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M. LANE STEPHENS

December 11, 2003

Ms. Blanca Bayo, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

HAND DELIVERY

RECEIVED-FPSC
03 DEC 11 AM 11:12
COMMISSION
CLERK

Re: Florida PSC Docket No. 030931-WS

Dear Ms. Bayo:

Enclosed for filing on behalf of Florida Water Services Corporation ("Florida Water") and Charlotte County is an original and five copies of Florida Water's Joint Amended Application for Acknowledgment of Sale of Land and Facilities of Florida Water Services Corporation in Charlotte County to Charlotte County, and for Cancellation of Certificate Nos. 570-W and 496-S.

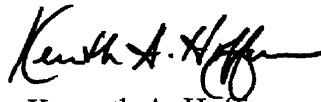
Please acknowledge receipt of these documents by stamping the extra copy of this letter 'filed' and returning the copy to me.

Thank you for your assistance with this filing.

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

Sincerely,



Kenneth A. Hoffman

AUS _____ KAH/rl
CAF _____ Enclosures
CMP _____ Flawater\Bayo.charlotteamended
COM _____
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC _____
OTH _____

DOCUMENT NUMBER-DATE

12857 DEC 11 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Amended Application for)	
acknowledgment of sale of land and facilities)	Docket No. 030931-WS
of Florida Water Services Corporation in Charlotte)	
County to Charlotte County, and for cancellation)	Filed: December 11, 2003
of Certificate Nos. 570-W and 496-S.)	
_____)	

**JOINT AMENDED APPLICATION FOR ACKNOWLEDGMENT
OF SALE OF LAND AND FACILITIES OF
FLORIDA WATER SERVICES CORPORATION IN
CHARLOTTE COUNTY TO CHARLOTTE COUNTY,
AND FOR CANCELLATION OF CERTIFICATE
NOS. 570-W AND 496-S**

Florida Water Services Corporation ("Florida Water") and Charlotte County, by and through undersigned counsel, and pursuant to Section 367.071(4)(a), Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code, hereby file this Joint Amended Application for acknowledgment of the proposed sale of Florida Water's water and wastewater land and facilities in Charlotte County to Charlotte County and for cancellation of Certificate Nos. 570-W and 496-S issued by the Florida Public Service Commission (the "Commission") to Florida Water. In support of this Joint Amended Application, Florida Water states as follows:

1. The name and address of the regulated utility is:

Florida Water Services Corporation
1000 Color Place
Apopka, Florida 32703
(407) 598-4165 (Telephone)
(407) 958-4241 (Facsimile)

DOCUMENT FILED
12857 DEC 11 03
FPSC-CLERK OF COMMISSION

2. The names and addresses of Florida Water's authorized representatives are:

KENNETH A. HOFFMAN, ESQ.
J. STEPHEN MENTON, ESQ.
Rutledge, Ecenia, Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, Florida 32302
(850) 681-6788 (Telephone)
(850) 681-6515 (Telecopier)

3. The name and address of the purchaser for purposes of this Joint Amended Application is:

Charlotte County
c/o Larry Tropea
Director of Utilities
18500 Murdock Circle
Port Charlotte, FL 33948-1094
941-764-4507 (Telephone)
941-743-4530 (Telecopier)

4. Charlotte County's representatives for purposes of this Joint Amended Application are:

Brian P. Armstrong, Esq.
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, FL 32308
(850) 224-4070 (Telephone)
(850) 224-4073 (Telecopier)

5. Florida Water has been issued Certificate Nos. 570-W and 496-S by the Commission related to Florida Water's water and wastewater operations in Charlotte County.

6. On July 24, 2003, Florida Water signed and delivered to the Florida Governmental Utility Authority ("FGUA") a Utility System Asset Acquisition Agreement ("Agreement") which contemplates the sale of certain of Florida Water's utility assets in the state to various local governments including the City of Palm Coast, the City of Marco Island, Hernando County, Osceola

County and the FGUA. The utility assets to be sold to the FGUA under the Agreement include the water and wastewater assets currently owned by Florida Water in Charlotte County and identified as the Burnt Store and Deep Creek Systems, hereinafter referred to collectively as the “Charlotte System.”

7. The Agreement has been amended and restated to include the City of Deltona as an additional buyer of certain of Florida Water’s utility assets.

8. At a public hearing conducted on August 21, 2003, the FGUA found the proposed acquisition of the Charlotte System to be in the public interest. Following that public hearing, on September 23, 2003, Florida Water and the FGUA filed a Joint Application for Acknowledgment of the Sale of its Land and Facilities located in Charlotte County to the FGUA and for cancellation of the above-referenced certificates (the “September 23 Joint Application”).

9. On December 2, 2003, the FGUA approved the Assignment, Assumption and Amendment to its Agreement with Florida Water under which the FGUA would assign and Charlotte County would assume the right to acquire the Charlotte System. The Assignment, Assumption and Amendment to Acquisition Agreement specifically provides, in Section 9:

The parties agree that the sale and transfer of the Charlotte System from Florida Water to the County is contingent upon approval of the Florida Public Service Commission pursuant to section 367.071(4)(a), Florida Statutes....

The Assignment, Assumption and Amendment to Acquisition Agreement has been approved and executed by the FGUA, Charlotte County and Florida Water.

10. Charlotte County is a “governmental authority” as defined by Section 367.021(7), Florida Statutes, and is exempt from regulation by the Commission pursuant to Section 367.022(2),

Florida Statutes. Florida Water's sale of its Charlotte System to Charlotte County is subject to approval as a matter of right under Section 367.071(4)(a), Florida Statutes.

11. The closing for the sale of the Charlotte System to Charlotte County is expected to take place on or before December 12, 2003, unless subsequently extended by mutual agreement of Florida Water and Charlotte County.

12. Charlotte County has obtained the most recently available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction applicable to the Charlotte System to be transferred by Florida Water to Charlotte County as contemplated by Section 367.071(4)(a), Florida Statutes.

13. The deposits for Florida Water's customers in Charlotte County and all accumulated interest will be transferred to Charlotte County and Charlotte County will assume liability for same at closing.

14. All regulatory assessment fees for Florida Water through 2002 have been paid in full. Regulatory assessments fees for 2003 will be paid by Florida Water when due.

15. There are no regulatory fines or refunds owed by Florida Water with respect to the Charlotte System.

16. In support of this Joint Amended Application, Florida Water and Charlotte County incorporate by reference the following documents:

a. Certificate Nos. 570-W and 496-S issued to Florida Water by the Commission filed in this docket as Composite Exhibit A to the September 23 Joint Application.

b. The copy of the signed Agreement, as amended and restated, filed in this docket as Exhibit B to the September 23 Joint Application.

c. The Resolution of the FGUA Board confirming its determination that the acquisition of the Charlotte System is in the public interest filed in this docket as Exhibit C to the September 23 Joint Application.

d. The legal description of Florida Water's Charlotte County System attached hereto as Exhibit 1.

e. The Assignment, Assumption and Amendment to Acquisition Agreement attached hereto as Exhibit 2.

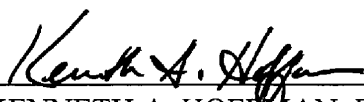
17. Undersigned counsel for Florida Water has conferred with counsel for Charlotte County and is authorized to represent that Charlotte County concurs with and joins in this Joint Amended Application.

WHEREFORE, Florida Water and Charlotte County request that the Commission:

A. Acknowledge the sale of Florida Water's water and wastewater facilities as set forth in this Joint Amended Application to Charlotte County; and

B. Cancel Certificate Nos. 570-W and 496-S issued by the Commission to Florida Water.

Respectfully submitted,



KENNETH A. HOFFMAN, ESQ.
J. STEPHEN MENTON, ESQ.
Rutledge, Ecenia, Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, Florida 32302
(850) 681-6788 (Telephone)
(850) 681-6515 (Telecopier)

-- and --

CARLYN KOWALSKY, ESQ.
Vice President and General Counsel
Florida Water Services Corporation
P. O. Box 609520
Orlando, Florida 32860-9520
(407) 598-4297 (Telephone)
(407) 598-4241 (Telecopier)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail this 11th day of December, 2003 to:

Lorena Holley, Esquire
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Room 370
Tallahassee, Florida 32399-0850

Brian P. Armstrong, Esq.
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, Florida 32308



KENNETH A. HOROMAN

CHARLOTTE COUNTY

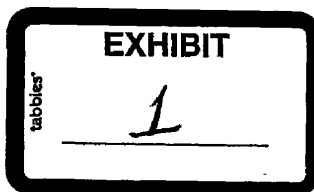
Description of Water Territory Served

DEEP CREEK

In portions of Sections 3, 4, 5, 7, 8, 9, 15, 16, and 17 Township 40 South, Range 23 East, Charlotte County, Florida:

Point of Beginning at Northwest corner of Section 5, Township 40 South, Range 23 East

<u>Call Number</u>	<u>Bearing or Central Angle</u>	<u>Distance or Arc Length</u>	<u>Radius</u>	<u>Annotation</u>
1.	South 89°34'03" East	2,721.47 feet		East along North line of Section 5 to the North quarter corner of Section 5.
2.	South 89°30'46" East	2,602.87 feet		East along the North line of Section 5 to the Northeast corner of Section 5 and Northwest corner of Section 4, Township 40 South, Range 23 East.
3.	South 89°33'41" East	2,662.08 feet		East along the North line of Section 4 to the North quarter corner of Section 4.
4.	South 89°44'49" East	2,662.08 feet		East along the North line of Section 4 to the Northeast corner of Section 4 and the Northwest corner of Section 3, Township 40 South, Range 23 East .
5.	South 89°44'36" East	5,324.01 feet		East along the North line of Section 3 to the Northeast corner of Section 3.
6.	South 00°10'22" East	5,322.00 feet		South along the East line of Section 3 to the Southeast corner of Section 3.
7.	North 89°11'07" West	2,606.53 feet		West along the South line of Section 3 to the South quarter corner of Section 3.
8.	North 89°08'59" West	2,609.49 feet		West along the South line of Section 3 to the Southwest corner of Section 3 and the Northeast corner of Section 9, Township 40 South, Range 23 East.
9.	South 00°01'35" West	2,638.32 feet		South along the East line of Section 9 to the East quarter corner of Section 9.



Effective Date: September 12, 2000

By: _____
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

CHARLOTTE COUNTY

Description of Water Territory Served

DEEP CREEK (Cont.)

<u>Call Number</u>	<u>Bearing or Central Angle</u>	<u>Distance or Arc Length</u>	<u>Radius</u>	<u>Annotation</u>
10.	South 89°20'47" West	425.03 feet		West from the East quarter corner of Section 9 to a point of 425.03 feet West of said quarter corner.
11.	South 00°14'21" West	2,636.84 feet		South to a point on the South line of Section 9 and the North line of Section 16, Township 40 South, Range 23 East at a point approximately 425 feet West of the Northeast corner of Section 16.
12.	South 00°14'21" West	1,327.52 feet		South along a line approximately 425 feet West of the East line of Section 16 to a point 1,327.52 feet South of the North line of Section 16.
13.	South 00°38'40" West	3,870.77 feet		South along a line approximately 425 feet West of the East line of Section 16 to a point 104.71 feet North of the South line of Section 16.
14.	South 00°38'35" West	104.71 feet		South along a line approximately 425 feet West of the East line of Section 16 to a point on the South line of Section 16, 425.46 feet West of the Southeast corner of Section 16.
15.	South 87°58'54" West	2,284.92 feet		West along the South line of Section 16 to the South quarter corner of Section 16.
16.	South 87°59'02" West	2,710.72 feet		West along South line of Section 16 to the Southwest corner of Section 16.
17.	North 00°25'31" East	4,078.12 feet		North along the West line of Section 16 and East line of Section 17, Township 40 South, Range 23 East to a point 1,321.40 feet South of the Northeast corner of Section 17.

Effective Date: September 12, 2000

By: _____
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

CHARLOTTE COUNTY

Description of Water Territory Served

DEEP CREEK (Cont.)

<u>Call Number</u>	<u>Bearing or Central Angle</u>	<u>Distance or Arc Length</u>	<u>Radius</u>	<u>Annotation</u>
18.	North 89°40'24" West	3,122.92 feet		West through Section 17 to a point of intersection with the Eastern right of way of Interstate I-75, 1,298.92 feet South of the North line of Section 17 and 2,213.84 feet East of the West line of Section 17.
19.	North 31°43'37" West	1,525.92 feet		Northwesterly through Section 17 along the Eastern right of way line of I-75 to a point on the North line of Section 17 and the South line of Section 8, Township 40 South, Range 23 East, 1,413.06 feet East of the Southwest corner of Section 8.
20.	North 28°57'25" West	2,927.15 feet		Northwesterly through Section 8 along the Eastern right of way line of I-75 to the West quarter of Section 8 and the East quarter corner of Section 7, Township 40 South, Range 23 East.
21.	North 28°57'25" West	3,190.52 feet		Northwesterly from the East quarter corner of Section 7 to a point of intersection with the North line of Section 7 1,540.20 feet West of the Northeast corner of Section 7.
22.	South 89°56'58" East	1,540.20 feet		East along the North line of Section 7 to the Northeast corner of Section 7 and the Southwest corner of Section 5, Township 40 South, Range 23 East.
23.	North 00°13'30" East	5,315.13 feet		North along the West line of Section 5 to the Northwest corner of Section 5 and the Point of Beginning.

Less and except the following parcel in Section 5:

Begin at the Northwest corner of said Section 5 and run S 89°39'47" E a distance of 259.24 feet to the intersection with the westerly right-of-way of Kings Highway; thence S 25°05'53" W a distance of 352.43 feet along said right-of-way of Kings Highway; thence N 89°38'45" W leaving said right-of-way a distance of 111.73 feet, to the West line of Section 6; thence N 00°21'19" E a distance of 320 feet, more or less; to the Point of Beginning.

Effective Date: September 12, 2000

By: _____
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

CHARLOTTE COUNTY

Description of Wastewater Territory Served

DEEP CREEK

In portions of Sections 3, 4, 5, 7, 8, 9, 15, 16, 17, 21, and 22, Township 40 South, Range 23 East, Charlotte County, Florida:

NOTE: Portions of Harbour Heights Sections Two (Revised), Five, Eight, and Nine (Part One) located in portions of Sections 15, 16, 21, and 22 of Township 40 South, Range 23 East and the Deep Creek Elementary School site in Section 21, Township 40 South, Range 23 East are wastewater only service territory.

Point of Beginning at Northwest corner of Section 5, Township 40 South, Range 23 East

<u>Call Number</u>	<u>Bearing or Central Angle</u>	<u>Distance or Arc Length</u>	<u>Radius</u>	<u>Annotation</u>
1.	South 89°34'03" East	2,721.47 feet		East along North line of Section 5 to the North quarter corner of Section 5.
2.	South 89°30'46" East	2,602.87 feet		East along the North line of Section 5 to the Northeast corner of Section 5 and Northwest corner of Section 4, Township 40 South, Range 23 East.
3.	South 89°33'41" East	2,662.08 feet		East along the North line of Section 4 to the North quarter corner of Section 4.
4.	South 89°44'49" East	2,662.08 feet		East along the North line of Section 4 to the Northeast corner of Section 4 and the Northwest corner of Section 3, Township 40 South, Range 23 East .
5.	South 89°44'36" East	5,324.01 feet		East along the North line of Section 3 to the Northeast corner of Section 3.
6.	South 00°10'22" East	5,322.00 feet		South along the East line of Section 3 to the Southeast corner of Section 3.
7.	North 89°11'07" West	2,606.53 feet		West along the South line of Section 3 to the South quarter corner of Section 3.
8.	North 89°08'59" West	2,609.49 feet		West along the South line of Section 3 to the Southwest corner of Section 3 and the Northeast corner of Section 9, Township 40 South, Range 23 East.

Effective Date: September 12, 2000

By: _____
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

CHARLOTTE COUNTY

Description of Wastewater Territory Served

DEEP CREEK (Cont.)

<u>Call Number</u>	<u>Bearing or Central Angle</u>	<u>Distance or Arc Length</u>	<u>Radius</u>	<u>Annotation</u>
9.	South 00°01'35" West	2,638.32 feet		South along the East line of Section 9 to the East quarter corner of Section 9.
10.	South 89°20'47" West	425.03 feet		West from the East quarter corner of Section 9 to a point of 425.03 feet West of said quarter corner.
11.	South 00°14'21" West	2,636.84 feet		South to a point on the South line of Section 9 and the North line of Section 16, Township 40 South, Range 23 East at a point approximately 425 feet West of the Northeast corner of Section 16.
12.	South 00°14'21" West	1,327.52 feet		South along a line approximately 425 feet West of the East line of Section 16 to a point 1,327.52 feet South of the North line of Section 16.
13.	South 00°38'40" West	3,851.45 feet		South to a point approximately 125 feet North of the South line of Section 16 and approximately 425 feet West of the East line of Section 16.
14.	North 88°28'43" East	86.35 feet		East along a twenty foot wide utility easement across the De Soto Canal and Tract B of Harbour Heights Section Nine (Part One).
15.	South 37°38'54" East	20.42 feet		Southeasterly along the Northern side of the twenty foot wide utility easement across Tract B of Harbour Heights Section Nine (Part One).
16.	South 00°37'09" West	252.80 feet		South along the Northern side of the utility easement.
17.	South 84°20'53" East	91.72 feet		East along the Northern side of the utility easement.

Effective Date: September 12, 2000

By: _____
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

CHARLOTTE COUNTY

Description of Wastewater Territory Served

DEEP CREEK (Cont.)

<u>Call Number</u>	<u>Bearing or Central Angle</u>	<u>Distance or Arc Length</u>	<u>Radius</u>	<u>Annotation</u>
18.	South 86°50'10" East	146.89 feet		East along the Northern side of the utility easement.
19.	South 01°40'16" West	17.22 feet		South along the Northern side of the utility easement.
20.	South 87°57'18" East	73.17 feet		East along Northern side of the utility easement to the West right of way line of Highlands Road.
21.	North 00°38'24" East	179.22 feet		North along the West right of way line of Highlands Road to a point 17.27± feet South of the South line of Section 16.
22.	South 88°45'33" East	285.02 feet		East across the right of way to Highlands Road and along the Northern right of way line of Russell Parkway.
23.	South 89°21'41" East	950.00 feet		East along the Northern right of way line of Russell Parkway.
24.	South 89°52'24" East	335.17 feet		East along the Northern right of way line of Russell Parkway and across the right of way of Broadpoint Drive to the Eastern right of way line of Broadpoint Drive.
25.	South 00°45'55" West	71.75 feet		South along the Eastern right of way line of Broadpoint Drive to the Northern lot line of Lot 73, Block 21, Harbour Heights Section 2 (Revised).
26.	South 89°21'41" East	105.00 feet		East along the North lot line of Lot 73, to the Western end of the San Marino Canal and a point of curvature.

Effective Date: September 12, 2000

By: _____
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

CHARLOTTE COUNTY

Description of Wastewater Territory Served

DEEP CREEK (Cont.)

<u>Call Number</u>	<u>Bearing or Central Angle</u>	<u>Distance or Arc Length</u>	<u>Radius</u>	<u>Annotation</u>
27.	31°29'24"	27.48 feet	50.00 feet	Along an arc on the Western end of San Marino Canal to a point of tangency.
28.	South 30°54'23" East	40.00 feet		Southeasterly along the Western end of San Marino Canal to a point of curvature.
29.	143°07'48"	124.90 feet	50.00 feet	Along an arc on the Western end of San Marino Canal to a point of reverse curvature.
30.	53°07'20"	23.18 feet	25.00 feet	Along an arc on the Southern line of San Marino Canal to a point of curvature.
31.	31°32'42"	627.64 feet	1,140.00 feet	Along an arc on the Southern line of San Marino Canal to a point of tangency.
32.	South 89°21'41" East	713.69 feet		East along the Southern line of San Marino Canal to the Eastern lot line of Lot 110, Block 21, Harbour Heights Section 2 (Revised).
33.	South 00°25'58" West	175.00 feet		South along the Eastern line of Lot 110 and across the right of way of South San Marino Drive to a point on the Southern right of way line of South San Marino Drive and the North line on Lot 4, Block 25, Harbour Heights Section 2 (Revised).
34.	North 89°21'41" West	23.29 feet		West along the Southern right of way line of South San Marino Drive to a point of curvature.

Effective Date: September 12, 2000

By: _____
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

CHARLOTTE COUNTY

Description of Wastewater Territory Served

DEEP CREEK (Cont.)

<u>Call Number</u>	<u>Bearing or Central Angle</u>	<u>Distance or Arc Length</u>	<u>Radius</u>	<u>Annotation</u>
35.	90°38'19"	39.55 feet	25.00 feet	Along an arc to a point of tangency with the Eastern right of way line of Daffodil Terrace (Dolphin Drive).
36.	South 00°38'20" West	897.81 feet		South along the Eastern right of way line of Daffodil Terrace (Dolphin Drive) and across Whitman Avenue (Wheeler Court) to a point on the Southern right of way line of Whitman Avenue (Wheeler Court).
37.	North 89°23'06" West	1,450.00 feet		West along the Southern right of way line of Whitman Avenue (Wheeler Court) to a point of intersection with the extension of the Eastern right of way line of Broadpoint Drive.
38.	North 00°38'19" East	665.03 feet		North along the Eastern right of way line of Broadpoint Drive to a point of intersection of the extension of the Southern right of way line of South San Marino Drive.
39.	North 89°21'41" West	70.00 feet		West across the right of way of Broadpoint Drive to a point of intersection with the Western right of way line of Broadpoint Drive.
40.	North 00°38'19" East	188.68 feet		North along the Western right of way line of Broadpoint Drive to a point of curvature.
41.	89°21'41"	39.21 feet	25.14 feet	Along an arc to a point of tangency with the Southern right of way line of Russell Parkway.
42.	North 89°21'41" West	1,390.00 feet		West along the Southern right of way line of Russell Parkway to a point of curvature.

Effective Date: **September 12, 2000**

By: _____
**Forrest L. Ludsen, Senior Vice President
 Rates & Regulatory Affairs**

CHARLOTTE COUNTY

Description of Wastewater Territory Served

DEEP CREEK (Cont.)

<u>Call Number</u>	<u>Bearing or Central Angle</u>	<u>Distance or Arc Length</u>	<u>Radius</u>	<u>Annotation</u>
43.	90°00'00"	39.27 feet	25.00 feet	Along an arc to a point of tangency to the Eastern right of way line of Highlands Road.
44.	South 00°44'41" West	85.75 feet		South along the Eastern right of way line of Highlands Road.
45.	North 87°56'05" West	153.56 feet		West across the right of way of Highlands Road and along the Southern line of a 20 foot wide utility easement across Tract B of Harbour Heights Section 9 (Part One).
46.	North 01°35'30" East	17.62 feet		North along the Southern side of said utility easement.
47.	North 86°50'41" West	127.81 feet		West along the Southern side of said utility easement.
48.	North 84°19'23" West	110.50 feet		West along the Southern side of said utility easement.
49.	North 00°37'27" East	264.11 feet		North along the Southern side of said utility easement.
50.	North 37°04'47" West	3.34 feet		Northwesterly along the Southern side of said utility easement.
51.	South 88°35'25" West	76.94 feet		West along the Southern side of said utility easement and across the right of way for the De Soto Canal to point of intersection with the Eastern boundary of Punta Gorda Isles, Section 23.

Effective Date: September 12, 2000

By: _____
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

CHARLOTTE COUNTY

Description of Wastewater Territory Served

DEEP CREEK (Cont.)

<u>Call Number</u>	<u>Bearing or Central Angle</u>	<u>Distance or Arc Length</u>	<u>Radius</u>	<u>Annotation</u>
52.	South 00°38'35" West	104.18 feet		South along the Eastern boundary of Punta Gorda Isles Section 23 to a point along the South line of Section 16 and the North line of Section 21, Township 40 South, Range 23 East approximately 425 feet West of the Northeast corner of Section 21.
53.	South 00°38'35" West	1,262.92 feet		South along the Eastern line of the Deep Creek Elementary School property.
54.	North 89°21'25" West	701.15 feet		West along the Southern line of school property.
55.	North 00°38'35" East	1,230.32 feet		North along the Western line of school property to the point of intersection with the North line of Section 21 and the South line of Section 16.
56.	South 87°58'54" West	1,583.02 feet		West along the South line of Section 16, to the South quarter corner of Section 16.
57.	South 87°59'02" West	2,710.72 feet		West along South line of Section 16 to the Southwest corner of Section 16.
58.	North 00°25'31" East	4,078.12 feet		North along the West line of Section 16 and East line of Section 17, Township 40 South, Range 23 East to a point 1,321.40 feet South of the Northeast corner of Section 17.
59.	North 89°40'24" West	3,122.92 feet		West through Section 17 to a point of intersection with the Eastern right of way of Interstate I-75, 1,298.92 feet South of the North line of Section 17 and 2,213.84 feet East of the West line of Section 17.

Effective Date: September 12, 2000

By: _____
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

CHARLOTTE COUNTY

Description of Wastewater Territory Served

DEEP CREEK (Cont.)

<u>Call Number</u>	<u>Bearing or Central Angle</u>	<u>Distance or Arc Length</u>	<u>Radius</u>	<u>Annotation</u>
60.	North 31°43'37" West	1,525.92 feet		Northwesterly through Section 17 along the Eastern right of way line of I-75 to a point on the North line of Section 17 and the South line of Section 8, Township 40 South, Range 23 East, 1,413.06 feet East of the Southwest corner of Section 8.
61.	North 28°57'25" West	2,927.15 feet		Northwesterly through Section 8 along the Eastern right of way line of I-75 to the West quarter corner of Section 8 and the East quarter corner of Section 7, Township 40 South, Range 23 East
62.	North 28°57'25" West	3,190.52 feet		Northwesterly from the East quarter corner of Section 7 to a point of intersection with the North line of Section 7 1,540.20 feet West of the Northeast corner of Section 7.
63.	South 89°56'58" East	1,540.20 feet		East along the North line of Section 7 to the Northeast corner of Section 7 and the Southwest corner of Section 5, Township 40 South, Range 23 East.
64.	North 00°13'30" East	5,315.13 feet		North along the West line of Section 5 to the Northwest corner of Section 5 and the Point of Beginning.

Less and except the following parcel in Section 5:

Begin at the Northwest corner of said Section 5 and run S 89°39'47" E a distance of 259.24 feet to the intersection with the westerly right-of-way of Kings Highway; thence S 25°05'53" W a distance of 352.43 feet along said right-of-way of Kings Highway; thence N 89°38'45" W leaving said right-of-way a distance of 111.73 feet, to the West line of Section 6; thence N 00°21'19" E a distance of 320 feet, more or less; to the Point of Beginning.

Effective Date: September 12, 2000

By: _____
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

CHARLOTTE/LEE COUNTY

Description Of Water Territory Served

BURNT STORE

Township 42 South, Range 22 East, Charlotte County, Florida.

Section 13

All of said Section 13 East of Charlotte Harbor.

Section 25

All of said Section 25 East of Charlotte Harbor.

Section 36

All of said Section 36 East of Charlotte Harbor.

Township 42 South, Range 23 East, Charlotte County, Florida.

Section 17

All of said Section 17.

Section 18

All of said Section 18 East of Charlotte Harbor.

Section 19

All of said Section 19 East of Charlotte Harbor.

Sections 20 and 29

All of said Sections 20 and 29.

Section 30

All of said Section 30 East of Charlotte Harbor.

Sections 31 and 32

All of said Sections 31 and 32.

Section 33

The Northwest $\frac{1}{4}$ of said Section 33.

Township 43 South, Range 22 East, Lee County, Florida.

Section 1

All of said Section 1 East of Charlotte Harbor.

Effective Date: **September 12, 2000**

By: _____

**Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs**

CHARLOTTE/LEE COUNTY

Description Of Water Territory Served

BURNT STORE (Cont.)

Township 43 South, Range 23 East, Lee County, Florida.

Section 5

All of said Section 5.

Section 6

All of said Section 6 less and except the South 1,170 feet of the East 4,170 feet and the South 840 feet of the West 1,130 feet.

Also an area to the East of the previously described area but not contiguous, located in Township 42 South, Range 23 East, Section 24 and Township 42 South, Range 24 East, Section 19, more particularly described as follows:

Township 42 South, Range 23 East, Charlotte County, Florida

Section 24

All of that portion of said Section 24 lying Westerly of the Westerly right of way of U.S. Highway 41, less the North 967 feet of said Section 24.

Township 42 South, Range 24 East, Charlotte County, Florida

Section 19

All that portion of said Section 19 lying Westerly of the Westerly right of way of U.S. Highway 41.

Effective Date: September 12, 2000

By: _____
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

CHARLOTTE/LEE COUNTY

Description Of Wastewater Territory Served

BURNT STORE

Township 42 South, Range 22 East, Charlotte County, Florida.

Section 13

All of said Section 13 East of Charlotte Harbor.

Section 25

All of said Section 25 East of Charlotte Harbor.

Section 36

All of said Section 36 East of Charlotte Harbor.

Township 42 South, Range 23 East, Charlotte County, Florida.

Section 17

All of said Section 17.

Section 18

All of said Section 18 East of Charlotte Harbor.

Section 19

All of said Section 19 East of Charlotte Harbor.

Section 20

All of said Section 20 less and except:

Beginning at the Southwest corner of said Section 20 run North 44°34'25" East a distance of 1,496.80 feet, thence North 44°34'25" East a distance of 444.09 feet, thence North 88°25'38" East a distance of 1,291.47 feet, thence South 00°45'58" West a distance of 1,345.81 feet, thence South 88°25'38" West a distance of 2,636.15 feet, thence North 88°02'44" East a distance of 9.72 feet to the Point of Beginning.

Section 29

All of said Section 29.

Section 30

All of said Section 30 East of Charlotte Harbor.

Sections 31 and 32

All of said Sections 31 and 32.

Section 33

The Northwest ¼ of said Section 33.

Effective Date: September 12, 2000

By: _____

**Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs**

CHARLOTTE/LEE COUNTY

Description Of Wastewater Territory Served

BURNT STORE (Cont.)

Township 43 South, Range 22 East, Lee County, Florida.

Section 1

All of said Section 1 East of Charlotte Harbor.

Township 43 South, Range 23 East, Lee County, Florida.

Section 5

All of said Section 5.

Section 6

All of said Section 6 less and except the South 1,170 feet of the East 4,170 feet and the South 840 feet of the West 1,130 feet.

Also an area to the East of the previously described area but not contiguous, located in Township 42 South, Range 23 East, Section 24 and Township 42 South, Range 24 East, Section 19, more particularly described as follows:

Township 42 South, Range 23 East, Charlotte County, Florida

Section 24

All of that portion of said Section 24 lying Westerly of the Westerly right of way of U.S. Highway 41, less the North 967 feet of said Section 24.

Township 42 South, Range 24 East, Charlotte County, Florida

Section 19

All that portion of said Section 19 lying Westerly of the Westerly right of way of U.S. Highway 41.

Effective Date: September 12, 2000

By: _____
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

**ASSIGNMENT, ASSUMPTION AND AMENDMENT
TO ACQUISITION AGREEMENT**

THIS ASSIGNMENT, ASSUMPTION AND AMENDMENT TO ACQUISITION AGREEMENT ("Agreement") is made and entered into this 5th day of December, 2003, by and between the Florida Governmental Utility Authority, a legal entity and public body created by Interlocal Agreement pursuant to section 163.01(7), Florida Statutes (the "FGUA"), the Board of County Commissioners of Charlotte County, Florida, a political subdivision of the State of Florida (the "County") and Florida Water Services Corporation ("Florida Water"), a Florida corporation.

WITNESSETH:

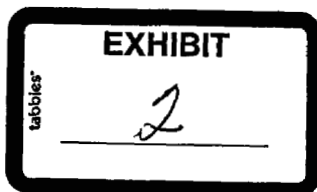
WHEREAS, the FGUA and other local governments have entered into a First Amended and Restated Utility System Asset Acquisition Agreement entered into as of August 25, 2003, (the "Acquisition Agreement") with Florida Water which, among other things, gives the FGUA the right to acquire the water and wastewater assets currently owned by Florida Water in Charlotte County and identified as the Burnt Store and Deep Creek systems (hereafter, the "Charlotte System"); and

WHEREAS, Charlotte County has advised the FGUA that the County wishes to accept an assignment of the Acquisition Agreement pertaining to the Charlotte System from the FGUA; and

WHEREAS, Florida Water has agreed and consented to the terms of this assignment and assumption agreement as it relates to the FGUA's assignment to the County and the County's assumption of the FGUA's rights, obligations, remedies, powers, title and interest in the Charlotte System arising from the Acquisition Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and agreements contained herein, together with \$10 and other good and valuable consideration exchanged between the parties, the parties do undertake, promise and agree for themselves, their permitted successors and assigns as follows:

SECTION 1. PURPOSES AND DEFINITIONS. This Agreement is intended to (A) transfer and assign to the County all of the FGUA's rights, obligations, remedies, powers, title and interest in the Acquisition Agreement as relate to the Charlotte System, and (B) provide for the assumption by the County of the rights, obligations, remedies, powers, title and interest of the FGUA under such Acquisition Agreement as it relates to the Charlotte System. This Agreement shall become effective on the date last executed by a party to this Agreement.



SECTION 2. TRANSFER AND ASSIGNMENT. The FGUA shall, and does hereby, transfer, assign, convey, and grant, bargain and sell unto the County:

1. all rights, obligations, remedies, powers, title or interest in the Acquisition Agreement as relate to the Charlotte System; and
2. all other claims or causes of action arising out of the Acquisition Agreement Such assignment and assumption shall be subject to and be in all respects in conformance with the provisions of the Acquisition Agreement.

SECTION 3. ASSUMPTION. The County hereby accepts the transfers and assignments set forth in Section 2 above, and assumes the rights, obligations, remedies, powers, title and interest set forth in the Acquisition Agreement as relate to the Charlotte System. Accordingly, the County acknowledges and accepts the responsibility and obligation to provide water and wastewater services as a governmentally owned and controlled service provider to the Charlotte System upon acquisition of the Charlotte System from Florida Water. Notwithstanding the foregoing, after the parties have signed this Agreement, the FGUA shall continue to assist the County in the closing process by providing information and coordinating the closing process with Florida Water to facilitate the acquisition by the County of the Charlotte System.

SECTION 4. COUNTY HOLD HARMLESS PROVISION. The County hereby agrees to hold the FGUA harmless, to the extent permitted by law, from any and all costs (including reasonable attorney's fees and expenses), claims, actions, damages, obligations, liabilities and liens relating in any way to the Acquisition Agreement as it relates to the Charlotte System which occur subsequent to the effective date of this Agreement.

SECTION 5. FLORIDA WATER CONSENT TO ASSIGNMENT AND ASSUMPTION. Florida Water hereby consents to the assignment and assumption set forth in this Agreement of rights, obligations, remedies, powers, title and interest provided in the Acquisition Agreement as such rights, obligations, remedies, powers, title and interest relate to the Charlotte System, provided, however, that if the County does not perform its obligations under the Acquisition Agreement, the FGUA shall remain liable to Florida Water for such performance.

SECTION 6. REIMBURSEMENT OF TRANSACTION COSTS. At closing of the acquisition contemplated in this Agreement, the County shall pay those costs, fees and expenses which would have been incurred by the FGUA in connection with the FGUA's acquisition of the Charlotte System, as itemized in Appendix A hereto.

SECTION 7. ACQUISITION COUNSEL. The FGUA and the County acknowledge that Nabors, Giblin & Nickerson, P.A. ("NG&N") has served as acquisition counsel on behalf of the FGUA through the effective date of this Agreement and agree that NG&N is authorized

to continue to provide services as acquisition counsel on behalf of the County after the effective date to facilitate the County's purchase of the Charlotte System.

SECTION 8. CLOSING DATE. The parties hereby agree to a Closing Date under the Acquisition Agreement of on or before December 12, 2003, unless subsequently extended by agreement of the parties.

SECTION 9. FLORIDA PUBLIC SERVICE COMMISSION APPROVAL CONTINGENCY. The parties agree that the sale and transfer of the Charlotte System from Florida Water to the County is contingent upon approval of the Florida Public Service Commission pursuant to section 367.071(4)(a), Florida Statutes, and that this Section 10 supplements and amends any inconsistent term of the Acquisition Agreement.

SECTION 10. INCORPORATION BY REFERENCE OF CHARLOTTE COUNTY CERTIFICATE. The "Certificate and Release of Charlotte County, Florida, Acknowledging and Affirming Certain Provisions of the Amended and Restated Utility System Acquisition Agreement" (the "County Certificate"), attached hereto as Appendix B, is incorporated herein by reference. The parties acknowledge and agree that the County Certificate supplements and amends the terms of the Acquisition Agreements to the extent such terms are inconsistent with the County Certificate. The terms of the Acquisition Agreement remain in full force and effect except to the extent expressly amended in this Agreement.

SECTION 11. THIRD PARTIES. Nothing in this Agreement shall inure to the benefit of any entity or person not a party to this Agreement.

SECTION 12. BINDING EFFECT. This Agreement shall inure to the benefit of and be binding upon Florida Water, the County and the FGUA and their successors and assigns.

SECTION 13. PART AND COUNTERPART. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Florida Water, the County and the FGUA have caused this Agreement to be duly executed and entered into on the date first above written.

FLORIDA GOVERNMENTAL UTILITY AUTHORITY

BY: Heather Thomas
CHAIR

ATTEST:

BY: [Signature]

BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA

BY: [Signature]
VICE CHAIR - Tom F. Aprile

ATTEST:
Barbara T. Scott, Clerk of Circuit Court and Ex-Officio Clerk to the Board of County Commissioners

By: [Signature]
Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

[Signature]
County Attorney
LR# 03-430 MB
FLORIDA WATER SERVICES CORPORATION

BY: [Signature]
ITS: President

ATTEST:

By: [Signature]

STATE OF FLORIDA

COUNTY OF ~~POKER~~ HILLSBOROUGH

This instrument was acknowledged before me this 2nd day of December, 2003, by Lea Ann Thomas as Chair of the Florida Governmental Utility Authority, a legal entity and public body created by interlocal agreement pursuant to section 163.01(7), Florida Statutes who is personally known to me or who has produced _____ as identification.

Notary Public for the State of Florida

(Print, Type or Stamp Commissioned Name)



STATE OF FLORIDA

COUNTY OF CHARLOTTE

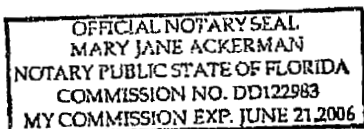
This instrument was acknowledged before me this 5th day of December, 2003, by Tom
D'Aprile as Vice Chair of the Board of County Commissioners of
Charlotte County, a political subdivision of the State of Florida, who is personally known to me or
has produced _____ as identification.

Mary Jane Ackerman

Notary Public for the State of Florida

(Print, Type or Stamp Commissioned Name)

MARY JANE ACKERMAN



STATE OF FLORIDA

COUNTY OF Orange

This instrument was acknowledged before me this 4/4 day of December, 2003, by Arrest L. Ladsen as President of Florida Water Services Corporation, a Florida corporation, who is personally known to me or has produced _____ as identification.

Nancy O. Hansa
Notary Public for the State of Florida

(Print, Type or Stamp Commissioned Name)

 Nancy O. Hansa
MY COMMISSION # DD115486 EXPIRES
July 22, 2006
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APPENDIX A

**FGUA COSTS, FEES AND EXPENSES IN CONNECTION
WITH THE FGUA'S ACQUISITION OF THE CHARLOTTE SYSTEM**

APPENDIX A

CHARLOTTE/LEE SYSTEM	
Acquisition Counsel (NGN)	\$ 150,000
Rate Consultants (PRMG)	\$ 14,513
Program Administrator (GSG)	\$ 19,450
Engineering (PBSJ)	\$ 186,000
Other (FGUA Expenses)	\$ 18,317
TOTAL	\$ 388,280

APPENDIX B

**CERTIFICATE AND RELEASE OF CHARLOTTE COUNTY, FLORIDA
ACKNOWLEDGING AND AFFIRMING CERTAIN PROVISIONS
OF THE AMENDED AND RESTATED ACQUISITION AGREEMENT**

APPENDIX B**CERTIFICATE AND RELEASE OF CHARLOTTE COUNTY, FLORIDA
ACKNOWLEDGING AFFIRMING CERTAIN PROVISIONS OF THE AMENDED AND
RESTATED UTILITY SYSTEM ASSET ACQUISITION AGREEMENT**

THIS CERTIFICATE AND RELEASE (this "Certificate"), is made and entered into this ^{5th} day of December, 2003, by among CHARLOTTE COUNTY, a political subdivision of the State of Florida ("Charlotte") to FLORIDA WATER SERVICES CORPORATION, a Florida corporation ("Florida Water").

WITNESSETH:

WHEREAS, the Florida Governmental Utility Authority ("FGUA") and Florida Water entered into that certain First Amended and Restated Utility System Asset Acquisition Agreement dated as of August 25, 2003 (the "Acquisition Agreement"), pursuant to which FGUA agreed to acquire the Florida Water utility systems in Charlotte County (the "Charlotte System") together with the Lee County System and the Citrus County System; and

WHEREAS, Charlotte desires to assume FGUA's contractual rights and obligations under the Acquisition Agreement to acquire the Charlotte System from Florida Water ("Contract Rights"); and to induce Florida Water to accept an assignment of FGUA's Contract Rights, Charlotte has agreed to provide this Certificate to Florida Water; and.

WHEREAS, all capitalized terms not defined in this Assignment shall have the meaning(s) ascribed to them in the Acquisition Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and agreements contained herein, together with \$10 and other good and valuable consideration exchanged between the parties, Charlotte County certifies to Florida Water as follows:

1. Charlotte agrees and acknowledges that the sale of the Charlotte County System to Charlotte is "AS IS/WHERE IS" pursuant to the terms of the Acquisition Agreement and there are no representations, covenants, warranties or retention and assumption of liabilities other than those specifically set forth in the terms of the Acquisition Agreement, including but not limited to, any representations, covenants, warranties or retention and assumption of liabilities in respect to environmental matters.
2. Charlotte agrees and acknowledges that Florida Water shall have no liability or responsibility to construct, complete construction of, fund, finance or otherwise pay for any operational or capital expense of the Charlotte System after Closing, including, but not limited to, any of the projects or issues set forth on Exhibit "A" to this Certificate. Without limiting the

foregoing and notwithstanding anything in the Acquisition Agreement that may be to the contrary, Charlotte expressly agrees and acknowledges that Charlotte shall have sole responsibility and liability to complete the construction of and fully pay for without reimbursement or other payment from Florida Water, the Burnt Store Wastewater Treatment Plant project (the "WWTP Project") which is the subject matter, among other matters, of a Proceeding that the DEP has instituted against Florida Water (the "DEP Proceeding"), and shall have sole responsibility and liability to comply with and fully pay for, without reimbursement or other payment from Florida Water, all of the matters set forth on the draft Consent Order set forth in Exhibit "B" to this Certificate (the "Draft Consent Order") (The parties acknowledge that Charlotte and the DEP may further negotiate and execute a final Consent Order that amends or revises provisions set forth in the Draft Consent Order. Notwithstanding that a final Consent Order is executed, the Draft Consent Order in Exhibit "B" shall be utilized for purposes of this Certificate.)

3. Charlotte agrees that it will not bring any suit, action or claim against Florida Water arising out of or resulting from (i) any issue set forth on Exhibit "A", and (ii) any alleged violations and/or non-compliance of certain conditions of the DEP Permit, statutes, rules and/or other regulatory requirements at the Charlotte System, and Charlotte agrees to release Florida Water from all claims and any future claims that may arise from (i) any issue set forth on Exhibit "A", and (ii) any alleged violations and/or incidents of non-compliance of certain conditions of the DEP Permit, statutes, rules and/or other regulatory requirements at the Charlotte County System.

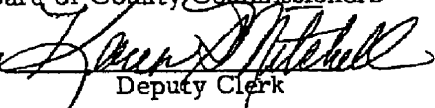

4. Charlotte agrees that except for the DEP Proceeding, there are no other Proceedings pending regarding the Charlotte System, that they are not aware of any other Proceedings that could arise, and that they will not instigate or initiate any Proceeding on or before Closing.

5. Charlotte covenants and agrees with Florida Water that Charlotte will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered any and all such further acts, instruments, papers and documents, as may be necessary, proper or convenient to carry out and effectuate the intent and purposes of this Certificate.

6. This Certificate incorporates by reference all definitions, terms, provisions, conditions and limitations set forth in the Acquisition Agreement. In the event of any conflict or inconsistency between the definitions, terms, provisions, conditions and limitations set forth in the Acquisition Agreement and those which are set forth in this Certificate, the definitions, terms, provisions, conditions and limitations set forth in this Certificate shall supersede and prevail.

IN WITNESS WHEREOF, Charlotte has caused this Assignment to be duly executed and entered into on the date first above written.

	CHARLOTTE COUNTY
--	-------------------------

<p>ATTEST: Barbara T. Scott, Clerk of Circuit Court and Ex-Officio Clerk to the Board of County Commissioners</p> <p>By:  Deputy Clerk</p>	<p>By:  Print Name: <u>Tom D'Aprile</u> Title: <u>Vice Chair</u></p>
---	--

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

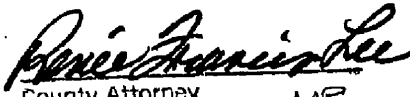

County Attorney
LR #03-430 MB

EXHIBIT "A"

Burnt Store:

1. Wastewater Treatment Plant Capacity.
2. Capacity of Percolation ponds.
3. Corrosion on the WWTP.
4. Water Plant Capacity.
5. Water production quantity or sufficiency of existing wells.

Deep Creek:

6. Low pressure
7. water line capacity
8. fireflow needs

General:

9. any issues or projects mentioned in Florida Water's proposed 5 year capital budget, a copy of which is attached to this Certificate.

EXHIBIT "B"**CONSENT ORDER**

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re: Burnt Store WWTP Facility,
Permit No. FLA014083.

)
)
)

OGC FILE NO.

CONSENT ORDER

This Consent Order is entered into between the State of Florida Department of Environmental Protection ("Department") and Charlotte County, Florida (the "County") to reach settlement of certain matters at issue between the Department and the County.

1. The Department finds, and the County admits, the following:

(a) The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes, and the rules promulgated thereunder, in Title 62, Florida Administrative Code. The Department has jurisdiction over the matters addressed in this Consent Order.

(b) The County is a political subdivision of the State of Florida, and operates a public water and wastewater utility system in Charlotte County, Florida.

(c) At this time, Florida Water Services Corporation (the "Permittee") is the current permittee and owner, and is responsible for the operation, of the Burnt Store Wastewater Treatment Plant, a 0.250 MGD three month average daily flow extended aeration domestic wastewater treatment facility (the "Facility") discharging chlorinated effluent to percolation ponds. The Facility is located at 17430 Burnt Store Road, Punta Gorda, Florida 33955; Latitude: 26° 46' 18" N, Longitude 82° 02' 00" W. The Permittee operates the Facility under Department Permit No. FLA014083, which is scheduled to expire on April 16, 2007.

(d) The County does not currently own, and is not otherwise responsible for, the Facility. However, the County is considering acquiring the Facility from the Permittee, with an anticipated closing date of December 12, 2003. Accordingly, this Consent Order shall not be binding upon the Department or the County, unless and until the County acquires the Facility. Further, because the Permittee is not a party hereto, this Consent Order, and any terms, conditions, and/or determinations contained herein, are without prejudice to the Permittee, but the Department and the County each reserve any and all rights against the Permittee.

(e) On October 17, 2003, the Department issued a Compliance Evaluation Inspection ("CEI") report, which identifies certain apparent violations and/or incidents of non-compliance concerning the Facility.

(f) In conducting its pre-acquisition due diligence activities, the County has identified additional apparent violations and/or incidents of non-compliance concerning the Facility.

In a good faith effort to cooperate and work with the Department to bring the Facility into compliance, the County has disclosed these matters to the Department.

(g) Based on investigations conducted by the Department, it appears that the Facility may currently be in violation or non-compliance of certain conditions of its permit(s), statutes, rules and/or other regulatory requirements, all of which are addressed in this Consent Order. Although the County did not cause and is not responsible for said violations and non-compliance, within a reasonable period of time after acquiring the Facility the County is prepared to expend substantial sums to bring it into compliance, and has worked cooperatively with the Department to establish a reasonable and mutually acceptable schedule to attain such compliance.

(h) In addition, the parties anticipate that after the County acquires and begins operating the Facility, the Department or the County may identify or encounter other violations or incidents of non-compliance caused by the actions or inactions of the Facility's prior owner(s), and the parties intend this Consent Order to govern such matters.

(i) In an effort to expedite and facilitate the County's good faith desire to bring the Facility into compliance with applicable laws and regulations within a reasonable period of time, and to avoid litigation, the Department and the County intend that this Consent Order shall achieve an amicable resolution of all matters addressed by this Consent Order, contingent upon the County acquiring the Facility.

2. The Department finds that the following items appear to be violations and/or incidents of non-compliance at the Facility:

(a) Failure to meet the enforceable schedule for construction of new wastewater treatment facilities and attainment of associated new operating levels by deadlines established in the permit as contained in Article VI - SCHEDULES. The following implementation steps and completion dates were not obtained by the Permittee:

Item	Implementation Step	Completion Date
1	Initiate construction of substantial modification	September 30, 2002
3	Complete construction of substantial modification to treatment plant.	July 31, 2003
4	Plant operational level attained (for discharge to percolation ponds).	August 31, 2003.
5	Plant operational level attained (for discharge to reuse R-002).	Prior to placing public Access Reuse System in Operation

Item 3 above is described in the permit as the following: "Construct a substantial modification to the existing plant consisting of installing two aeration basins for a total of 300,000 gallons of aeration volume, one clarifier, 4 filter disks, one filter mudwell and two chlorine contact chambers. Under the substantial modification the existing sand filter/backwash holding facility will be abandoned and the existing gas chlorination system will be converted to a sodium hypochlorite feed system. Additional piping and ancillary support equipment are to be installed to integrate existing treatment plant equipment with the proposed substantial modification of the plant. Corrosion deterioration conditions noted that exist within the existing plant are to be repaired to ensure continued structural integrity of the plant so it can be operated as intended. The substantially modified treatment plant will be a 0.500 MGD three-month average daily, TMADF, conventional activated sludge domestic wastewater treatment plant."

(b) Failure to develop and implement and report upon a wastewater reuse plan as mandated in the facility permit as described in Article VI – SCHEDULES. The following implementation steps and completion dates were not obtained by the Permittee:

Item	Implementation Step	Completion Date
1	Submit Reuse operational protocol.	Within 270 days after issuance date of permit [Jan. 12, 2003].
2	Provide reuse agreement with party/parties to where reuse water is to be disposed of.	Within 270 days after issuance date of permit. [Jan. 12, 2003].
3	Provide a copy of the operations and maintenance manual for the reuse disposal customers.	Within 270 days after issuance date of permit. [Jan. 12, 2003].

No evidence was uncovered to confirm that Items 1, 2, or 3 above have been completed as of the date of this Consent Order. Further, no evidence has been uncovered to demonstrate that agreements with the proposed slow-rate reuse customers are being negotiated after the issuance of the permit.

(c) Violation(s) of the three month average daily flow (TMADF) permit limitation of 0.250 MGD until the substantial modifications to the plant are completed. The permit states: "Operate an existing 0.250 MGD three month average daily flow, TMADF, extended aeration domestic wastewater treatment plant consisting of a manually cleaned influent bar screen with bypass channel, 100,000 gallon flow equalization basin, 187,000 gallons of aeration volume, dual blower-motor assemblies, single clarifier, gas chlorination system, chlorine contact chamber, backwashable sand filter, backwash holding facility and an aerobic digester." During the month of March 2003, the TMADF permit limit for the existing treatment plant was exceeded.

(d) Failure to meet the permit requirement to fence the plant site as required by Article VII – OTHER SPECIFIC CONTITIONS, ITEM10, "The treatment facility, storage ponds, rapid infiltration basins, and/or infiltration trenches shall be enclosed with a fence or otherwise provided with features to discourage the entry of animals and unauthorized persons." The treatment and on-site disposal facilities are only partially fenced.

3. Having reached a resolution of the matter, contingent upon the County's ultimate acquisition of the Facility, the Department and the County mutually agree, and the Department hereby **ORDERS**, that subject to the terms and conditions of this Consent Order, the County, upon acquiring the Facility, shall comply with the following corrective actions within the stated time periods:

(a) The County will complete construction of the treatment facility expansion as described in the permit and paragraph 2(a) of this Consent Order by July 31, 2004 and attain the required plant operating level of 0.500 MGD TMADF by August 31, 2004. The permit does not allow operation of the plant at the 0.500 MGD TMADF until additional disposal capacity is obtained. The County will also complete known corrosion damage repairs within 90 days of attaining the required operating level.

(b) The County will complete the reuse operational protocol for the treatment facility within 6 months of completing the facility upgrade described in paragraph 3(a). The County will seek reuse agreements with local water users and seek the assistance of the local water management districts and the Department to help ensure success. The County will develop operations and maintenance manuals(s) for all water reuse customers. In recognition of the current

limited number of potential reuse customers, the extent of negotiation that will be required with potential customers, the design and construction of transmission and reuse storage facilities, and the required permitting that must be obtained the County will be granted 24 months after substantial completion of the facility upgrade to complete these tasks. The permitted capacity of the plant will be dependent on the treatment capacity of the plant and disposal capacity.

(c) Within nine (9) months of acquiring and assuming operation of the Facility, the County shall design, procure and install facility fencing in accordance with the requirements of permit condition No. VIII. 10.

(d) The County will continue to report monthly average flow values but the existing permit limit for the three month average daily flow (TMADF) limit will be waived until the completion of construction and attainment of the required operating level described in paragraph 3(a). The County shall report to the Department within forty-eight (48) hours, any flow in excess of the 0.250 MGD daily flow.

(e) The Department understands the critical nature of modifying the existing deep well permit. The deep well is currently permitted for brine disposal from the Burnt Store Water Treatment Facility at the rate of 0.564 MGD. Charlotte County Utilities desires to augment the existing wastewater treatment disposal capacity with unused capacity of the deep well. The permittee has/will submit an application to modify the deep well permit to allow for the disposal of treated wastewater. The Department agrees to expedite its review of the permittee's application such that its proposed agency action shall be issued within 30 days of said application being declared complete by the Department or the County.

(f) The County recognizes a need to increase the allowable application rate for the rapid infiltration basins. Therefore, within 120 days of acquiring and assuming operation of the Facility, the County shall conduct an evaluation of the rapid infiltration basins to determine the feasibility of re-rating this effluent disposal process above the existing 0.250 MGD limit.

4. If, after acquiring the Facility, the County or the Department identifies or encounters any other violations or incidents of non-compliance caused by the actions or inactions of the Facility's prior owner(s), which are not already addressed by this Consent Order, it shall provide the other party with written notification of such violations or other incidents of non-compliance, within five (5) days of the discovery of same. Upon such notification, the Department shall propose a reasonable schedule and corrective action for the County to take in order to bring the Facility into compliance, which schedule and corrective action shall be considered proposed agency action for purposes of Sections 120.569 and 120.57, Florida Statutes.

5. Upon a showing of good cause, the County may request the Department to grant a reasonable extension of any deadline or other time period set forth in this Consent Order, which request shall not be unreasonably denied by the Department. Such request shall be in writing, and the deadline or other time period shall be tolled while the Department considers and takes final action on the request. The Department's proposed denial of such request shall be considered proposed agency action for purposes of Sections 120.569 and 120.57, Florida Statutes.

6. The County shall allow all authorized representatives of the Department access to the Facility at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules and statutes of the Department.

7. All submittals and notifications required by this Consent Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, South District, P.O. Box 2549, Fort Myers, FL 33902-2549.

8. If the Department discovers, alleges, or determines that the County has violated or not complied with any terms or conditions of this Consent Order, the Department shall provide written notification of same to the County and propose a reasonable schedule and corrective action for the County to take in order to bring the Facility into compliance, which schedule and corrective action shall be considered proposed agency action for purposes of Sections 120.569 and 120.57, Florida Statutes. The Department hereby waives the right to seek any monetary fines or penalties against the County for alleged violations or failure to comply with this Consent Order. However, nothing in this Paragraph shall prevent the Department from seeking to specific enforcement of any terms of this Consent Order by appropriate administrative or civil action. The invalidity, breach, or violation of any particular terms or conditions of this Consent Order shall not affect validity of the remaining terms and conditions of this Consent Order.

9. To the fullest extent allowed by applicable law, this Consent Order is intended to be a full and complete settlement of any and all liability of the County, including civil, criminal, and/or administrative liability, arising under any applicable permit condition, statute, rule, or policy which the Department has jurisdiction to enforce, with respect to any and all matters addressed by this Consent Order, and/or violations and/or other incidents of non-compliance caused by any prior owner(s) of the Facility or other third parties, and the Department hereby waives its right to seek monetary fines or penalties from the County, or take any other action against the County, for such matters.

10. The Department hereby reserves all rights to pursue any and all causes of action to remedy, prevent, and/or prohibit any violations of applicable statutes, or the rules promulgated thereunder, concerning matters that are not specifically addressed by this Consent Order, and the County hereby expressly reserves the right to assert any and all available defenses concerning such causes of action.

11. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

12. Entry of this Consent Order does not relieve the County of the need to comply with otherwise applicable federal, state or local laws, regulations or ordinances.

13. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both the County and the Department.

14. Within three (3) days after the date of this Consent Order, the County shall publish the following notice, one time only, in a newspaper of general circulation in the county where the Facility is located:

NOTICE OF CONSENT ORDER

The Department of Environmental Protection and Charlotte County hereby give notice of agency action of entering into a Consent Order pursuant to Section 120.57(4), Florida Statutes. The Consent Order addresses the Burnt Store Wastewater Treatment Plant located at 17430 Burnt Store Road, Punta Gorda, Florida 33955; Latitude: 26° 46' 18" N, Longitude 82° 02' 00" W. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, [Enter address of District Office].

Persons whose substantial interests are affected by this Consent Order have a right to petition for an administrative hearing on the Consent Order. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information: (a) The name, address, and telephone number of each petitioner; the Department's identification number for the Consent Order and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and

120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondent, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, MS. #35, Tallahassee, Florida 32399-3000, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

- (a) The names, addresses, and telephone numbers of any persons who may attend the mediation;
- (b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
- (c) The agreed allocation of the costs and fees associated with the mediation;
- (d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- (e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
- (f) The name of each party's representative who shall have authority to settle or recommend settlement; and
- (g) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the

petition for hearing that each party has already filed, and incorporating it by reference.

(h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within 21 days of receipt of this notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

15. The County acknowledges and waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, concerning the terms of this Consent Order. The County acknowledges its right to appeal this Consent Order pursuant to Section 120.68, Florida Statutes, and waives that right upon signing this Consent Order.

16. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

CHARLOTTE COUNTY, FLORIDA

Date

By: _____
Matthew D. DeBoer, Chairman
Board of County Commissioners
of Charlotte County, Florida

DONE AND ORDERED this _____ day of _____, 20____,
in _____, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Director of District Management

FILING AND ACKNOWLEDGEMENT FILED, on this date, pursuant to §120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk

Date

Copies furnished to:

Larry Morgan
Iia Herrera