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October 29, 2003

RECEIVED 11:50
03 OCT 31 AM 8:53
COMMISSION
CLERK

Ms. Blanca Bayo
Commission Clerk and Administrative Services Director
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Docket No. 020745-SU; Application of Island Environmental Utility, Inc., for
Original Certificate
Our File No.: 37025.01

Dear Ms. Bayo:

Enclosed please find for filing in the above-referenced docket the original and seven (7) copies of Island Environmental Utility, Inc.'s Response to Linda Bamfield's Motion to Strike Objections and Compel Discovery and Motion to Strike Motion to Compel in Part.

Very truly yours,



VALERIE L. LORD
Of Counsel

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03 OCT 31 AM 8 24

VLL/mp
Enclosures

- cc: Rosanne Gervasi, Esquire (w/enclosure)
- Mr. Daniel Nolan (w/enclosure)
- Mrs. Linda Bamfield (w/enclosure)
- Mr. Ronald Koenig (w/enclosure)
- Mr. John R. Boyer (w/enclosure)
- Mr. Dean Beckstead (w/enclosure)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application for certificate to
provide wastewater service in Charlotte
County by Island Environmental
Utility, Inc.

Docket No. 020745-SU

**RESPONSE TO LINDA BAMFIELD'S MOTION TO STRIKE OBJECTIONS AND
COMPEL DISCOVERY AND MOTION TO STRIKE
MOTION TO COMPEL IN PART**

Island Environmental Utility, Inc., (*Island Environmental*), by and through its undersigned attorneys, responds to the Motion to Strike Objections and Compel Discovery filed by Linda Bamfield (*Motion to Compel*) and files this Motion to Strike Motion to Compel in Part, and in support shows:

1. In September, Ms. Bamfield and Mr. Ronald Koenig, Intervenors in this case, propounded interrogatories and requests for production of documents.

2. In her discovery requests, Ms. Bamfield asked for the following information:

Please provide any and all documentation that relates to the financial resources of the principals of IEU including, but not limited to financial statements, preferably certified, showing all assets and liabilities.

3. In his discovery requests, Mr. Koenig asked the shareholders of Island Environmental to produce their personal financial information and information relating to any lawsuits involving any business enterprise in which any of such shareholders had an interest.

4. Island Environmental filed Objections to this discovery on October 3, 2003, within the time specified by the Order Establishing Procedure issued by this Commission under Order No. PSC-02-1611-PCO-SU, dated November 20, 2002. These objections were two-fold:

- A. Neither Ms. Bamfield nor Mr. Koenig are bound by the same ethical standards regarding disclosure of confidential information as lawyers are. Further, there is no requirement that such information become part of the public record. In addition, Island Environmental's attorneys were unable to locate any decision of this Commission requiring disclosure of personal financial statements to pro se litigants.
- B. Mr. Koenig's requests for information relating to any lawsuits involving any business enterprise in which any of Island Environmental's shareholders had an interest is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence.

5. The Motion to Compel is captioned, "Motion to Strike Objections and Motion to Compel Discovery". Because Ms. Bamfield has not stated any grounds for striking the Objections, the Motion to Strike has not been addressed in this Response and should itself be stricken by this Commission.

6. Ms. Bamfield attempts to compel the discovery of evidence that Mr. Koenig has requested. Because Ms. Bamfield is not the "discovering party", and Mr. Koenig is capable of filing his own motion to compel should he desire to do so, Ms. Bamfield's attempts to compel the discovery of such information is improper and violates the very rule under which she seeks to compel it. Rule 1.380, Fla. R. Civ. P. Therefore, any part of Ms. Bamfield's Motion to Compel Discovery seeking to compel the discovery of matters raised in Mr. Koenig's discovery requests must be denied by this Commission.

7. Ms. Bamfield has asserted in her Motion to Compel that Island Environmental "is a

new company” and that it must show evidence of its financial ability. She states that the PSC requested the applicant to “show it financial ability per Rule 25.30-03(1)(e) FAC (sic)”.

8. Rule 25-30.033(1)(e), F.A.C., requires an applicant for an original certificate of authorization shall provide “a statement showing the financial and technical ability of the applicant to provide service.” Rule 25-30.033(1)(r) requires the applicant provide a detailed financial statement of the financial condition of the applicant. Rule 25.30-033(1)(s) requires the applicant to provide a list of all entities, including affiliates, upon which the applicant is relying to provide funding to the applicant.

9. Island Environmental does not dispute that the personal financial information of its shareholders may be relevant to the Commission’s decision whether to issue it a wastewater certificate. Indeed, it will allow such information to be reviewed by the Commission Staff if the Commission Staff requests such review.

10. Rule 25-30.033, however, requires an applicant to provide evidence of its financial ability *to the Commission* for its evaluation. It neither requires the production or disclosure of this evidence by the shareholders of the applicant, nor requires the production of this evidence to the general public or to intervenors, especially those who are lay persons without the requisite authority to affect the decisions of this Commission.

11. The objective of the Rule is to give qualified staff employed by the Commission an opportunity to determine whether a certificate should be issued by the Commission to the applicant, not to provide the general public with a free look into the personal financial status of those who have invested in the applicant. The Commission has been vested by the Florida Legislature with the exclusive authority to determine the ability to provide utility service to the public, financially,

technically and otherwise, of those who seek to provide it. Ms. Bamfield seeks to have this financial information when she has neither provided evidence of her qualifications to evaluate it and make such a decision on behalf of the Commission or her legislative mandate to do so.

12. Ms. Bamfield asserts that the attorneys for Island Environmental agreed “to provide financial statements by Aug. 15, 2003”, and that the Commission requested “the current balance sheets and income statements of the *applicant*” (emphasis added). Ms. Bamfield is apparently unaware that Island Environmental, not its shareholders, is the applicant. If she possessed the basic rudiments of Florida corporate law, she would know that corporations in Florida have a separate legal identity. Mr. Friedman’s statement that financial statements would be provided was a reference to the financial statements of the applicant, Island Environmental.

13. Ms. Bamfield argues that while “pro se litigants are not subject to the same consequences as attorneys should confidentiality be breached (when confidentiality is required) the same can be said for the applicants once their attorney passes information to them.” Ms. Bamfield has utterly ignored the fact that no one has requested her to provide her personal financial statements. If she were to provide them, then she could request confidential treatment of them, which would prohibit Island Environmental’s attorneys from providing such information to its client.

14. Ms. Bamfield asserts also that Island Environmental “has not requested confidential business information status”, and therefore the personal financial information of Island Environmental’s shareholders must be provided. Apparently, Ms. Bamfield is unaware that “confidential business status” is only requested when and if confidential information is to be produced.

15. Ms. Bamfield and her husband have a history of antagonism towards one of Island

Environmental's shareholders, Mr. Dean Beckstead. Ms. Bamfield has been a vehement opponent of Mr. Beckstead's for approximately twelve years. Ms. Bamfield has filed many frivolous complaints with the local code enforcement board with regard to Mr. Beckstead's Palm Island Resort. She has made numerous false accusations regarding Mr. Beckstead's marina. Ms. Bamfield has filed complaints with Charlotte County agencies trying to shut down Mr. Beckstead's ferry service from the mainland by making outrageous and unfounded charges and assertions. Each time, her claims have been rejected. Her husband has attempted to disrupt the ferry's route, and has recklessly driven his boat at a high rate of speed at the ferry while in transit with passengers, then has veered off at the last minute, frightening the passengers. On another occasion, when Ms. Bamfield and her husband were in a car, Ms. Bamfield's husband threatened Mr. Beckstead's wife.

While Ms. Bamfield may maintain the appearance of reasonableness, and her motives in pursuing her objections in this case as being legitimate and proper, at least on paper, her conduct shows that she is fanatical in her desire to stop further development on the island. She perceives Mr. Beckstead's businesses as being contrary to her desire and has undertaken a course of extremely personal and rabid attacks on Mr. Beckstead and his family in order to halt his legitimate activities.

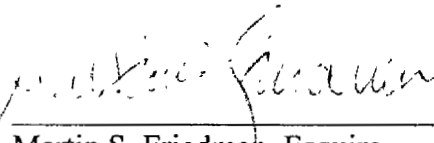
16. This Commission must consider Ms. Bamfield's prior course of conduct and her patent ignorance of the basic principles of law and the Rules regulating the activities of this Commission before it orders any disclosure of confidential information. Ms. Bamfield's lack of awareness of the nature and ownership of confidential information and the Rules and the ethical considerations governing its disclosure and use, and her history of hostility towards one of the shareholders of Island Environmental and towards development in general in the proposed territory, makes her highly untrustworthy as a potential discloser of such information. The probability of harm

is far outweighed by any need Ms. Bamfield could assert, if any there be.

WHEREFORE, Island Environmental Utility, Inc., respectfully requests that this Commission issue an order striking Ms. Bamfield's Motion to Strike Objections and denying her Motion to Compel Discovery. Should this Commission determine that the confidential financial information of Island Environmental's shareholders should be disclosed, Island Environmental Utility, Inc. requests that disclosure be made under conditions to be determined at that time with reference to the concerns of Island Environmental's shareholders .

Respectfully submitted on this 31 day of
October, 2003.

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Martin S. Friedman, Esquire
For the Firm

CERTIFICATE OF SERVICE
DOCKET NO. 020745-SU

I HEREBY CERTIFY that a true and correct copy of Island Environmental's Response to Linda Bamfield's Motion to Strike and Compel Discovery and Motion to Strike Motion to Compel in Part has been furnished by U.S. Mail to the following parties on this 31th day of October, 2003:

Mr. Daniel Nolan
3031 Placida Road
Englewood, FL 34224

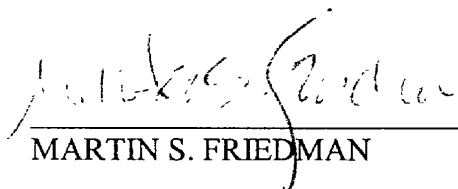
and at

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