
Specific Conductance	Potassium
Field pH	Carbonate - field & lab

Bi-carbonate - total alkalinity if pH is 8.9 or lower
Total dissolved solids

Quality Assurance
Prior to sample collection, a minimum of 3-5 casing volumes must be removed from each well. All major ion analyses must be checked for anion-cation balance and must balance within 5%. It is recommended that duplicates be taken to allow for laboratory errors or data loss.

All sampling and water quality analysis shall be performed by organizations with District approved comprehensive or generic quality assurance plans (COMQAPS) on file with the Department of Environmental Protection or a laboratory having DHRS certification. A report including all sample analysis and

an evaluation of the data must be submitted to the District within 30 days of receipt from the laboratory.

If the District determines that unacceptable saline water intrusion or any other water quality degradation trends are occurring as a result of the withdrawals authorized by this permit, the District shall revoke the permit in whole or in part to curtail or abate the water quality degradation.

18. The Permittee must continually record the water level or pressure level of the dedicated Floridan aquifer monitoring well "S-Monitoring Well" (GRS ID 34637) for the duration of this permit. All water levels must be measured to NGVD. All data must be tabulated daily, analyzed for water level trends and compared against chloride concentration and submitted to the District every five years, or sooner if specifically requested, as part of the Compliance Report.

19. The use of master meters to supply potable water to any new multi-family or multi-unit structure (excluding hospitals, hotels and similar type uses) connected to this system after the issuance date of this permit is prohibited. All individually occupied units must be individually metered for water use.

20. The permittee must begin conducting and submitting water audits for the potable and reuse distribution systems, using the Districts current water audit form, annually for permit duration. The annual water audits must span a 12-month period from January 1 through December 31 and must be submitted to the District every five years with the submission of the compliance report. If unaccounted for water losses exceed 10% a leak detection/leak identification program must be initiated within 30 days of the 10% exceedance, in order to determine the source of the water losses. A detailed schedule for leak repair must be submitted to the District within 30 days of audit completion.

21. The Permittee shall submit to the District, a compliance report pursuant to subsection 373.236(3), Florida Statutes. The Permittee shall submit a report 5, 10 and 15 years from the date of issuance of this permit. Specifically, the reports shall be submitted on July 1st of years 2007, 2012 and 2017. The reports shall contain sufficient information to demonstrate that the Permittee's use of water will continue, for the remaining duration of the permit, to meet the conditions for permit issuance set forth in the District rules that existed at the time the permit was issued for 20 years by the District. In providing such assurance, the compliance report must, at a minimum:

    (a) meet the submittal requirements of section 4.2 of the Applicant's Handbook: Consumptive Uses of Water, April 10, 2002;
    (b) must provide a summary of the previous water audits (potable and reuse) and what actions, if any, are needed to address unaccounted for water loss in excess of 10%;

(c) evaluate all water quality data previously collected in an updated trend analysis;

(d) analyze all water level/pressure level data previously collected in an updated trend analysis format, and

(e) tabulate and total the volumes of reclaimed water distributed to each connection point or discharge point

Lawrence

STATE OF FLORIDA

OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 4, 2003

Mr. Sam Marshall
Banks Engineering, Inc.
10511 Six Mile Cypress Parkway, Suite 101
Ft. Myers, FL 33912

Re: Metering for Water Service in Multi-unit Structures; PSC Request No. 502944W

Dear Mr. Marshall,

In November 2002, you contacted our Division of Consumer Affairs with a complaint involving Florida Water Services, Inc. (FWS). You claimed that FWS was requiring your client, WCI, to install individual water meters in one of its new multi-unit buildings, and you wanted to know whether that was permissible. In accordance with Rule 25-22.032(7), Florida Administrative Code, this letter contains a proposed resolution to your complaint.

FWS's tariff on file with the Commission does not require individual metering of new multi-unit structures. Based on the tariff, metering for water service is handled through developers agreements which are negotiated. FWS cannot unilaterally require individual metering because the tariff does not require it.

As you know, FWS petitioned the Commission to revise its tariff to require individual metering of new multi-unit structures. The Commission voted to deny the Petition at the April 1, 2003 Agenda Conference and to hold a workshop to obtain more information on the costs and benefits of individual metering.

Pursuant to Rule 25-22.032(8), Florida Administrative Code, any participant in this complaint may request an informal conference if the participant finds this proposed resolution to be unsatisfactory. A request for informal conference must be filed, in writing, with the Division of Consumer Affairs within 30 days after this proposed resolution is mailed.

EXHIBIT
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If you have any questions regarding this proposed resolution or the informal conference, please contact me at (850) 413-6230.

Sincerely,

Marlene K. Stern

Marlene K. Stern,
Senior Attorney

cc: Tony Isaac
Beverly Dimello, Division of Consumer Affairs