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May 3, 2007

HAND DELIVERY

Ms. Ann Cole, Commission Clerk  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

RE: Docket No. 060253-WS; Utilities, Inc. of Florida's Application for Rate Increase in Marion, Orange, Pasco, Pinellas and Seminole Counties, Florida  
Our File No. 30057.108

Dear Ms. Cole:

Enclosed for filing in the above-referenced docket is the response of Utilities, Inc. of Florida (*Utility*) to Staff's data request on Audit Finding 14 dated April 25, 2007.

1. What part did both Department of Transportation and Seminole County play in the condemnation? Please explain the relationship between the two in the condemnation proceedings.

RESPONSE: The Florida Department of Transportation (FDOT) condemned a portion of the Lincoln Heights wastewater treatment plant (WWTP) in order to acquire property needed to construct the SR 417 Central Greenway. Seminole County thereafter utilized a portion of the condemned property that it acquired from FDOT in order to relocate and realign Airport Blvd.

2. When was the utility first approached by DOT/Seminole County regarding the condemnation?

RESPONSE: The Utility was first approached by DOT/Seminole County regarding the condemnation in 1998.

DOCUMENT NUMBER-DATE

03755 MAY-30

FPSC-COMMISSION CLERK

3. Please supply staff with the total sequence of events relating to this audit finding, including its regulatory accounting treatment in prior orders, its regulatory treatment for book purposes, and its regulatory treatment in this proceeding.

**RESPONSE:** The Utility began the process of filing for a general rate increase on February 26, 2002. It was during the course of this case that staff made its first recommendations on the accounting treatment of the condemnation of the Lincoln Height WWTP. The Utility filed for a general rate increase in 2006, utilizing a 2005 historical test year. Staff made recommendations based on its audit findings in their audit report issued January 18, 2007, specifically concerning number 14, relating to the adjustment to the Utility's land account needed because of the condemnation from FDOT. The Utility agreed with Staff's recommendations concerning the reduction of \$180,351.00.

4. This audit finding states that the utility began incurring legal and engineering costs related to the condemnation in February 1998. Please provide a complete list of these costs and the accounting treatment of same by date and by account number from the beginning of the process to the end of the process, as reflected in the utility's books at 12/31/05.

**RESPONSE:** The Utility is in the process of completing the response to this request. In order not to delay the remaining responses, this response will be submitted when it is available.

5. The Final Disbursement of Funds Accounting as of December 20, 2002 lists the final award as \$850,000, inclusive of fees and costs. It also shows that two separate checks were issued: Check No. 1571 for \$154,190.33 on June 21, 1999 and Check No. 5271 for \$480,222.97 on December 20, 2002.

- a. What was the date each payment was received and to what account was each payment credited and debited on the utility's books?

**RESPONSE:** Check #1571 in the amount of \$154,190.33 was received after FDOT took possession of the condemned property in June 1999. Check #5273 in the amount of \$480,222.97 was received in December 2002 and reflects the balance received in the settlement agreement with FDOT net fees and costs expended to defend the Utility's property rights. Check #5271 in the amount of \$14,563.73 was also received on December 20, 2002 and reflects the reimbursement for the advanced payment of an invoice submitted by Gulfcoast Survey Associates, Inc. The entries on the Utility's books are as follows:

Ms. Ann Cole, Commission Clerk  
 Office of Commission Clerk  
 May 3, 2007  
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CO	SUBD	ACCNT	DESCRIPTION	DEBIT	CREDIT
003	* 1003	* 1312013	Shoemaker FL	494,786.70	
001	* 0001	* 1861002	D		494,786.70
001	* 0001	* 1861002	Sale of Land FL	494,786.70	
001	* 0001	* 4141040	Sale of Land FL		494,786.70

The \$494,786.70 amount is the sum of \$480,222.97 from check # 5273 and \$14,563.73 from check #5271. Please see the attached entries.

- b. What specifically did the \$154,190.33 relate to? In other words, was the \$154,190.33 related to condemnation of percolation pond property only, or was it related to compensation for anything else? Please provide a detail of what that amount was for and if it included property, provide a map of that parcel, a copy of the property tax bill for that property for 1999 and the number of acres the \$154,190.33 related to. Also, provide a map of the parcel remaining, a copy of the latest property tax bill, and the number of acres.

**RESPONSE:** The \$154,190.33 payment by FDOT reflects the appraised value of the land and the cost to cure as determined by FDOT and its agents. The remaining parcels were:

Tax ID Number	Acreage
26-19-30-5AE-580A-0000	0.440
34-19-30-5AK-OB00-036A	0.930
34-19-30-5AKOB00-0350	1.000
34-19-30-502-OK00-0000	1.580
34-19-30-5AK-OB00-037A	0.650
26-19-30-5AE-410A-0000	1.300
<b>TOTAL</b>	<b>5.900</b>

Additional information is available on the Seminole County Property Appraiser's website at: <http://www.scpafl.org/scpaweb05/index.jsp>. The property tax bill for that property was included in the amounts retained by Brigham Moore, LLP. Please see the enclosed Final Disbursements of Funds Accounting as of December 20, 2002. Brigham Moore, LLP retained all invoices associated with the suit resulting from the condemnation of the Lincoln Heights WWTP. The land is no longer the company property thus the utility does not have a copy of the latest property tax bill for that parcel of land. To the extent the property is in government ownership, there will be no tax bill.

- c. What specifically did the \$480,222.97 relate to? For example, was the \$480,222.97 related to the fact that the treatment plant on the remaining property still owned by UIF was rendered unusable? Did it relate to the loss of a revenue stream from customers? Please identify and quantify any and all parts and pieces to which this \$480,222.97 related.

**RESPONSE:** The \$480,222.97 reflects the balance of the \$850,000.00 settlement amount after deducting fees and costs to defend the Utility's property rights. It reflects the value of the property and the cost to cure. A copy of the Final Judgment is attached.

Amount Awarded Inclusive of Fees and Costs		850,000.00
<b>Disbursement of Fees and Costs:</b>		
Bricklemer Smolker & Bolves, P.A.	26,727.00	
Brigham Moore LLP	58,273.00	
10% of Amount Awarded Inclusive of Fees and Costs		85,000.00
Seminole County Tax Collector-Prorated 1999 Property Tax		69.67
<b>Expenses Incurred in the Defense:</b>		
WGC, INC.		
Total invoiced amount \$118,840.66		
balance remaining	\$ 53,096.07	
GULFCOAST SURVEY ASSOCIATES		
Paid by Utilities, Inc.	14,563.75	
CALHOUN & ASSOCIATES, INC.	38,441.00	
MORGENSTERN PHIFER & MESSINA, P.A.	18,106.75	
YOVAISH	1,870.00	
BRIGHAM MOORE, LLP.	4,439.46	
		130,517.03
Total of Disbursements from Award		(215,586.70)
Amount Distributed to Utilities, Inc. of Florida		634,413.30
Check #1573, dated 6/21/1999		154,190.33
Check #5273, dated 12/20/2002		480,222.97
<b>Reimbursement for Expenses Paid by Utilities, Inc.:</b>		
Check #5271, dated 12/20/2002	14,563.75	

- d. Inasmuch as the \$69.67 was for the proration of 1999 property taxes, when the \$154,190.33 disbursement was made, it appears that no land transfer accompanied this latter \$480,222.97. Please explain why no property taxes accompanied the second disbursement in 2002. Is this because the land itself was not condemned, but the wastewater treatment plant, remaining portion of the percolation ponds, lift station(s) and other improvements were rendered useless due to condemnation of the other real property?

**RESPONSE:** There were no property taxes accompanying the second disbursement in 2002 because we no longer had possession of the property since it was taken utilizing the quick take condemnation process. Under that process when the government makes the deposit of the fair market value of the property, it may take possession. The determination of the final value is then litigated. The land and all tangible property that was condemned was taken in 1999, thus we only paid the prorated portion of the 1999 real estate taxes for the aforementioned condemned property.

- e. Provide the breakdown of the \$130,517.03 expense incurred referenced in "For Expense Incurred in the Defense of the Case as per attached Breakdown." Provide the dated invoices or statements, along with the detail, so that the dates of the services rendered, the firm or person providing the service and the specific service rendered can be determined.

**RESPONSE:** The \$130,517.03 is the cumulative amount of outstanding balances owed to six vendors as of December 12, 2002 relating to the DOT & SEMINOLE COUNTY VS. SHOEMAKER Parcel 265. Please see attached Brigham Moore Letter Dated December 20, 2002.

Parcel 265 Outstanding Costs Thursday, December 12, 2002	
WGC, INC.	
Total invoiced amount	\$118,840.66
balance remaining	\$ 53,096.07
GULFCOAST SURVEY ASSOCIATES	
Paid by Utilities, Inc.	14,563.75
CALHOUN, DREGGERS & ASSOCIATES, INC.	38,441.00
MORGENSTERN PHIFER & MESSINA, P.A.	18,106.75
YOVAISH ENGINEERING SCIENCES, INC.	1,870.00
BRIGHAM MOORE, LLP.	4,439.46
<b>TOTAL</b>	<b>\$130,517.03</b>

- f. Provide the breakdown and detail of the \$85,000, "For Lawyers' Fees," to whom they were paid, and the dates on the invoices or statements, so that the dates of the services rendered, the firm or person providing the service and the specific services rendered can be determined.

**RESPONSE:** The "Lawyers' Fees" were based on an agreement for 10% of the final amount awarded inclusive of fees and costs.

Amount Awarded inclusive of fees and costs	\$850,000.00
less 10% in Lawyers' Fees	(\$85,000.00)

The fee of \$85,000.00 was paid to Brigham Moore LLP, of that amount a total of \$26,727 was paid to Bricklemeyer Smolker & Bolves, P.A. pursuant to a fee arrangement between the two parties.

- g. Did the utility receive any other compensation through the condemnation proceedings other than the \$850,000 listed and the \$140,000 for the sale of the remaining land?

**RESPONSE:** The Utility did not receive any other compensation through the condemnation proceedings other than the \$850,000 listed. The \$140,000 received for the sale of the remaining land was a result of the condemnation of the property, but was an arms-length transaction not involved in the condemnation proceedings, except that such property would not have been sold but for the condemnation of the larger portion of the property.

6. Were homes condemned? If so, how many?

**RESPONSE:** Twelve homes were condemned; of those ten homes received water and sewer service, while two homes only received water service from Utilities, Inc. of Florida.

7. Did the utility lose other customers as a result of the condemnation proceedings? In other words, did some of the customers remain in their homes, but begin to be served by another utility? If so, how many customers were "lost" in this manner? Were the services provided by UIF to some homes replaced by another utility? If so, what is the name of the utility that now provides service to these customers?

**RESPONSE:** The land on which the twelve homes were located became part of the FDOT

right-of-way used to construct SR 417 after they were demolished; no other customers were "lost" as a result of the condemnation.

8. A retirement entry reducing wastewater plant by \$398,852 and reducing the accumulated depreciation by \$75,169 was ordered in the last case, or a net reduction of \$323,683. Was this retirement made on the utility's books and records? Did this retirement entry take into account the retirement of the distribution lines that were needed to provide service to the homes that were condemned and/or transferred to another utility? Did it take into account the treatment plant, the lift station, and all other depreciable plant related to Lincoln Heights?

**RESPONSE:** The retirement entry was inadvertently overlooked and not made on the utility's books and records. The retirement adjustment took into account the Lincoln Heights treatment plant, one lift station on Beth Drive, and approximately nine acres of the plant property.

9. The last order also required reclassification of \$101,519 from the land account to the following accounts:

Preliminary studies cost of Acct. 183	\$14,935
WW discharge relocation cost to Acct. 354	\$43,859
WW utility main relocations to Acct. 361	\$28,185
Reclassify AFUDC accruals to Acct. 426	\$14,540

These costs appear to have been recorded in Account 353 in 2001 and are still in this account as of 12/31/05. Are these the costs related to the rerouting and interconnection with the City of Sanford caused by the condemnation? Please provide a detailed breakdown of these costs and the reason for each cost incurred.

**RESPONSE:** These costs are related to the rerouting and interconnection with the City of Sanford caused by the condemnation pursuant to Order Number PSC-03-1440-FOF-WS for Docket No. 020071-WS. The entry for \$14,935 reflects the cost to perform a preliminary analysis of options available to maintain sewer service through the operation of Utility's Lincoln Heights WWTP in anticipation of the eventual taking of the property. The entry for \$43,859 reflects the cost to modify and relocate the plant's surface discharge point to Smith Canal as required by Florida Department of Environmental Protection (FDEP). The entry of \$28,185 reflects the cost to relocate water and sewer mains impacted by construction of SR 417. The entry of \$14,540 reflects the costs associated with the allowance for funds used during construction, specifically the modifications and the relocation of the plant's surface discharge

point and the relocation of the water and sewer mains impacted by the construction of SR 417.

10. What are the total costs by NARUC sub-account that are recorded on the utility's books as of 12/31/04 and 12/31/05 for "new plant" that was required following the condemnation? Please provide a description for each plant item required as a result of the condemnation, its booked cost, and the NARUC account in which it is recorded. Please supply the dates each addition was recorded, the accumulated depreciation to date and the amount of test year depreciation expense.

**RESPONSE:** The Utility is in the process of completing the response to this request. In order not to delay the remaining responses, this response will be submitted when it is available.

11. According to this audit finding, "\$140,000 was received for sale of land and treatment plant" in 2005. Please identify this land and how or if it fits in with the condemnation. How much land was sold? Please supply us with the closing statement and the transaction entries by NARUC account. Please supply us with your calculation of the gain or loss from this sale, including the source of each line item included in your calculation. Was this an arm's length transaction? Is the new owner related in any way, business or otherwise, to Utilities, Inc. or does the new owner have any other involvement whatsoever with the utility in any way? Did the \$140,000 include any assets other than the land itself? Did it contain a building, fence or any other fixed assets? For what purpose will the buyer be able to use the property?

**RESPONSE:** The \$140,000 reflects the sale of the remaining six parcels of land that remained after the FDOT taking, approximately 5.9 acres, to Lars J. Eriksson. Eriksson is not related in any way, business or otherwise, to Utilities, Inc. The sale was inclusive of any and all buildings, fence, and structures on the 5.9 acres not including the components of Master Lift Station SF-4 constructed on the site in 2001. The buyer did not indicate his intentions of the land's future use. In addition to the expenses reflected on the Closing Statement, the Utility incurred legal fees to Rose, Sundstrom & Bentley, LLP, in the total amount of \$4,350.40. The Closing Statement is attached.

12. Is it true that this sale was not caused by the condemnation? We understand that the buyer granted an easement to the utility coincidentally with the sale. Was this \$140,000 sale and easement required as a result of condemnation proceedings? If so, why? If it is considered as a separate transaction and the gain or loss is accounted for accordingly, how much was the original cost of the land that strictly relates to that sale that is still included in Account 353 at 12/31/05?



**RESPONSE:** The sale was linked to the condemnation in the sense that the residual property remaining after the FDOT taking was of little use to the Utility. Thus, this property would not have been sold but for the condemnation of the majority of the property. The right-of-way was three feet from the chlorine contact tank. The remaining property was cut up into such small pieces as a result of the easement that the Utility could no longer make any use of it other than as a site of a master lift station. There is \$5,597.00 of the original cost of the land that strictly relates to this sale that is still included in Account 353 as of 12/31/05, however this amount is included in the previously mentioned adjustment of \$180,351.00 in the Utility's response to item three.

13. Please supply the utility's detailed calculation of the gain from the condemnation and sale of the wastewater treatment plant and property, including the source of each line item included in your calculation.

**RESPONSE:** The Utility is in the process of completing the response to this request. In order not to delay the remaining responses, this response will be submitted when it is available.

14. Please supply the utility's detailed calculation of the plant and its cost that was required to replace the loss of the wastewater treatment plant that was condemned.

**RESPONSE:** The Utility's costs included design, permitting, construction, and inspection of Master Lift Station SF-4 and force main; installation of the master meter and flow recorder; emergency generator and automatic transfer switch, propane storage tank; clearing of the force main route; restoration of the work area; and abandonment of the Lincoln Heights WWTP. Additionally, water distribution and sewer force mains crossing the SR 417 right-of-way were relocated.

IDC#116-01-01	20,268.00
CAP TIME	2,626.50
73723*07964*BOYD ENV	413.20
71253*14713*NODARSE	443.50
71252*10372*SUNSHINE	31,809.90
71250*07964*BOYD ENV	2,232.81
69146*10372*SUNSHINE	48,664.12
68994*07964*BOYD ENV	4,737.10
67454*10372*SUNSHINE	50,086.28
67247*09592*HARTMAN	530.00

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66520*07964*BOYD ENV	3,203.80
66133*09592*HARTMAN	560.00
63888*10372*SUNSHINE	87,694.77
63686*07964*BOYD ENV	556.40
63501*15015*FIRST AM	175.00
63500*09592*HARTMAN	1,282.50
61999*07964*BOYD ENV	1,021.35
60301*10372*SUNSHINE	99,843.88
<u>TOTAL</u>	<u>\$ 356,149.11</u>

No retirements have been made to the sewage service line account (3602006), the lift station account (3542011) or the land and land rights account (3537002) between the years of 2001-2006. The sewage treatment plant account was reduced to a zero balance in 2005.

15. Provide the physical location of the lift station or other plant that is now in service to service the customers. Does the utility own the land on which the plant, required to be retrofitted/replaced/constructed as a result of the condemnation, is located? If not, who does own the land? Does the utility have an easement for the lift station(s) or other property? If so, provide a copy of the easement(s). Please explain.

**RESPONSE:** Master Lift Station SF-4 was constructed on an easement located adjacent to the treatment plant on Airport Blvd. The land is now owned by Lars J. Eriksson. Lift Station SF-3 is located at 501 Beth Drive. A copy of the easement is attached.

16. What was the cost of the interconnection with the City of Sanford and where is it recorded? Where is the meter and the interconnection located? What was the cost of the distribution line to make the interconnection? How much was the interconnect with the City of Sanford, including lift stations, meter, and any other costs? How have they been recorded? Did the utility receive any funds in the condemnation settlement to offset the interconnection and reroute lines, etc.? If so, how much of the settlement or otherwise was received? If so, how has that been recorded? If no part of the funds received in the condemnation settlement were for costs that were required to be expended as a result of the condemnation, please explain why not.

**RESPONSE:** The cost of the interconnection with the City of Sanford is set forth in response to Request 14, plus \$510,000 for capacity fees to the City of Sanford. The amount of \$510,000

was recorded to the capital project (CP) ledger for project number 116-01-01 labor/installation account. Please see the attached CP ledgers for further explanation. The master meter is located on the site of Master Lift Station SF-4. The force main was connected to Sanford's collection system on Jewett Lane, now called St. John's Parkway. The FDOT settlement included funds sufficient to construct the lift station and its associated components as described in Item #14 above.

17. Where were the funds from the net condemnation settlement recorded and where was the money deposited?

**RESPONSE:** Check #1571 in the amount of \$154,190.33 was received after FDOT took possession of the condemned property in June 1999. Check #5273 in the amount of \$480,222.97 was received in December 2002 and reflects the balance received in the settlement agreement with FDOT net fees and costs expended to defend the Utility's property rights. Check #5271 in the amount of \$14,563.73 was also received on December 20, 2002 and reflects the reimbursement for the advanced payment of an invoice submitted by Gulfcoast Survey Associates, Inc. The entries on the Utility's books are as follows:

CO	SUBD	ACCNT	DESCRIPTION	DEBIT	CREDIT
003	* 1003	* 1312013	Shoemaker FL	494,786.70	
001	* 0001	* 1861002	D		494,786.70
001	* 0001	* 1861002	Sale of Land FL	494,786.70	
001	* 0001	* 4141040	Sale of Land FL		494,786.70

The \$494,786.70 amount is the sum of \$480,222.97 from check # 5273 and \$14,563.73 from check #5271. Please see the attached entries.

18. Were any of the funds received by the utility used to offset the costs incurred to continue providing service to the customers? If not, what was the disposition of the remaining funds?

**RESPONSE:** The funds were utilized to replace the master lift station condemned, the costs included design, permitting, construction, and inspection of Master Lift Station SF-4 and force main; installation of the master meter and flow recorder; emergency generator and automatic transfer switch, propane storage tank; clearing of the force main route; restoration of the work area; and abandonment of the Lincoln Heights WWTP. Additionally, water distribution and

sewer force mains crossing the SR 417 right-of-way were relocated.

19. How much land did the utility own for its wastewater facilities prior to condemnation? How much land did the utility own after the condemnation? Please provide your response using number of acres.

**RESPONSE:** The Lincoln Heights WWTP site was originally about 15 acres; after the condemnation, the Utility's remaining property was reduced to 5.90 acres.

20. Were any customers lost directly as a result of the condemnation of the utility's land? If so, how many?

**RESPONSE:** Ten residential water and sewer customers and two residential water customers were lost as a direct result of the condemnation because the land their homes were occupying was required for the SR 417 expansion.

21. How many customers was the utility serving before the condemnation occurred?

**RESPONSE:** The Utility served approximately 349 water customers and 242 sewer customers before the condemnation.

22. How many customers was the utility serving after the condemnation occurred?

**RESPONSE:** The Utility served approximately 337 water customers and 232 sewer customers after the condemnation occurred.

23. When was the percolation pond(s) taken off line or when did they become useless?

**RESPONSE:** The Lincoln Heights wastewater treatment plant site did not have any percolation ponds. There were three polishing ponds on the site that were taken off line in July 2001.

24. When did the interconnection with the City of Sanford take place?

**RESPONSE:** The interconnection with the City of Sanford took place during July of 2001.

25. When, if true, were the homes demolished? Did the utility receive any compensation from the condemnation of the homes?

**RESPONSE:** The Utility's records do not reflect when the homes were demolished. The Utility did not receive any compensation from the condemnation of the homes.

26. For the private homes condemned, did UIF incur any expense of lose any investment not covered by the \$850,000 for Parcel 265

**RESPONSE:** The \$850,000 settlement was inclusive of all outstanding issues with no specific breakdown.

27. When did the first part of the highway project occur?

**RESPONSE:** The portion of the SR 417 project that impacted the Lincoln Heights WWTP site began construction in approximately 1999.

28. Was the only viable option to provide service to the remaining customers an interconnect with the City of Sanford? What other options were considered?

**RESPONSE:** The only viable option to provide service to the remaining customers was to interconnect with the City of Sanford. Attached is a copy of a Report prepared in connection with the condemnation proceeding which addresses the Utility's alternatives.

29. What is the tax rate of any calculated gain(s) to the utility?

**RESPONSE:** The Utility is in the process of completing the response to this request. In order not to delay the remaining responses, this response will be submitted when it is available.

30. Provide your detailed calculation of the gains/losses – separately accounting for the proceeds from the condemnation with all supporting documents and the sale of the remaining land in 2005.

**RESPONSE:** Please see the Utility's response to Request 13.

31. What was required to be constructed to interconnect with the City of Sanford? When was it expended, where was it recorded? How much was expended by plant item?]

**RESPONSE:** Please see the Utility's response to Request 14.

32. What are the locations of the new lift station(s) or property required as a result of the condemnation and sale?

**RESPONSE:** Master Lift Station SF-4 is located on the newly relocated Airport Blvd. adjacent to the old WWTP. Lift Station SF-2 is located at 501 Beth Drive at Satsuma Dr. No real property was acquired as a result of the condemnation and sale.

33. Is there any plant, equipment or deferred costs related to the retirement or related to the "replacement" as of 12/31/05 in your general ledger?

**RESPONSE:** There are not any retirement or replacement related costs reflected in general ledger as of 12/31/05.

34. Please provide a detailed breakdown of the \$180,351 that is reflected in Account No. 353, Land and Land Rights, on the utility's 2005 annual report as of 12/31/05.

**RESPONSE:** The Utility is in the process of completing the response to this request. In order not to delay the remaining responses, this response will be submitted when it is available.

35. Please provide as many maps/drawings of all property involved from beginning to end, showing the progression of the condemnation, loss of customers, road and interchange construction and whatever other interim drawings that fully describe a visual progression of the condemnation and final sale for \$140,000 in May of 2005. A short narrative on each page should be included so that we can gain a full understanding of the entire transactions(s) from day one to today.

**RESPONSE:** A map is attached to the extent it shows what is requested. There is no map in the Utility's possession showing the location of the lost customers.

36. Did the utility pay or is it required to pay an interconnection charge to the City of Sanford? Who owns and maintains the interconnect and meter? If owned by the utility, where are they recorded on the utility's books?

**RESPONSE:** The Utility paid \$510,000 to the City of Sanford for a one time lump sum connection fee. The Utility is responsible for operation, maintenance, and repair of the master meter. The amount of \$510,000.00 was recorded to the capital project (CP) ledger for project

number 116-01-01 labor/installation account. Once the project was completed the Sewer Plant in Process account (1051092) was credited and the Sewer Mains account (3612008) was debited.

37. If the utility was required to pay an interconnection charge to the City of Sanford, was this a one time charge? What was the amount of the charge and what accounting transactions were recorded to account for its payment?

**RESPONSE:** The Utility paid all connection fees as a one time charge of \$510,000.

38. If it was not a one time charge, do the wastewater treatment rates billed to the utility include an amount relating to an interconnection charge?

**RESPONSE:** N/A

39. Does the City of Sanford charge the utility the same treatment charges it charges its other bulk customers? If not, please provide the rates it charges to its other bulk rate customers, if any?

**RESPONSE:** The Utility has no knowledge of any other bulk sewer agreements entered into by the City of Sanford.

## II. Questions related to Bad Debt Expense

40. In the auditors' five year analysis of bad debt expense, Seminole County's bad debt expense was \$5,394.12 in 2001; \$20,817.25 in 2002, \$4,957.60 in 2003, \$8,752.73 in 2004, and \$13,274.10 in 2006. Please explain why the bad debt expense increased to \$20,817.25 in 2002 and \$8,752.73 in 2004.

**RESPONSE:** In 2002, there was an entry made into the system of \$16,636.14, however, given the limited time constraints of completing this request, we are unable to offer more insight into this question at this time. In 2004, the \$8,752.73 seems to be pretty normal when looked at the monthly distribution.

\$ 773.83	January
\$ 314.38	February
\$ 1,125.77	March
\$ 915.02	April

\$ 513.97	May
\$ 210.79	June
\$ 799.03	July
\$ 450.55	August
\$ 968.14	September
\$ 697.44	October
\$ 76.39	November
\$ 1,907.42	December

41. In the auditors' five year analysis of bad debt expense, Pasco County's bad debt expense increased from \$2,487.68 in 2001 to \$8,346.12 in 2005. Please explain the increases for each year from 2001 through 2005?

**RESPONSE:** The Utility is in the process of completing the response to this request. In order not to delay the remaining responses, this response will be submitted when it is available.

42. Since the utility uses the allowance method to estimate the amount of uncollectible receivables and then establishes an allowance for bad debt expense, how is bad debt expense calculated and recorded in accounts 6708000 and 6708001 for each county for years 2001 through 2005?

**RESPONSE:** The Utility utilizes the allowance method to estimate the amount of uncollectible receivables and then established an allowance for bad debt expense. The bad debt expense is calculated independently of the allowance. After an account has been delinquent for 90 days, the Utility utilizes the assistance of a collections company, after 180 days delinquent, the account is written off in full. If an account is written off, the amount delinquent is debited from the receivables account and credited to the uncollectible account (6708000). The cost related to attempting to recover the receivable's amount is reflected in the agency expense account (6708001). This method is used for all counties.

43. Please explain if bad debt expense increased because of hurricanes for each county during 2001 through 2005. Also, provide supporting documentation of these increases for each county during 2001 through 2005.

**RESPONSE:** There is no information to support any connection between bad debt expense and hurricane activity between 2001 and 2005. There was no hurricane activity in 2001-2003 or in 2005 that impacted UIF. No customers were lost due to 2004 hurricane activity.



Ms. Ann Cole, Commission Clerk  
Office of Commission Clerk  
May 3, 2007  
Page 17

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44. If hurricanes did cause bad debt expense to increase, what amortization period was used for recovery? If this bad debt expense was not amortized, how were these increases in bad debt expenses recovered?

RESPONSE: Hurricane activity had no measurable impact on bad debt expense between 2001 and 2005.

III. Additional Questions Relating to Audit Finding No. 14.

45. Prior to the condemnation, did the utility have plans to interconnect to the City's wastewater collection system?

RESPONSE: The Utility did not have plans to interconnect to the City of Sanford's wastewater connection system prior to the condemnation.

46. Please provide all DEP notice of violations and consent orders, if any, related to the ponds.

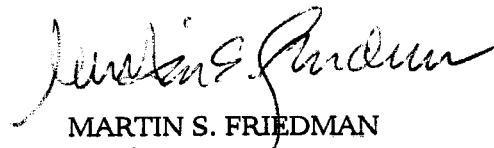
RESPONSE: The Consent Order is attached.

47. If the ponds had not been condemned, would the utility have taken either of the ponds or the wastewater treatment plant off line? Please explain.

RESPONSE: It is unlikely.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,



MARTIN S. FRIEDMAN  
For the Firm

MSF/mp  
Enclosures

cc: See, attached list.

Ms. Ann Cole, Commission Clerk  
Office of Commission Clerk  
May 3, 2007  
Page 18

---

cc: Ms. Christine Romig, Division of Economic Regulation (w/encs.- via hand delivery)  
Ms. Cheryl Bulecza-Banks, Division of Economic Regulation (w/encs. -via e-mail)  
Stephen Reilly, Esquire, Office of Public Counsel (w/enclosures)  
Steven M. Lubertozzi, Chief Regulatory Officer (w/enclosures)  
Ms. Kirsten E. Weeks (w/o enclosures)  
John Hoy, Regional Vice President for Operations (w/o enclosures)  
Patrick C. Flynn, Regional Director (w/enclosures - by U.S. Mail)  
Mr. Frank Seidman (w/o enclosures)

M:\1 ALTAMONTE\UTILITIES INC\UIF\(.108) 2005 RATE CASE\PSC Clerk 28.ltr (Audit Finding 14 - Data Request).wpd

**Utilities, Inc. of Florida  
Data Request  
Submitted April 23, 2007**

**Exhibit 5(a)  
Journal Entries**

**UTILITIES INC. GENERAL LEDGER - CB LEDGER**

**COMPANY:** 003      **PERIOD** 255      **EFF. DATE** 12/24/02      **TOTAL DEBIT** 1,276,420.70  
**JOURNAL:** WSD.CR.CASH      **BATCH** 25      **# of LINES** 6      **TOTAL CREDIT** 1,276,420.70

CO.	SUB	ACCOUNT	LINE DESCRIPTION	DEBIT	CREDIT
003	1003	1312013	IRS	759,546.00	
001	0001	1411000	D		759,546.00
003	1003	1312013	WOLF LAUR LOT SALE	22,088.00	
001	0001	4141040	D		22,088.00
003	1003	1312013	SHOEMAKER FL	494,786.70	
001	0001	1831002	D		494,786.70

12/24/02  
 020302002

*Me*

# BRIGHAM MOORE LLP

Eminent Domain & Property Rights Lawyers

Toby Prince Brigham  
S. William Moore  
Andrew H. Schuster  
Mark Andrew Tobin  
Robert C. Byrne  
Amy Brigham Boulris  
Andrew Prince Brigham  
Laura N. Camp  
Juan M. Muñiz  
Jackson H. Bowman  
Patrick T. DiPietro  
Bruce B. Humphrey  
Gregory S. Rix  
D. Mark Natirboff

203 SW 13<sup>TH</sup> STREET  
MIAMI, FL 33130  
TEL: 305-858-2400  
FAX: 305-858-5828

<http://www.brighammoore.com>

Writer's Direct:  
305-858-2400 ext. 200  
mperedo@brighammoore.com

December 20, 2002

**Via Airborne Overnight Service**

Mr. Donald Rasmussen  
Vice President  
Utilities Inc. of Florida  
200 Weathersfield Avenue  
Altamonte Springs, Fl 32714

RE: State of Florida Department of Transportation vs.  
A. K. Shoemaker, Jr., et al

Dear Mr. Rasmussen:

Pursuant to Mr. Moore's instructions, we are enclosing our firm's checks numbers 5271 and 5273. Check 5271, in the amount of \$14,563.73, represents reimbursement to your company for their advanced payment of the invoice submitted by Gulfcoast Survey Associates, Inc. Check 5273, is the balance due pursuant to Final Judgement entered in this matter.

Also enclosed for your records is a Final Disbursements of Funds Accounting setting forth receipts and disbursements to date.

On behalf of the firm I would like to thank you for the opportunity you afforded this firm to be of service. If you should require our assistance in the future, please do not hesitate to contact us.

Sincerely,



MARIA C. PEREDO  
Administrator/Comptroller

MCP:tb  
Enclosure as noted  
cc: S. W. Moore, Esquire

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND SEMINOLE  
COUNTY VS. A. K. SHOEMAKER, JR., ET AL

Final Disbursement of Funds Accounting  
As of December 20, 2002

Client: Utilities Inc. of Florida  
Parcel: 265

RESULTS TO CLIENTS:

Final Award Inclusive of Fees and Costs.....\$ 850,000.00

DISBURSEMENT OF AWARD:

1. To Seminole County Tax Collector for Prorated 1999 Real Estate Taxes the amount of.....\$	69.67	
2. For Expense Incurred in the Defense of the Case as per attached Breakdown.....	130,517.03	
3. For Lawyers' Fees.....	85,000.00	
4. To Utilities Inc. of Florida - a. Check 1571, dated 6/21/1999.....	154,190.33	
b. Check 5271, dated 12/20/2002....	480,222.97	
Total Disbursements.....	\$850,000.00	\$850,000.00
	=====	=====

**BRIGHAM MOORE LLP**

Eminent Domain & Property Rights Lawyers

IOTA TRUST ACCOUNT  
100 WALLACE AVENUE, SUITE 310A  
SARASOTA, FL 34237

SUNTRUST BANK, GULF COAST  
DOWNTOWN SARASOTA OFFICE  
SARASOTA, FL 34236  
1-800-786-8787  
63-1084/631

5271

**REDACTED**

PAY TO THE ORDER OF UTILITIES, INC. OF FLORIDA

\$ \*\*14,563.73

Fourteen Thousand Five Hundred Sixty-Three and 73/100\*\*\*\*\*DOLLARS

UTILITIES, INC. OF FLORIDA  
C/O DONALD RASMUSSEN  
VICE PRESIDENT  
200 WEATHERSFIELD AVENUE  
ALTAMONTE SPRINGS, FLORIDA 32714  
IC4578/SHOEMAKER/UTILITIES INC.

*Maria Christ*

MEMO

BRIGHAM MOORE, LLP / EMINENT DOMAIN & PROPERTY RIGHTS LAWYERS / IOTA TRUST ACCOUNT

5271

UTILITIES, INC. OF FLORIDA  
2100-CLNT TRUST

IC4578/SHOEMAKER/UTILITIES, INC.  
REIMBURSEMENT FOR PAYMENT  
TO GULF COAST SURVEY ASSOCIATES

12/20/2002

14,563.73

001 - 0001 - 1831002

1115-SIT@SUNTRUST IC4578/SHOEMAKER/UTILITIES INC.

14,563.73

BRIGHAM MOORE, LLP / EMINENT DOMAIN & PROPERTY RIGHTS LAWYERS / IOTA TRUST ACCOUNT

5271

UTILITIES, INC. OF FLORIDA  
2100-CLNT TRUST

IC4578/SHOEMAKER/UTILITIES, INC.  
REIMBURSEMENT FOR PAYMENT  
TO GULF COAST SURVEY ASSOCIATES

12/20/2002

14,563.73

1115-SIT@SUNTRUST IC4578/SHOEMAKER/UTILITIES INC.

14,563.73

**BRIGHAM MOORE LLP**

Eminent Domain & Property Rights Lawyers

IOTA TRUST ACCOUNT  
100 WALLACE AVENUE, SUITE 310A  
SARASOTA, FL 34237

SUNTRUST BANK, GULF COAST  
DOWNTOWN SARASOTA OFFICE  
SARASOTA, FL 34236  
1-800-786-8787  
63-1084/5

5273

**REDACTED**  
12/20/2002

PAY TO THE ORDER OF UTILITIES, INC. OF FLORIDA

\$\*\*480,222.97

Four Hundred Eighty Thousand Two Hundred Twenty-Two and 97/100\*\*\*\*\* DOLLARS

UTILITIES, INC. OF FLORIDA  
C/O DONALD RASMUSSEN  
VICE PRESIDENT  
200 WEATHERSFIELD AVENUE  
ALTAMONTE SPRINGS, FLORIDA 32714

MEMO IC4578/SHOEMAKER

*Maria C. Laredo*

BRIGHAM MOORE, LLP / EMINENT DOMAIN & PROPERTY RIGHTS LAWYERS / IOTA TRUST ACCOUNT

5273

UTILITIES, INC. OF FLORIDA  
2100-CLNT TRUST

12/20/2002

IC4178/SHOEMAKER  
BALANCE DUE ON FINAL JUDGEMENT  
INCLUSIVE REIMBURSEMENT OF COST/FEE DEPOSIT

480,222.97

1115-SIT@SUNTRUST IC4578/SHOEMAKER

480,222.97

BRIGHAM MOORE, LLP / EMINENT DOMAIN & PROPERTY RIGHTS LAWYERS / IOTA TRUST ACCOUNT

5273

UTILITIES, INC. OF FLORIDA  
2100-CLNT TRUST

12/20/2002

IC4178/SHOEMAKER  
BALANCE DUE ON FINAL JUDGEMENT  
INCLUSIVE REIMBURSEMENT OF COST/FEE DEPOSIT

480,222.97

1115-SIT@SUNTRUST IC4578/SHOEMAKER

480,222.97



**Utilities, Inc. of Florida  
Data Request  
Submitted April 23, 2007**

**Exhibit 5(b)  
Brigham Moore Letter  
Dated December 20, 2002**

**BRIGHAM MOORE LLP**  
Eminent Domain & Property Rights Lawyers

Toby Prince Brigham  
S. William Moore  
Andrew H. Schuster  
Mark Andrew Tobin  
Robert C. Byrne  
Amy Brigham Boulris  
Andrew Prince Brigham  
Laura N. Camp  
Juan M. Muñiz  
Jackson H. Bowman  
Patrick T. DiPietro  
Bruce B. Humphrey  
Gregory S. Rlx  
D. Mark Nazirboff

203 SW 13<sup>TH</sup> STREET  
MIAMI, FL 33130  
TEL: 305-858-2400  
FAX: 305-858-5828

<http://www.brighammoore.com>

Writer's Direct  
305-858-2400 ext.209  
mperedo@brighammoore.com

December 20, 2002

**Via Airborne Overnight Service**

Mr. Donald Rasmussen  
Vice President  
Utilities Inc. of Florida  
200 Weathersfield Avenue  
Altamonte Springs, Fl 32714

RE: State of Florida Department of Transportation vs.  
A. K. Shoemaker, Jr., et al

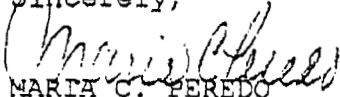
Dear Mr. Rasmussen:

Pursuant to Mr. Moore's instructions, we are enclosing our firm's checks numbers 5271 and 5273. Check 5271, in the amount of \$14,563.73, represents reimbursement to your company for their advanced payment of the invoice submitted by Gulfcoast Survey Associates, Inc. Check 5273, is the balance due pursuant to Final Judgement entered in this matter.

Also enclosed for your records is a Final Disbursements of Funds Accounting setting forth receipts and disbursements to date.

On behalf of the firm I would like to thank you for the opportunity you afforded this firm to be of service. If you should require our assistance in the future, please do not hesitate to contact us.

Sincerely,

  
MARTA C. PEREDO  
Administrator/Comptroller

MCP:tb  
Enclosure as noted  
cc: S. W. Moore, Esquire

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND SEMINOLE  
COUNTY VS. A. K. SHOEMAKER, JR., ET AL

Final Disbursement of Funds Accounting  
As of December 20, 2002

Client: Utilities Inc. of Florida  
Parcel: 265

RESULTS TO CLIENTS:

Final Award Inclusive of Fees and Costs.....\$ 850,000.00

DISBURSEMENT OF AWARD:

1. To Seminole County Tax Collector for Prorated 1999 Real Estate Taxes the amount of.....\$	69.67	
2. For Expense Incurred in the Defense of the Case as per attached Breakdown.....	130,517.03	
3. For Lawyers' Fees.....	85,000.00	
4. To Utilities Inc. of Florida - a. Check 1573, dated 6/21/1999.....	154,190.33	
b. Check 5273, dated 12/20/2002.....	480,222.97	
Total Disbursements.....	\$850,000.00	\$850,000.00
	=====	=====

BRIGHAM MOORE LLP

REDACTED

P/S 1831500  
BRIGHAM, MOORE, GAYLORD,  
SCHUSTER, MERLIN & TOBIN LLP  
100 WALLACE AVENUE  
SARASOTA, FLORIDA 34237

Barnett Bank  
662-016  
240 S. Pineapple Ave.  
Sarasota, Florida 34236

63-605  
631

THIS CHECK IS DELIVERED IN CONNECTION WITH THE ACCOUNT(S) BELOW.

*Dot Matrix Co v. Shearwater*  
*IC 4576* 573

The sum of **154,100.33** DOLLARS

DATE	PAY TO THE ORDER OF	AMOUNT
	<i>Dot Matrix Co v. Shearwater</i>	<i>154,100.33</i>

IOTA TRUST ACCOUNT

*Marie Clues*

JE 99 29  
BANKONE  
7610 W. WASHINGTON  
INDIANAPOLIS, IN 46261

*Winters*  
AS AGENT FOR  
BANK ONE  
FOR DEPOSIT  
WATER SERV  
DEPOSITORY  
1000 Q17



663160277  
07/01/99 6446 01 002

8340454770

SW  
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NA  
BY  
HP  
INT  
O D  
PAYEE  
*Winters*

5 1 6 6 7 8 9 1 0

REDACTED

**BRIGHAM MOORE LLP**

Eminent Domain & Property Rights Lawyers

IOTA TRUST ACCOUNT  
100 WALLACE AVENUE, SUITE 310A  
SARASOTA, FL 34237

SUNTRUST BANK, GULF COAST  
DOWNTOWN SARASOTA OFFICE  
SARASOTA, FL 34236  
1-800-786-8787  
63-1084/631

5273

12/20/2002

PAY TO THE ORDER OF UTILITIES, INC. OF FLORIDA

\$ 480,222.97

Four Hundred Eighty Thousand Two Hundred Twenty-Two and 97/100 \*\*\*\*\* DOLLARS

UTILITIES, INC. OF FLORIDA  
C/O DONALD RASMUSSEN  
VICE PRESIDENT  
200 WEATHERSFIELD AVENUE  
ALTAMONTE SPRINGS, FLORIDA 32714

MEMO IC4578/SHOEMAKER

*Maria Cleo*

Printed image of a 1998-2000 Federal Reserve Note

SUNTRUST ORL 12362002  
511-601 INCL  
2100818806

COMMERCIAL CHECK DEPT.  
PROCESSED 12/26/02  
JAN 24 02

1636 90166

AMERICAN NATIONAL BANK  
AND TRUST COMPANY OF CHICAGO  
CHICAGO, ILLINOIS 60602  
FOR DEPOSIT ONLY  
NATION'S SERVICE CORP.  
DEPOSITARY ACCOUNT  
AS AGENT FOR NAMED PAYEE  
180074381

BANK OF AMERICA NA JAX  
663000647 64545 90 P17  
12/26/02  
6540822536

NOV 26 2002

REDACTED

**BRIGHAM MOORE LLP**

Eminent Domain & Property Rights Lawyers

IOTA TRUST ACCOUNT  
100 WALLACE AVENUE, SUITE 310A  
SARASOTA, FL 34237

SUNTRUST BANK, GULF COAST  
DOWNTOWN SARASOTA OFFICE  
SARASOTA, FL 34236  
1-800-786-8787  
63-1084/631

5271

12/30/2002

PAY TO THE  
ORDER OF

UTILITIES, INC. OF FLORIDA

\$

\*\*14,563.73

Fourteen Thousand Five Hundred Sixty-Three and 73/100\*\*\*\*\*DOLLARS

UTILITIES, INC. OF FLORIDA  
C/O DONALD RASMUSSEN  
VICE PRESIDENT  
200 WEATHERSFIELD AVENUE  
ALTAMONTE SPRINGS, FLORIDA 32714  
IC4578/SHOEMAKER/UTILITIES INC.

*Maria C...*

MEMO

*Remittance must be payment to  
Suffolk Survey Associates*

SUNTRUST ORL 12262802  
4511-861 INCL  
2100818805

COMMERCIAL CHECK PROCESSED  
12/26/02  
DEC 24 02

11636 90165

BANK OF AMERICA NA JAX  
06399947 6455 90 P17  
12/26/02  
6540822535

AMERICAN NATIONAL BANK & TRUST COMPANY OF CHICAGO  
CHICAGO, ILLINOIS 60601  
MEMORANDUM  
071080770  
WRITER SERVICE CO. INC.  
DEPOSITARY ACCOUNT  
AS AGENT FOR NAMED PAYEE  
1000/435

AT THE BANK OF AMERICA NA JAX  
12/26/02 12:26:02 PM  
12/26/02 12:26:02 PM

**BRIGHAM MOORE LLP**  
Eminent Domain & Property Rights Lawyers

Toby Prince Brigham  
S. William Moore  
Andrew H. Schuster  
Mark Andrew Tobin  
Robert C. Byrne  
Amy Brigham Boulris  
Andrew Prince Brigham  
Laura N. Camp  
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Bruce B. Humphrey  
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D. Mark Nairboff

203 SW 13<sup>TH</sup> STREET  
MIAMI, FL 33130  
TEL: 305-858-2400  
FAX: 305-858-5828

<http://www.brighammoore.com>

Writer's Direct  
305-858-2400 ext. 209  
mperedo@brighammoore.com

December 20, 2002

David Smolker, Esquire  
Brickler Smolker & Bolves, P.A.  
500 East Kennedy Blvd  
Suite 200  
Tampa, Florida 33602-4825

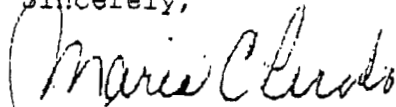
**Re: Department of Transportation vs. Shoemaker  
Case #99-584-CA-13-P  
Parcel: 265  
Utilities Inc. of Florida  
Internal File #4578**

Dear Mr. Smolker:

We are pleased to enclose our firm's trust account check #5267, payable to Brickler Smolker & Bolves, P.A., in the amount of \$26,727.00. This amount represents your share of the fees earned in the above-referenced case and parcel. This amount will be reported to the Internal Revenue Service as earned by you during 2002, under tax id#59-3552748.

On behalf of the firm I would like to thank you for the opportunity to work with you. If you should have any questions or need additional information, please do not hesitate to contact our office.

Sincerely,



MARIA C. PEREDO  
Administrator/Comptroller

MCP/dc  
Enclosure as noted  
cc: S. William Moore, Esquire

\\Miami\admin\FORMS\co-counsel.letter.wpd

Miami Sarasota Tampa Jacksonville

*Utilities, Inc.  
Payables*

**UTILITIES, INC. OF FLORIDA  
DOT & SEMINOLE COUNTY VS. SHOEMAKER  
PARCEL 265  
OUTSTANDING COSTS**

WCG, INC. Total invoiced amount \$118,840.66 balance remaining	\$	53,096.07
CALHOUN & ASSOCIATES, INC.		38,441.00
GULFCOAST SURVEY ASSOCIATES Paid by Brigham Moore		14,563.75
MORGENSTERN PHIFER & MESSINA, P.A.		18,106.75
YOVAISH		1,870.00
BRIGHAM MOORE, LLP		4,439.46
<b>TOTAL</b>		<b>\$130,517.03</b>

December 12, 2002

*850,000.00  
< 130,517.03 >  
< 85,000.00 >*

*Ray Valera*

*634,482.97  
< 69.67 >  
< 154,190.33 >  
480,222.97*



**Utilities, Inc. of Florida  
Data Request  
Submitted April 23, 2007**

**Exhibit 5(e)  
Brigham Moore Letter  
Dated December 20, 2002**

**BRIGHAM MOORE LLP**  
Eminent Domain & Property Rights Lawyers

Toby Prince Brigham  
S. William Moore  
Andrew H. Schuster  
Mark Andrew Tobin  
Robert C. Byrne  
Amy Brigham Boulris  
Andrew Prince Brigham  
Laura N. Camp  
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Gregory S. Rix  
D. Mark Narisboff

203 SW 13<sup>TH</sup> STREET  
MIAMI, FL 33130  
TEL: 305-858-2400  
FAX: 305-858-5828

<http://www.brighammoore.com>

Writer's Direct  
305-858-2400 Ext. 209  
mperedo@brighammoore.com

December 20, 2002

**Via Airborne Overnight Service**

Mr. Donald Rasmussen  
Vice President  
Utilities Inc. of Florida  
200 Weathersfield Avenue  
Altamonte Springs, Fl 32714

RE: State of Florida Department of Transportation vs.  
A. K. Shoemaker, Jr., et al

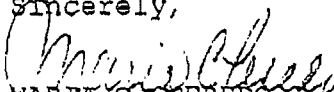
Dear Mr. Rasmussen:

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Sincerely,

  
MARIA C. PEREDO

Administrator/Comptroller

MCP:tb  
Enclosure as noted  
cc: S. W. Moore, Esquire

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND SEMINOLE  
COUNTY VS. A. K. SHOEMAKER, JR., ET AL

Final Disbursement of Funds Accounting  
As of December 20, 2002

Client: Utilities Inc. of Florida  
Parcel: 265

RESULTS TO CLIENTS:

Final Award Inclusive of Fees and Costs.....\$ 850,000.00

DISBURSEMENT OF AWARD:

1. To Seminole County Tax Collector for Prorated 1999 Real Estate Taxes the amount of.....\$	69.67	
2. For Expense Incurred in the Defense of the Case as per attached Breakdown.....	130,517.03	
3. For Lawyers' Fees.....	85,000.00	
4. To Utilities Inc. of Florida - a. Check 1573, dated 6/21/1999.....	154,190.33	
b. Check 5273, dated 12/20/2002.....	480,222.97	
Total Disbursements.....	\$850,000.00	\$850,000.00
	=====	=====

BRIGHAM MOORE LLP

REDACTED

P/S 1831500  
BRIGHAM, MOORE, GAYLORD,  
SCHUSTER, MERLIN & TOBIN LLP  
100 WALLACE AVENUE  
SARASOTA, FLORIDA 34237

Barnett Bank  
692-018  
240 S. Pineapple Ave.  
Sarasota, Florida 34238

63-905  
631

THIS CHECK IS DELIVERED IN CONNECTION WITH THE ACCOUNT(S) BELOW.

*DEFENDANT CO V. SHERRILL*  
1573  
IC 4576

PAY The sum of 154,170.00 33 cts DOLLARS

DATE	PAY TO THE ORDER OF	AMOUNT
	<i>Uti Athletics Inc of Florida</i>	154170.33

IOTA TRUST ACCOUNT

*Marie Clerus*

07/01/99  
BANK ONE  
7610 W. WASHINGTON  
INDIANAPOLIS, IN 46201

*Uti Athletics Inc*  
AS AGENT FOR  
BANK ONE  
FOR DEPOSIT  
WATER SERV  
DEPOSITORY  
1-0-0-0-7



063104277  
07/01/99 E4046 01 002

0340454770

*Florida*  
PAYER

55 22 08 08 09 09 11 12

REDACTED

**BRIGHAM MOORE LLP**

Eminent Domain & Property Rights Lawyers

IOTA TRUST ACCOUNT  
100 WALLACE AVENUE, SUITE 310A  
SARASOTA, FL 34237

SUNTRUST BANK, GULF COAST  
DOWNTOWN SARASOTA OFFICE  
SARASOTA, FL 34236  
1-800-786-8787  
63-1084/531

5273

12/20/2002

PAY TO THE ORDER OF UTILITIES, INC. OF FLORIDA

\$\*\*480,222.97

Four Hundred Eighty Thousand Two Hundred Twenty-Two and 97/100\*\*\*\*\* DOLLARS

UTILITIES, INC. OF FLORIDA  
C/O DONALD RASMUSSEN  
VICE PRESIDENT  
200 WEATHERSFIELD AVENUE  
ALTAMONTE SPRINGS, FLORIDA 32714

MEMO IC4578/SHOEMAKER

*Maria Cleves*

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SUNTRUST ORL 12262602

511-001 INCL

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OVERNIGHT FORSET 001  
PROCESSED 12/26/02  
DEPOSIT 12/26/02

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AMERICAN NATIONAL BANK  
AND TRUST COMPANY OF CHICAGO  
CHICAGO, ILLINOIS 60650  
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WATER SERVICE CORP.  
DEPOSITORY ACCOUNT  
AS AGENT FOR MAILED PAYEE  
10007481

BANK OF AMERICA NA JAX  
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12/26/02

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FOR DEPOSIT ONLY



# BRIGHAM MOORE LLP

Eminent Domain & Property Rights Lawyers

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Writer's Direct  
305-858-2400 ext. 209  
mperedo@brighammoore.com

December 20, 2002

David Smolker, Esquire  
Brickler Smolker & Bolves, P.A.  
500 East Kennedy Blvd  
Suite 200  
Tampa, Florida 33602-4825

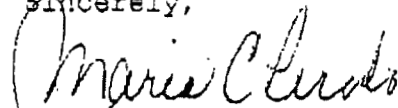
Re: Department of Transportation vs. Shoemaker  
Case #99-584-CA-13-P  
Parcel: 265  
Utilities Inc. of Florida  
Internal File #4578

Dear Mr. Smolker:

We are pleased to enclose our firm's trust account check #5267, payable to Brickler Smolker & Bolves, P.A., in the amount of \$26,727.00. This amount represents your share of the fees earned in the above-referenced case and parcel. This amount will be reported to the Internal Revenue Service as earned by you during 2002, under tax id#59-3552748.

On behalf of the firm I would like to thank you for the opportunity to work with you. If you should have any questions or need additional information, please do not hesitate to contact our office.

Sincerely,



MARIA C. PEREDO  
Administrator/Comptroller

MCP/dc  
Enclosure as noted  
cc: S. William Moore, Esquire

\\Miami\admin\FORMS\co-counsel.letter.wpd

Miami Sarasota Tampa Jacksonville

*Utilities, Inc.  
Payables*

**UTILITIES, INC. OF FLORIDA  
DOT & SEMINOLE COUNTY VS. SHOEMAKER  
PARCEL 265  
OUTSTANDING COSTS**

WCG, INC. Total invoiced amount \$118,840.66 balance remaining	\$	53,096.07
CALHOUN & ASSOCIATES, INC.		38,441.00
GULFCOAST SURVEY ASSOCIATES Paid by Brigham Moore		14,563.75
MORGENSTERN PHIFER & MESSINA, P.A.		18,106.75
YOVAISH		1,870.00
BRIGHAM MOORE, LLP		4,439.46
<b>TOTAL</b>		<b>\$130,517.03</b>

December 12, 2002

*850,000.00  
< 130,517.03 >  
< 85,000.00 >*

*Raj Vaidya*

*634,482.97  
< 69.67 >  
< 154,190.33 >  
480,222.97*



**Utilities, Inc. of Florida  
Data Request  
Submitted April 23, 2007**

**Exhibit 16  
Capital Project Ledger  
Project 116-01-01**

FOR THE 14 PERIODS ENDING 12 /31/01

CO SUBD PROJECT COMPT	DESCRIPTION	DEBIT	CREDIT	EFF DATE	JOURNAL	BALANCE
090*0614*1160101*20002	--CAPITALIZED TIME-- CAP TIME CLOSE W/O	2,626.50	2,626.50	12/31/2001 1/8/2002	BEG 090-CAPTIVE.WO-13-07 090-CLOSEWO.A-13-07	0
		2,626.50	2,626.50		NET END	0 0
090*0614*1160101*20003	INTEREST DURING CON IDC#116-01-01 CLOSE W/O	20,268.00	20,268.00	1/4/2002 1/8/2002	BEG 090-SE11WO.A-13-08 090-CLOSEWO.A-13-07	0
		20,268.00	20,268.00		NET END	0 0
090*0614*1160101*20812	--LABOR/INSTALLATION-- 60301*10372*SUNSHINE 61999*07964*BOYD ENV 63500*09592*HARTMAN 63501*15015*FIRST AM *07964*BOYD ENVIRONM *07964*BOYD ENVIRONM 63688*10372*SUNSHINE 63688*10372*SUNSHINE 63688*10372*SUNSHINE 63688*07964*BOYD ENV 66133*09592*HARTMAN 66614*011147*SANFORD, 66520*07964*BOYD ENV 67247*09592*HARTMAN 67454*10372*SUNSHINE 68994*07964*BOYD ENV 69146*10372*SUNSHINE 71250*07964*BOYD ENV 71252*10372*SUNSHINE 71253*14713*NODARSE 73723*07964*BOYD ENV CLOSE W/O	99,843.88 1,021.35 1,282.50 175 556.4 87,694.77 87,694.77 556.4 560 510,000.00 3,203.80 530 50,086.28 4,737.10 48,664.12 2,232.81 31,809.90 443.5 413.2	556.4 87,694.77	1/8/2002	BEG 090-CP.INVD-03-17 090-CP.INVD-04-17 090-CP.INVD-05-12 090-CP.INVD-05-12 090-CP.INVD-05-13 090-CP.INVD-05-13 090-CP.INVD-05-13 090-CP.INVD-05-15 090-CP.INVD-06-16 090-CP.INVD-06-17 090-CP.INVD-06-17 090-CP.INVD-06-18 090-CP.INVD-06-19 090-CP.INVD-07-09 090-CP.INVD-07-09 090-CP.INVD-08-18 090-CP.INVD-08-18 090-CP.INVD-09-15 090-CLOSEWO.A-13-07	0
		931,505.78	931,505.78		NET END	0 0
GRAN	D TOTALS:	954,400.28	954,400.28		BEG NET END	0 0 0

□

REP LED PER	ORT DESCRIPTION GER ID - CP IOD - 01-14	#NAME?
--->	COMPANY UCTURE - 2 ECTION - 090 TOTAL -	
--->	SUBDIV UCTURE - 6 ECTION - 0614 TOTAL -	
--->	PROJECT UCTURE - 2 ECTION - 1160101 TOTAL -	

--->  
STR  
SEL  
SUB

COMPONENT  
UCTURE - 1  
ECTION - ALL  
TOTAL -

SEG  
ZER  
SUM  
SUM  
PAG  
SOR  
PER  
EFF  
DAT  
SOR

MENT - SIX PRIOR ACT  
O SUPPRESS - Y  
AUTO JOURNALS - N  
ALL JOURNALS - N  
E BREAK - N  
T BREAK - N  
IOD BREAK - N  
EFFECTIVE RATE - N  
E - EFFECTIVE  
T SEQUENCE  
-1 #NAME?  
-2 #NAME?  
-3 #NAME?  
-4 #NAME?

GL3.1C ACCOUNT INQUIRY - TRANSACTION DETAIL

090\*0614\*3612008 ACCT TYPE: A BEG BAL: 219,926.95  
090\*0614\*3612008 STATUS: A END BAL: 1,086,076.06  
SEWER MAINS PERIOD: 13(ADJ) SEGMENT: SIX PRIOR ACT

LINE	JOURNAL	BATCH	LINE	COMMENT	DEBIT	CREDIT
1	090*CP.TO.GL	02	9	CLOSE W/O116-01-01	866,149.11	
	NET: 866,149.11				866,149.11	0.00

ACTION X-EXIT S(nn)-SCAN P(S)-PRINT B(nn)-DISP BATCH NP,PP,NA,PA

Enter action.

GL3.1C ACCOUNT INQUIRY - TRANSACTION DETAIL

090\*0614\*3612008 ACCT TYPE: A BEG BAL: 219,926.95  
 090\*0614\*3612008 STATUS: A END BAL: 1,086,076.06  
 SEWER MAINS PERIOD: 13(ADJ) SEGMENT: SIX PRIOR ACT

ACCOUNT	LINE	COMMENT	DEBIT	CREDIT
090*0602*3113025	1	CLOSE W/O115-01-01	15,426.88	
090*0602*1052091	2	CLOSE W/O115-01-01		15,426.88
090*0601*3406090	3	CLOSE W/O117-00-01	269,197.04	
090*0602*1052093	4	CLOSE W/O117-00-01		269,197.04
090*0604*3305042	5	CLOSE W/O115-00-01	23,834.38	
090*0604*1052091	6	CLOSE W/O115-00-01		23,834.38
090*0612*3315043	7	CLOSE W/O115-99-04	60,952.29	
090*0612*1052091	8	CLOSE W/O115-99-04		60,952.29
090*0614*3612008	9	CLOSE W/O116-01-01	866,149.11	
090*0614*1051092	10	CLOSE W/O116-01-01		866,149.11
090*0614*3537002	11	CLOSE W/O116-98-14	101,518.79	
090*0614*1051092	12	CLOSE W/O116-98-14		101,518.79
090*0615*3113025	13	CLOSE W/O115-00-01	9,233.00	

ACTION B01 X-EXIT S(nn)-SCAN P(S)-PRINT B(nn)-DISP BATCH NP,PP,NA,PA

Q4201 Enter <CR> to continue scan, X to end scan  
 R0000 Journal: 090\*CP.TO.GL Batch: 02 - THIS BATCH IS FROM THE ARCHIVE FILE!

**Utilities, Inc. of Florida  
Data Request  
Submitted April 23, 2007**

**Exhibit 17  
Journal Entries**

GL3.1C ACCOUNT INQUIRY - TRANSACTION DETAIL

ACCOUNT	LINE	COMMENT	DEBIT	CREDIT
001*0001*4141040		ACCT TYPE: E	BEG BAL:	-73,239.66
001*0001*4141040		STATUS: A	END BAL:	-590,114.36
SALE OF EQUIPMENT		PERIOD: 12(DEC)	SEGMENT: FIVE	PRIOR ACT
001*0001*1451040	1	ADJUST CAP TIME	6,342.08	
001*0001*4262000	2	ADJUST CAP TIME UIM		6,342.08
001*0001*2311000	3	RECLASS	30,009.00	
001*0001*6329014	4	RECLASS		30,009.00
001*0001*4141040	5	SALE OF LAND FLA		494,786.70
001*0001*1831002	6	SALE OF LAND FLA	494,786.70	
001*0001*4611000	7	SKIDAWAY REV RESER	53,200.00	
001*0001*5221000	8	SKIDAWAY REV RESER	53,200.00	
001*0001*2311000	9	SKIDAWAY REV RESER		106,400.00
001*0001*1421000	10	FORFEITURES	18,000.00	
001*0001*6049000	11	FORFEITURES		18,000.00

ACTION X-EXIT S(nn)-SCAN P(S)-PRINT B(nn)-DISP BATCH NP,PP,NA,PA

Enter action.

R0000 Journal: 001\*MISC.JE.A Batch: 15 - THIS BATCH IS FROM THE ARCHIVE FILE!

GL3.1C ACCOUNT INQUIRY - TRANSACTION DETAIL

ACCOUNT	LINE	COMMENT	DEBIT	CREDIT
003*1003*1312013		ACCT TYPE: A	BEG BAL: 12,814,514.69	
003*1003*1312013		STATUS: A	END BAL: 14,433,714.00	
CASH-CHASE-DEPOSITORY (1003)		PERIOD: 255(D25)	SEGMENT: 5	PRIOR YEAR DAI
003*1003*1312013	1	IRS	759,546.00	
001*0001*1411000	2	IRS		759,546.00
003*1003*1312013	3	WOLF LAUR LOT SALE	22,088.00	
001*0001*4141040	4	WOLF LAUR LOT SALE		22,088.00
003*1003*1312013	5	SHOEMAKER FL	494,786.70	
001*0001*1831002	6	SHOEMAKER FL		494,786.70
001*0001*2334003	7	INTERCOMPANY	1,276,420.70	
003*1003*2334003	8	INTERCOMPANY		1,276,420.70

ACTION X-EXIT S(nn)-SCAN P(S)-PRINT B(nn)-DISP BATCH NP,PP,NA,PA

Enter action.

R0000 Journal: 003\*WSD.CR.CASH Batch: 25 - THIS BATCH IS FROM THE ARCHIVE FILE!



Utilities, Inc. of Florida  
Data Request  
Submitted April 23, 2007

Exhibit 5 (c)

MARYANNE MORSE, CLERK OF CIRCUIT COURT  
SEMINOLE COUNTY  
BK 04608 PG 1833  
CLERK'S # 2002981243  
RECORDED 11/25/2002 10:35:32 AM  
RECORDING FEES 0.00  
RECORDED BY J Eckenroth

IN THE CIRCUIT COURT OF THE  
EIGHTEENTH JUDICIAL CIRCUIT, IN  
AND FOR SEMINOLE COUNTY, FLORIDA

CASE NO. 99-584-CA-13-PL

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION  
and SEMINOLE COUNTY

Petitioners

Parcel 265

v.

A.K. SHOEMAKER, JR., etc., et al.,

Respondents

RECORDED  
11/25/2002 10:35:32 AM  
CLERK OF CIRCUIT COURT  
SEMINOLE COUNTY  
FLORIDA

**FINAL JUDGMENT**

THIS CAUSE having come on to be heard upon the Joint Motion for the entry of a Final Judgment made by the Petitioner and the Respondent, set forth herein below, and it appearing to the Court that the parties were authorized to enter into such motion, and the Court finding that the compensation to be paid by the Petitioner is full, just and reasonable for all parties concerned, and the court being fully advised in the premises, the Court finds as follows:

ORDERED AND ADJUDGED that Respondent, **UTILITIES INC. OF FLORIDA**, subject to the interest if any of the County of Seminole Tax Collector, does have and recover of and from the Petitioner the sum of **\$850,000.00 (EIGHT HUNDRED- FIFTY THOUSAND AND 00/100 DOLLARS)** in full payment for the property designated as **Parcel 265** herein taken, and for damages resulting to the remainder if less than the entire property was taken, and for all other damages of any nature, including interest and for any and all attorney fees and expert fees and for all other services rendered on Respondent's behalf and it is further,

ORDERED AND ADJUDGED that Respondent, **UTILITIES INC. OF FLORIDA**,

⊙

184  
KB

shall indemnify and hold harmless the Department Transportation for any and all claims arising from contractual agreements between Utilities, Inc. or its predecessors and A. K. Shoemaker and Shoemaker Construction Company for water and sewer service to the proposed subdivision on property encompassing parcel 264 and adjacent thereto and it is further,

ORDERED AND DIRECTED that within thirty (30) days of the date of receipt of a conformed copy of this Final Judgment, the Petitioner shall deposit the additional sum of **\$678,600.00 (SIX HUNDRED SEVENTY-EIGHT THOUSAND SIX HUNDRED AND 00/100 DOLLARS)** into the Registry of the Clerk of the Court, and it is further

ORDERED AND DIRECTED that the Clerk of this Court pay to the Trust Account of **BRIGHAM MOORE, LLP**, c/o S.W. Moore, Esquire, 100 Wallace Ave., Suite 310, Sarasota, FL 34237, on behalf of the Respondent, **UTILITIES INC. OF FLORIDA**, subject to the interest if any of the County of Seminole Tax Collector, the aforesaid sum of **\$678,600.00 (SIX HUNDRED SEVENTY-EIGHT THOUSAND SIX HUNDRED AND 00/100 DOLLARS)**, said sum representing the total sum of **\$850,000.00 (EIGHT HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS)** minus the **\$171,400.00 (ONE HUNDRED SEVENTY-ONE THOUSAND FOUR HUNDRED AND 00/100 DOLLARS)** previously deposited by the Petitioner, to be disbursed as set forth hereinabove, including without limitations, real property taxes, and it is further,

ORDERED that title to the following described property, to wit:

SECTION 77310-2502 STATE ROAD 417 SEMINOLE CO. DESCRIPTION

**FEE SIMPLE - LIMITED ACCESS-RIGHT OF WAY**

PARCEL NO. 265

SECTION 77310-2502

A portion of Block 41, M.M. Smith's Subdivision as recorded in Plat Book 1, Page 55 of the Public Records of Seminole County, Florida, and a portion of Lot 37, Block B, M.M. Smith's Second Subdivision as recorded in Plat Book 1, Page 101 of the Public Records of Seminole County, lying in Section 34, Township 19 South, Range 30 East, Seminole County, Florida being more particularly described as follows:

PART A:

Commence at a found 1 inch iron pipe (No. #) marking the Northwest corner of the Northeast 1/4 of said Section 34 as shown on Florida Department of Transportation Right-of-Way Map, Section 77310-2502; thence run South 00°18'00" East along the West line of the Northeast 1/4 of said Section 34, a distance of 992.15 feet to the North line of the South 1/2 of Block 40, M.M. Smith's Subdivision; thence departing the West line of the Northeast 1/4 of said Section 34 run South 89°51'09" East along the North line of the South 1/2 of said Block 40 and the North line of the South 1/2 of said Block 41, M.M. Smith's Subdivision a distance of 678.11 feet to a point on the Westerly line of a 75.00 foot drainage easement as recorded in Official Records Book 442, Page 140 of the Public Records of Seminole County, Florida; thence departing the North line of the South 1/2 of said Block 41, M.M. Smith's Subdivision run South 00°12'44" East along the Westerly line of said 75.00 foot drainage easement, a distance of 75.00 feet for a POINT OF BEGINNING; thence departing the Westerly line of said 75.00 foot drainage easement run North 85°49'39" East 59.66 feet; thence South 51°01'33" East 297.51 feet; thence South 40°07'42" East 268.45 feet to the beginning of a curve concave northeasterly, having a radius of 5779.58 feet, a central angle of 01°01'23", and a chord bearing of South 01°58'59" West; thence southerly along the arc of said curve a distance of 103.20 feet to a point on the Southerly line of said 75.00 foot drainage easement; thence North 89°51'09" West along the Southerly line of said 75.00 foot drainage easement, a distance of 458.24 feet to its intersection with the Westerly line of said 75.00 foot drainage easement; thence departing the Southerly line of said 75.00 foot drainage easement run North 00°12'44" West along the Westerly line of said 75.00 foot drainage easement, a distance of 490.01 feet to the POINT OF BEGINNING.

Containing 3.602 acres, more or less

PART B:

SECTION 77310-2502 STATE ROAD 417 SEMINOLE CO. DESCRIPTION

FEE SIMPLE - LIMITED ACCESS-RIGHT OF WAY

PARCEL NO. 265 - CONT.

Commence at a found 1" iron pipe (No #) marking the Southeast corner of the Northeast 1/4 of said Section 34 as shown on Florida Department of Transportation Right-of-Way Map, Section 77310-2502; thence run North 89°53'09" West along the South line of the Northeast 1/4 of said Section 34, a distance of 1,314.32 feet to the Westerly right-of-way line of Bevier Avenue (a 25.00 foot right-of-way as now established); thence, departing the South line of the Northeast 1/4 of said Section 34, run South 00°28'51" East along the Westerly right-of-way line of said Bevier Avenue a distance of 14.84 feet to the Northeast corner of Block A, Second Ravenna Park Section of Loch Arbor, as recorded in Plat Book 13, Pages 29 through 31, of the Public Records of Seminole County, Florida for a POINT OF BEGINNING; thence departing the Westerly right-of-way line of said Bevier Avenue run North 89°53'01" West along the North line of said Block A, Second Ravenna Park Section of Loch Arbor, a distance of 76.34 feet to a point on the Westerly line of a 75.00 foot drainage easement as recorded in Official Records Book 442, Page 140 of the Public Records of Seminole County, Florida; thence along said westerly line run North 00°12'44" West 903.50 feet to a point on a non-tangent curve concave Northeastly, having a radius of 5669.58 feet, a central angle of 03°48'22", and a chord bearing of South 02°21'38" East; thence southerly along the arc of said curve a distance of 376.63 feet; thence North 88°18'48" East 34.29 feet; thence South 00°12'44" East 286.04 feet; thence South 89°57'54" East 27.88 feet to a point on the East line of the Southwest 1/4 of the Northeast 1/4 of said Section 34; thence South 00°12'44" East, along said East line, a distance 171.16 feet; thence South 56°52'54" East, a distance of 57.21 feet to a point on the Northerly right of way line of Hughy Street ( a 20.00 foot right of way as now established); thence North 89°53'09" West, along said North line, a distance of 47.80 feet to a point on the aforementioned East line of the Southwest 1/4 of the Northeast 1/4 of Section 34; thence South 00°12'44" East 25.00 feet to the aforesaid South line of the Northeast 1/4 of Section 34; thence South 00°28'51" East 14.84 feet to the Point of Beginning.

Containing 0.801 acres, more or less.

PART C:

Commence at a found 1" iron pipe (No #) marking the Southeast corner of the Northeast 1/4 of said Section 34 as shown on Florida Department of Transportation Right-of-Way Map, Section 77310-2502;

SECTION 77310-2502 STATE ROAD 417 SEMINOLE CO. DESCRIPTION

FEE SIMPLE - LIMITED ACCESS-RIGHT OF WAY

PARCEL NO. 265 - CONT.

thence run North 89°53'09" West along the South line of the Northeast 1/4 of said Section 34, a distance of 1,190.58 feet; thence, departing the South line of the Northeast 1/4 of said Section 34, North 00°12'44" West 25.00 feet to the existing Northerly right of way line of Hughy Street (a 50.00 foot right-of-way as now established); thence continue North 00°12'44" West 1452.75 feet for a POINT OF BEGINNING; thence continue North 00°12'44" West 176.93 feet; thence North 89°50'45" West 125.00 feet; thence South 00°12'44" East 206.02 feet; thence North 33°37'08" East 34.92 feet; thence South 89°49'19" East 105.56 feet to the Point of Beginning.

Containing 0.514 acres, more or less.

PART D:

Commence at a found 2 inch iron pipe (No. #) marking the Northwest corner of the Northeast 1/4 of said Section 34 as shown on Florida Department of Transportation Right-of-Way Map, Section 77310-2502; thence run South 00°15'00" East along the West line of the Northeast 1/4 of said Section 34, a distance of 992.15 feet to the North line of the South 1/2 of Block 40, M.M. Smith's Subdivision; thence departing the West line of the Northeast 1/4 of said Section 34 run South 89°51'09" East along the North line of the South 1/2 of said Block 40 and the North line of the South 1/2 of said Block 41, M.M. Smith's Subdivision a distance of 678.11 feet to a point on the Westerly line of a 75.00 foot drainage easement as recorded in Official Records Book 442, Page 140 of the Public Records of Seminole County, Florida for a POINT OF BEGINNING; thence continue along said North line South 89°51'09" East 141.50 feet to the beginning of a curve concave southwesterly, having a radius of 244.00 feet, a central angle of 72°34'06", and a chord bearing of South 53°45'11" East; thence southeasterly along the arc of said curve a distance of 96.11 feet; thence South 40°07'40" East 387.92 feet to the beginning of a non-tangent curve concave Easterly, having a radius of 5779.58 feet, a central angle of 01°17'35", and a chord bearing of North 04°13'45" East; thence Northerly along the arc of said curve a distance of 130.42 feet to the beginning of a reversed curve concave Westerly, having a radius of 17138.75 feet, a central angle of 00°44'42", and a chord bearing of North 04°35'34" East; thence Northerly along the arc of said curve a distance of 222.81 feet to the end of said curve; thence South 89°51'09" East 144.03 feet; thence South 00°12'44" East 588.14 feet; thence South 89°33'16" West 75.00 feet; thence North 00°12'44" West 98.90 feet; thence North 49°44'25" West 361.59 feet; thence North 51°01'33"

SECTION 77310-2502 STATE ROAD 417 SEMINOLE CO. DESCRIPTION

**FEE SIMPLE - LIMITED ACCESS-RIGHT OF WAY**

PARCEL NO. 265 - CONT.

West, 297.51 feet; thence South 85°49'39" West, 59.46 feet to the  
aforesaid Westerly line of said 75.00 foot drainage easement;  
thence along said westerly line North 00°12'44" West 75.00 feet to  
the Point of Beginning.

Containing 1.013 acres, more or less.

**PART E:**

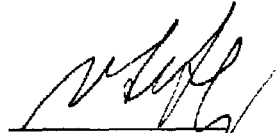
Commence at a found 1 inch iron pipe (No. #) marking the Northwest  
corner of the Northeast 1/4 of said Section 34 as shown on Florida  
Department of Transportation Right-of-Way Map, Section 77310-2502;  
thence run South 00°18'00" East along the West line of the  
Northeast 1/4 of said Section 34, a distance of 992.15 feet to the  
North line of the South 1/2 of Block 40, M.M. Smith's Subdivision;  
thence departing the West line of the Northeast 1/4 of said Section  
34 run South 89°51'09" East along the North line of the South 1/2 of  
said Block 40 and the North line of the South 1/2 of said Block 41,  
M.M. Smith's Subdivision a distance of 678.11 feet to a point on  
the Westerly line of a 75.00 foot drainage easement as recorded in  
Official Records Book 112, Page 140 of the Public Records of  
Seminole County, Florida; thence departing the North line of the  
South 1/2 of said Block 41, M.M. Smith's Subdivision run South  
00°12'44" East along the Westerly line of said 75.00 foot drainage  
easement, a distance of 75.00 feet; thence departing the Westerly  
line of said 75.00 foot drainage easement run North 85°49'39" East  
59.46 feet; thence South 51°01'13" East 297.51 feet for a POINT OF  
BEGINNING; thence South 40°07'42" East 268.45 feet to the beginning  
of a curve concave Northeasterly, having a radius of 5779.58 feet,  
a central angle of 01°01'23", and a chord bearing of South 01°58'59"  
West; thence southerly along the arc of said curve a distance of  
103.20 feet to a point on the Southerly line of said 75.00 foot  
drainage easement; thence South 89°51'09" East along the Southerly  
line of said 75.00 foot drainage easement, a distance of 106.77  
feet to its intersection with the Westerly line of said 75.00 foot  
drainage easement; thence departing the Southerly line of said  
75.00 foot drainage easement run North 00°12'44" West a distance of  
75.00 feet; thence North 49°44'25" West 361.59 feet to the Point of  
Beginning.

Containing 17,483 square feet, more or less.

Parts A, B, C, D, and E all being a portion of lands as described  
in Official Records Book 1109, Page 1532, Public Records of  
Seminole County, Florida.

which vested in the Petitioner pursuant to the Order of Taking and deposit of money heretofore made, is approved, ratified and confirmed, and it is further,

DONE AND ORDERED at Sanford, Seminole County, Florida, this 20 day of ~~October~~, 2002.

  
DEBRA NELSON, Nancy E. Alley  
CIRCUIT JUDGE

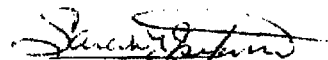
I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail this 20 day of ~~October~~ 2002 to:

Lawrence S. Gendzier, Esquire, State of Florida Department of Transportation, 719 South Woodland Boulevard, DeLand, Florida 32720.

S.W. Moore, Esquire, 100 Wallace Ave., Suite 310, Sarasota, FL 34237

Henry Brown, Esquire, Assistant County Attorney, Seminole County Services Bldg., 1101 East First Street, Sanford, Florida 32771.

County of Seminole, Ray Valdes, County Tax Collector, 1101 E. First Street Sanford, FL 32771.

  
Judicial Assistant


This is a Certified copy





JOINT MOTION

COME NOW the parties to this action, by and through their undersigned attorneys  
and respectfully move this Honorable Court for entry of the foregoing Final Judgment this

13<sup>th</sup> <sup>November</sup> day of ~~October~~, 2002.

  
\_\_\_\_\_  
Lawrence S. Gendzier, Esq.  
State of Florida  
Department of Transportation  
719 S. Woodland Blvd.  
Deland, Florida 32720  
(386) 943-5493  
Florida Bar No.: 279110

  
\_\_\_\_\_  
Henry M. Brown, Esquire  
Assistant County Attorney  
Seminole County Services Bldg.,  
101 East First Street,  
Sanford, Florida 32771.  
(407) 6665-1130  
Fla. Bar No.: 0760445

  
\_\_\_\_\_  
S.W. Moore, Esquire  
BRIGHAM MOORE, LLP  
100 Wallace Ave., Suite 310  
Sarasota, FL 34237  
(941) 365-3800  
Fla. Bar No: 157268  
Attorney For Respondent:  
Utilities, Inc.



Utilities, Inc. of Florida  
Data Request  
Submitted April 23, 2007

Exhibit 11

**A. Settlement Statement**

U.S. Department of Housing  
and Urban Development

OMB No. 2502-0265



<b>B. Type of Loan</b>			
1. <input type="checkbox"/> FHA	2. <input type="checkbox"/> FmHA	3. <input checked="" type="checkbox"/> Conv. Unins.	6. File Number 04-2731
4. <input type="checkbox"/> VA	5. <input type="checkbox"/> Conv. Ins.	7. Loan Number	8. Mortgage Insurance Case Number
<b>C. Note:</b> This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for information purposes and are not included in the totals.			
<b>D. Name and Address of Borrower</b> LARS J. ERIKSSON 2050 Springs Landing Boulevard Longwood, FL 32779		<b>E. Name and Address of Seller</b> UTILITIES, INC. OF FLORIDA 200 Weathersfield Avenue Altamonte Springs, FL 32714	
<b>G. Property Location</b> vacant property Sanford, FL 32771		<b>H. Settlement Agent</b> James A. Barks, Attorney at Law	
		<b>Place of Settlement</b> 1120 West First Street, Suite B Sanford, Florida 32771	<b>I. Settlement Date</b> 05/05/05
<b>J. SUMMARY OF BORROWER'S TRANSACTION:</b>		<b>K. SUMMARY OF SELLER'S TRANSACTION:</b>	
<b>100. GROSS AMOUNT DUE FROM BORROWER</b>		<b>400. GROSS AMOUNT DUE TO SELLER</b>	
101. Contract sales price	140,000.00	401. Contract sales price	140,000.00
102. Personal property		402. Personal property	
103. Settlement charges to borrower (line 1400)	17,320.10	403.	
104.		404.	
105.		405.	
<b>Adjustments for items paid by seller in advance</b>		<b>Adjustments for items paid by seller in advance</b>	
106. City/town taxes to		406. City/town taxes to	
107. County taxes to		407. County taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110. Credit to Seller for 1/2 of survey charge	1,100.00	410. Credit to Seller for 1/2 of survey charge	1,100.00
111.		411.	
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER	158,420.10	420. GROSS AMOUNT DUE TO SELLER	141,100.00
<b>200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER</b>		<b>500. REDUCTIONS IN AMOUNT TO SELLER</b>	
201. Deposit or earnest money	10,000.00	501. Excess Deposit (see instructions)	
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)	1,025.10
203. Existing loan(s) taken subject to		503. Existing loans taken subject to	
204.		504. Payoff of first mortgage loan	
205.		505. Payoff of second mortgage loan	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
<b>Adjustments for items unpaid by seller</b>		<b>Adjustments for items unpaid by seller</b>	
210. City/town taxes to		510. City/town taxes to	
211. County taxes 01/01 to 05/05	18.30	511. County taxes 01/01 to 05/05	18.30
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY / FOR BORROWER	10,018.30	520. TOTAL REDUCTION AMOUNT DUE SELLER	1,043.40
<b>300. CASH AT SETTLEMENT FROM OR TO BORROWER</b>		<b>600. CASH AT SETTLEMENT TO OR FROM SELLER</b>	
301. Gross amount due from borrower (line 120)	158,420.10	601. Gross amount due to seller (line 420)	141,100.00
302. Less amounts paid by/for borrower (line 220)	10,018.30	602. Less reduction amount due to seller (line 520)	1,043.40
303. CASH FROM BORROWER	148,401.80	603. CASH TO SELLER	140,056.60

IN THE EVENT A RE-PRORATION OF THE TAXES IS NECESSARY WHEN THE TAX BILLS FOR 2004 ARE PREPARED, THE PARTIES AGREE TO HANDLE SAID RE-PRORATION BETWEEN THEMSELVES.

LARS J. ERIKSSON

Patrick C. Flynn, Regional Director of Operations

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
SETTLEMENT STATEMENT  
PAGE 2

File Number: 04-2731

L. SETTLEMENT CHARGES:				PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT	
700.	<b>TOTAL SALES/BROKER'S COMMISSION based on price \$</b>	140,000.00@	10.00 %	14,000.00		
Division of commission (line 700) as follows:						
701.	\$ 7,000.00	to	Jack Hines			
702.	\$ 7,000.00	to	Thomas B. Ball, III			
703.	Commission paid at Settlement			14,000.00		
704.						
800.	<b>ITEMS PAYABLE IN CONNECTION WITH LOAN</b>	P.O.C.				
801.	Loan Origination Fee					
802.	Loan Discount					
803.	Appraisal Fee					
804.	Credit Report					
805.	Lender's Inspection Fee					
806.	Mtg. Ins. Application Fee					
807.	Assumption Fee					
808.						
809.						
810.						
811.						
812.						
813.						
814.						
815.						
900.	<b>ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE</b>					
901.	Interest	from	to	@ \$	/ day	
902.	Mortgage Insurance Premium					
903.	Hazard Insurance Premium					
904.						
905.						
1000.	<b>RESERVES DEPOSITED WITH LENDER FOR</b>					
1001.	Hazard Insurance	mo. @ \$		/ mo.		
1002.	Mortgage Insurance	mo. @ \$		/ mo.		
1003.	City property taxes	mo. @ \$		/ mo.		
1004.	County property taxes	mo. @ \$		/ mo.		
1005.	Annual Assessments	mo. @ \$		/ mo.		
1006.		mo. @ \$		/ mo.		
1007.		mo. @ \$		/ mo.		
1008.	Aggregate Reserve for Hazard/Flood Ins, City/County Prop Taxes, Mortgage ins & Annual Assessments					
1100.	<b>TITLE CHARGES</b>					
1101.	Settlement or closing fee	to	James A. Barks		125.00	
1102.	Abstract or title search	to	Attorneys' Title Insurance Fund, Inc.		300.00	
1103.	Title examination	to	James A. Barks		125.00	
1104.	Title insurance binder	to				
1105.	Document preparation	to				
1106.	Notary fees	to				
1107.	Attorney's fees	to	James A. Barks		750.00	
	(includes above item No:			)		
1108.	Title insurance	to	James A. Barks		775.00	
	(includes above item No:			)		
1109.	Lender's coverage					
1110.	Owner's coverage	140,000.00 ---	775.00			
1111.						
1112.						
1113.						
1200.	<b>GOVERNMENT RECORDING AND TRANSFER CHARGES</b>					
1201.	Recording fees	Deed \$ 18.50	; Mortgage \$		18.50	
1202.	City/county/stamps	Deed \$	; Mortgage \$			
1203.	State tax/stamps	Deed \$ 980.00	; Mortgage \$		980.00	
1204.	- Intangible Tax					
1205.	Record Easement-\$53.20; Corp. Res.-\$18.50					
				26.60	45.10	
1300.	<b>ADDITIONAL SETTLEMENT CHARGES</b>					
1301.	Survey	to	Scott's Surveying Services, Inc.	2200.00S		
1302.	Pest inspection	to				
1303.						
1304.						
1305.	Phase I Environmental	ECS-Florida, LLC			1,200.00	
1306.	Phase II Environmental	ECS-Florida, LLC		6527.00S		
1307.						
1308.						
1400.	<b>TOTAL SETTLEMENT CHARGES (enter on lines 103 and 502, Sections J and K)</b>				17,320.10	1,025.10

UTILITIES, INC. OF FLORIDA

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

LARS J. ERIKSSON

Patrick C. Flynn, Regional Director of Operations

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

James A. Barks, Attorney at Law

Date

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine or imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

05-04-2005 at 4:27 PM

RESPA, HB 4305.2 - REV. HUD1(3/86)

**Utilities, Inc. of Florida  
Data Request  
Submitted April 23, 2007**

**Exhibit 15**



(b) if Grantee's water distribution and wastewater collection lines and other facilities are less than five (5) feet from the property line of said Parcels, an area ten (10) feet in width from the property line of said Parcels.

3. This Easement shall not unreasonably interfere with Grantor's use of the Property.

4. Grantor shall have the right, at its sole cost and expense, and upon giving Grantee at least 120 days' prior written notice, to relocate any water distribution lines or wastewater collection lines located within Parcels 1, 2, 3 and 4, SUBJECT, HOWEVER, TO THE FOLLOWING CONDITIONS:

(a) Grantee shall not be liable for any cost or expense associated with such relocation;

(b) Grantee has reviewed and approved the plans and drawings describing the relocation, such approval not to be unreasonably withheld;

(c) such plans and drawings conform to Grantee's standard specifications used in the design of its facilities, and applicable law, rules and regulations;

(d) if Grantee approves the plans and drawings relating to a relocation, Grantee shall, if required by Grantor, execute a mutually acceptable amendment to this Easement so long as the amended Easement fully protects Grantee's rights under this Easement to operate, maintain, repair, and manage its water and wastewater facilities; and

(e) Grantor, on behalf of itself and its employees, licensees, contractors, agents and invitees, agrees to defend, indemnify and hold harmless Grantee, its tenants, licensees, successors and assigns, from and against any and all liability, claims, damages, expenses (including cost of litigation and reasonable attorney's fees), judgments, proceedings and causes of actions of any kind whatsoever (**Claims**) arising out of, or in any way connected with, the relocation of any water distribution lines or wastewater collection lines.

5. The Easement granted hereby shall be a reservation and condition running with the Property and shall be binding upon the heirs, personal representatives and assigns of Grantor, and all purchasers of the Property, and all persons or entities acquiring any right, title or interest in the Property by, through or under Grantor.

6. Grantee, by acceptance of this Easement, agrees that all easements and grants herein shall be in compliance with all rules, regulations, ordinances, and laws established by governmental authorities having jurisdiction over such matters including, but not limited to, maintenance of the Property.

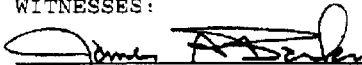
7. Grantor, for itself, its mortgagees, tenants, licensees, heirs, personal representatives and assigns, and for all persons claiming by, through or under Grantor, specifically reserves the right of ingress and egress over the Property, including the right to develop the Property, and place improvements thereon, including but not limited to houses, roadways, driveways, sidewalks, underground conduits, pipes, mains, cables, wires and other structures, together with other reasonable rights of use, provided same do not materially and adversely affect the operation of Grantee's water and wastewater facilities and all appurtenances thereto, including but not limited to, any water distribution lines or wastewater collection lines located within the Property.

8. At his sole cost and expense, Grantee, on behalf of itself and its employees, licensees, contractors, guests, agents and invitees, agrees to defend, indemnify and hold harmless Grantor, its subtenants, licensees and assigns, from and against any and all Claims whatsoever arising out of, or in any way connected with, this Easement from and after the date of this Easement, except for claims due to Grantor's gross negligence or willful misconduct.

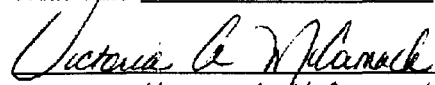
9. In the event of any litigation arising between the parties out of this Easement (including any claims for indemnity), the prevailing party shall be entitled to attorney's fees and costs.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 5<sup>th</sup> day of MAY, 2005.

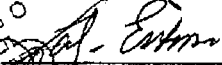
WITNESSES:



Print Name: James A Barks



Print Name: Victoria A. McCreack



LARS J. ERIKSSON



WITNESSES:

Valerie Lord  
Print Name: Valerie Lord

Trina C. Collins  
Print Name: Trina C. Collins

UTILITIES, INC. OF FLORIDA

By: Patrick C Flynn

Its: REGIONAL DIRECTOR

STATE OF FLORIDA  
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 4th day of April, 2005, by LARS J. ERIKSSON, who is personally known to me or who has produced \_\_\_\_\_ as identification.

James A Barke  
Notary Public  
Print Name \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
James A Barke  
My Commission DD063294  
Expires January 24, 2009

STATE OF FLORIDA  
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 5th day of April, 2005, by Patrick Flynn the Regional Director of UTILITIES, INC. OF FLORIDA, who is personally known to me or who has produced \_\_\_\_\_ as identification.

Leah N Wright  
Notary Public  
Print Name \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

C:\Documents and Settings\Joyce\Local Settings\Temporary Internet Files\Content.IE5\WU6L4M\Utility Easement.wpd

LEAH N. WRIGHT  
NOTARY PUBLIC - STATE OF FLORIDA  
COMMISSION # DD168777  
EXPIRES 12/2/2008  
BONDED THROUGH 1-888-NOTARY11

EXHIBIT "A"

All being in Section 34, Township 19 South, Range 30 East, Seminole County, Florida:

Lift Station:

Commence at the Northeast corner of the East 590 feet of the South  $\frac{1}{4}$  of Block 41 (less road described in O.R. Book 3667, Page 1946), M.M. Smith's Subdivision, according to the Plat thereof as recorded in Plat Book 1, Page 55, Public Records of Seminole County, Florida; said point lying on the Westerly right-of-way line of Airport Boulevard; thence run Southerly along a curve concave Easterly having a radius of 17138.75 feet through a central angle of  $00^{\circ}30'99''$  an arc distance of 162.60 feet to the Point of Beginning; thence continue Southerly along said curve Southerly through a central angle of  $00^{\circ}09'03''$  an arc distance of 45.12 feet; thence leaving said Westerly right-of-way line, run  $N89^{\circ}51'02''$  West, 40.3 feet; thence run  $N00^{\circ}08'53''$  East, 45.00 feet; thence run  $S89^{\circ}51'02''$  East, 43.56 feet to the Point of Beginning to close, containing 1886 square feet, more or less.

Parcel 1:

The West 125 feet of Block 58, and the North  $\frac{1}{4}$  of vacated street adjacent on the South (less road described in O.R. Book 3667, Page 1946) M.M. Smith's Subdivision, according to the Plat thereof as recorded in Plat Book 1, Page 55, Public Records of Seminole County, Florida.

Parcel 2:

The West 125 feet of Lot 36, Block B, and the South  $\frac{1}{4}$  of vacated street adjacent on the North M.M. Smith's Second Subdivision, according to the Plat thereof as recorded in Plat Book 1, Page 101, Public Records of Seminole County, Florida.

Parcel 3:

The West 125 feet of Lot 35, Block B, M.M. Smith's Second Subdivision, according to the Plat thereof as recorded in Plat Book 1, Page 101, Public Records of Seminole County, Florida.

Parcel 4:

Tract K, (less road described in O.R. Book 3667, Page 1946), Lincoln Heights, Section 1, according to the Plat thereof as recorded in Plat Book 13, Page 99, Public Records of Seminole County, Florida.

Parcel 6:

The East 590 feet of the South ¼ of Block 41 (less road described in O.R. Book 3667, Page 1946), M.M. Smith's Subdivision, according to the Plat thereof as recorded in Plat Book 1, Page 55, Public Records of Seminole County, Florida.

This is not a certified copy

Utilities, Inc. of Florida  
Data Request  
Submitted April 23, 2007

Exhibit 28

DRAFT  
COST-OF-COMPLIANCE REPORT  
FOR  
UTILITIES, INC. – LINCOLN HEIGHTS  
WASTEWATER TREATMENT FACILITY

ATTORNEY WORK PRODUCT  
This report was authorized by attorney S. William Moore

PREPARED FOR:

Brigham, Moore, Gaylord, Schuster, Merlin & Tobin LLP  
100 Wallace Avenue  
Sarasota, FL 34237-6043

PREPARED BY:

Glace & Radcliffe, Inc.  
630 North Wymore Road, Suite 370  
Maitland, Florida 32751  
Project No.: 99502.02

January 31, 2000

UTILITIES, INC.  
 LINCOLN HEIGHTS WASTEWATER TREATMENT FACILITY  
 COST OF COMPLIANCE REPORT

TABLE OF CONTENTS

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE NO.</u>
1.0	INTRODUCTION	1
	1.1 Background	1
	1.2 Permit Status	4
2.0	IMPROVEMENT ALTERNATIVES	8
	2.1 Before Taking	8
	2.2 After Taking	16
3.0	CONCLUSION	19

TABLES

<u>TABLE</u>		<u>PAGE NO.</u>
1	Slow Rate Irrigation Cost Estimate	12
2	Rapid Infiltration Cost Estimate	15
3	City of Sanford Connection Cost Estimate	18

FIGURES

<u>FIGURES</u>		<u>PAGE NO.</u>
1	Location Map	3
2	Proposed Slow Rate Irrigation Sites	10
3	Proposed Rapid Infiltration Basins	14

## 1.0 INTRODUCTION

### 1.1 BACKGROUND

Utilities Inc. of Florida (hereafter referred to as the "Utility") owns and operates the Lincoln Heights Wastewater Treatment Plant (hereafter referred to as the "Facility") located northwest of the terminus of Hughey Street off Airport Boulevard, in Sanford, Florida (see Figure 1). The Facility was originally built in 1954 and currently serves a population of approximately 844 people in the Ravenna Park and Lincoln Heights subdivisions. The Facility is regulated by the Florida Department of Environmental Protection (FDEP).

The Facility has a design capacity of 0.120 million gallons per day (MGD) and utilizes a treatment process consisting of one (1) manual bar screen, one (1) activated sludge extended aeration tank, secondary clarification via a rectangular clarifier, one (1) chlorination contact chamber, three (3) polishing ponds, and dechlorination by sulfur dioxide injection prior to disposal into Smith Canal. The Smith Canal flows to the St. Johns River (Class III fresh waters) west of Lake Monroe. Residuals are treated by aerobic digestion before being removed from the Facility by a licensed hauler. The hauler further stabilizes the residuals with lime before land disposal.

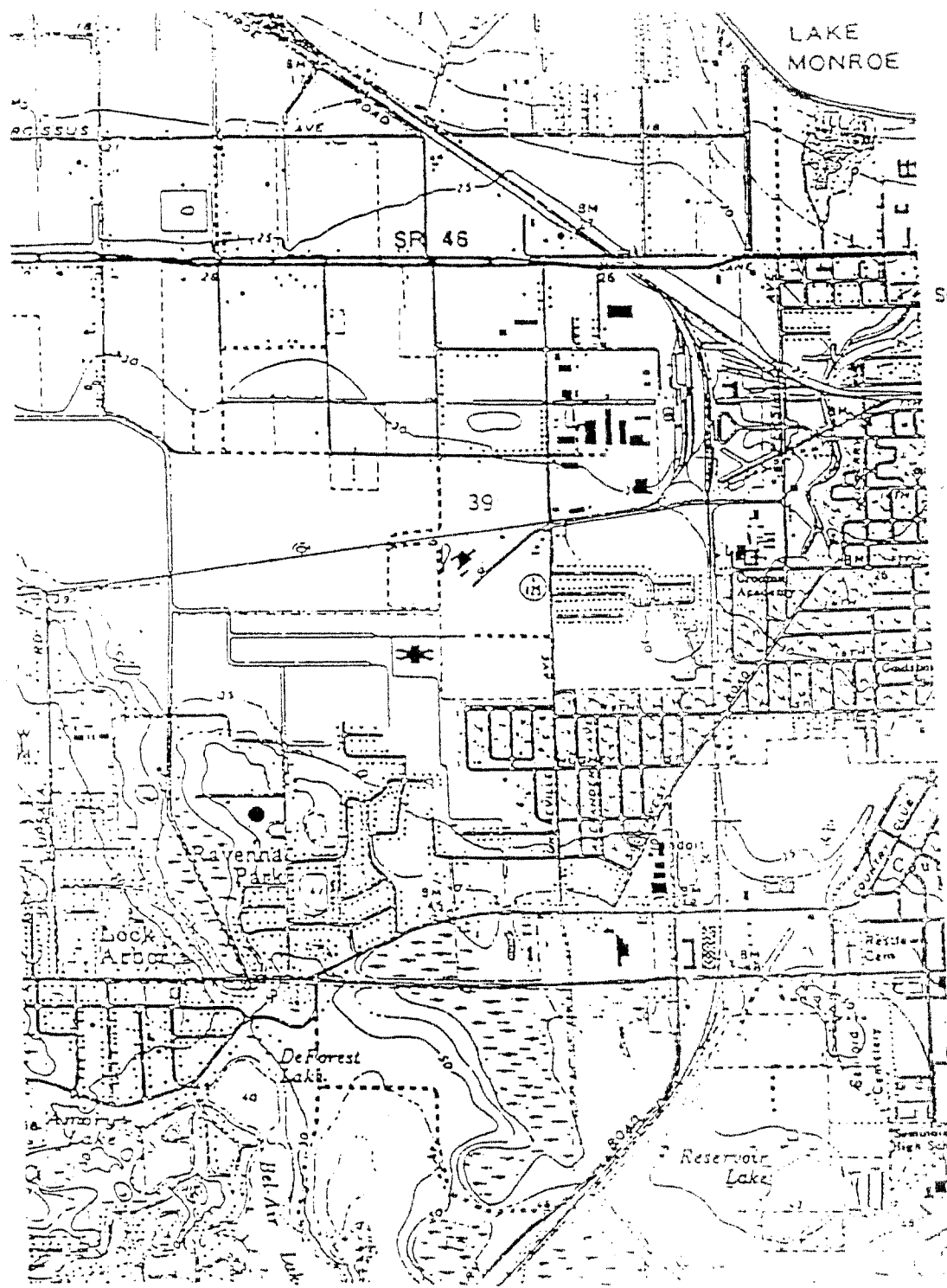
The facility as a surface discharging system must meet discharge standards set by appropriate regulatory agencies. The Class III fresh water standards are stringent and difficult to meet without significant treatment. Very few wastewater treatment facilities in central Florida continue to discharge with such standards, opting instead for land application systems.

The Utility has applied for a renewal of its discharge with FDEP. On June 23, 1997, the Utility entered into a consent order (Consent Order OGC File No. 98-2102) with the FDEP to continue operation of the Facility in its current process configuration but

research site-specific improvement alternatives to provide FDEP assurance that effluent standards can be consistently maintained.

The taking of the Utilities' property for SR 417 and Airport Boulevard significantly limits the available alternatives. Brigham, Moore, Gaylord, Schuster, Merlin & Tobin LLP has retained Glace & Radcliffe, Inc. (G&R) to evaluate the alternatives available to the Utility both before and after the property acquisition.





SCALE: 1" = 2000'

FOR MEDIATION PURPOSES ONLY

SOURCE: USGS QUADRANGLE MAP, SANFORD FLORIDA, PHOTOREMISED 1988

LEGEND  
\* WWTF SITE

**G&R** *engineers*  
consulting  
a WCC, Inc. Company

GLACE & RADCLIFFE, INC.  
Consulting Engineers  
630 N. Wymore Road Suite 370  
Maitland, Florida 32751  
(407) 647-6623 fax: (407) 539-0575

FIGURE 1: UTILITIES  
LINCOLN HEIGHTS WW  
LOCATION MAP 2

## 1.2 PERMIT STATUS

The Utility previously operated under FDEP Permit No. DO59-185633 and EPA NPDES Permit No. FL0025917. The FDEP and EPA permits were to expire on January 5, 1996 and April 30, 2000 respectively. In May of 1995, the FDEP received EPA delegation and combined the two permits into one consolidated permit. This consolidated permit, No. FL0025917, expired on January 5, 1996. Prior to the expiration, the Utility had submitted a wastewater permit application to the FDEP on August 4, 1995.

On January 21, 1998, the Utility submitted to the agency a list of Improvement Alternatives in response to the FDEP's Letter No. OWL-WW-97-0023. This list consisted of 17 Improvement Alternatives that have undergone an initial screening process consisting of literature review and consideration of site-specific conditions. The list was categorized into four general approaches:

- Provide a Substitute for the Polishing Pond Function
- Treat the Polishing Pond Effluent
- Upgrade the Treatment Plant
- Convert to Land Application Effluent Disposal

These Improvement Alternatives were considered long-term improvements.

On October 11, 1999, the Utility subsequently submitted a second wastewater permit application in request to modify Wastewater Permit No. FL0025917. The modification involved relocating the effluent discharge approximately 287-ft northward from its current location in effort to avoid conflict with a proposed concrete box culvert related to the construction of S.R. 417 and Airport Boulevard. This application has been deemed complete and has been merged with the application submitted on August 4, 1995.

Draft Permit No. FL0025917 was issued by the FDEP on December 9, 1999 and incorporates both permit applications. Included in the draft permit are effluent

limitations to be met by the Utility upon completion of construction of the selected Improvement Alternative.

## 2.0 IMPROVEMENT ALTERNATIVES

### 2.1 BEFORE TAKING

The surface water effluent limitations established in Draft Permit No. FL0025917 can not be consistently met by the Facility without major effluent polishing. Polishing wastewater effluent to limit heavy metals and increase DO, as Class III standards require, mandates installation of exotic technologies and a supplemental aeration system. With stringent effluent surface discharge limits required by FDEP, utilities under similar requirements seek land application alternatives. Therefore, land application techniques were further investigated. In land application alternatives, the soil and vegetation matrix acts as an additional process/operation, which treats the effluent prior to mixing with groundwater. Thus treatment is accomplished by adsorption, oxidation, filtration, ion exchange, and vegetation uptake. This disposal options can offer a more feasible solution to the surface water discharge issues experienced by the Utility. Two land application techniques, slow rate irrigation and rapid infiltration, were evaluated for an efficient and economical solution.

#### 2.1.1 Slow Rate Irrigation

Slow rate irrigation consists of treating wastewater by percolation and evapotranspiration. The wastewater is applied to a select parcel of land by moving or fixed sprinklers. The wastewater irrigates the land vegetation, which makes use of the nutrients, and percolates through the soil to the groundwater. This option requires large land areas for irrigation and buffer.

Brigham, Moore, Gaylord, Schuster, Merlin & Tobin retained property appraisers Calhoun, Dreggors & Associates, Inc. to investigate potential land parcels to acquire for irrigation near the Facility. Their analysis listed eight assemblages of potential properties and estimated their acquisition cost at \$50,000 per acre. These eight assemblages were further reduced to two based on their location next to the Facility and away from existing residences (see Figure 2).

NORTH  
SCALE: NONE

ASSEMBLAGE 1:  
38 ACRES

PROPOSED IRRIGATION SITES

LEESBURG BRANCH ACL RR

ASSEMBLAGE 2:  
30 ACRES

LINCOLN  
HEIGHTS  
WWTF

SMITH CANAL

FOR MEDIATION PURPOSES ONLY

**G&R** consulting engineers  
Inc. Company

GLACE & RADCLIFFE, INC.  
Consulting Engineers  
630 N. Wymore Road Suite 370  
Maitland, Florida 32751  
(407) 547-6623 fax: (407) 539-0575

FIGURE 2:  
LINCOLN HEIGHTS WWTF  
UTILITIES INC.  
PROPOSED IRRIGATION SITES

A 31

- Selected weather station from LANDAP98 program menu (Sanford Experimental Station).
- The irrigation field is symmetrical and utilizes a 100-ft setback.
- Surface runoff coefficient is 0.05.
- Average daily flow is 0.12 MG. (The facility's permitted average daily flow).
- The system is hydrological limited, not nutrient limited.

Based on these assumptions, the property needed for irrigation is approximately 24 acres. The wet weather storage capacity required is 0.36 million gallons (MG). However, this is the minimum allowable storage. This volume was increased to 0.5 MG for cost estimating purposes.

Table 1 is a breakdown of the various costs associated with the construction of the irrigation field. Included in the cost is 24 acres of land, 0.5 MG storage tank, clearing, grubbing, compaction, grading and sodding of the tank site, a security fence for the tank site, four monitoring wells, a wet well, two submersible pumps, piping and appurtenances, impact sprinklers and pressure regulators plus a 20 percent allowance each for construction contingencies and engineering fees. The assemblage 1 in Figure 2 was used to estimate pipe lengths in preparation of the cost estimate. The estimated cost of compliance for this option is \$1,779,631.

**TABLE 1**  
**SLOW RATE IRRIGATION COST ESTIMATE**  
**UTILITIES, INC.**  
**LINCOLN HEIGHTS WASTEWATER TREATMENT FACILITY**

Description	Quantity	Units	Unit Cost	Total
Monitoring Wells	4.00	EA.	\$ 2,000.00	\$ 8,000.00
Clearing and Grubbing	0.17	AC.	\$ 5,500.00	\$ 935.00
Grading and Compaction	825.00	S.Y.	\$ 2.00	\$ 1,650.00
Seeding (Bahia)	0.11	AC.	\$ 920.00	\$ 101.20
Crom 0.5 MG Tank	1.00	L.S.	\$ 210,000.00	\$ 210,000.00
Fencing	260.00	L.F.	\$ 5.00	\$ 1,300.00
Wet Well (6' dia), Control Panel & Floats	1.00	L.S.	\$ 30,000.00	\$ 30,000.00
Vertical Turbine Submersible Pump	2.00	L.S.	\$ 9,000.00	\$ 18,000.00
Effluent Impact Sprinklers	144.00	EA.	\$ 8.50	\$ 1,224.00
Effluent Pressure Regulators	144.00	EA.	\$ 6.50	\$ 936.00
10" PVC Gravity Sewer Pipe	50.00	L.F.	\$ 18.00	\$ 900.00
10" PVC Transmission Line	3,600.00	L.F.	\$ 18.00	\$ 64,800.00
8" PVC Gravity Sewer Pipe	100.00	L.F.	\$ 15.00	\$ 1,500.00
6" Aluminum Pipe	750.00	L.F.	\$ 14.75	\$ 11,062.50
2 1/2 " Aluminum Pipe	8,750.00	L.F.	\$ 4.00	\$ 35,000.00
3/4" Aluminum Pipe	225.00	L.F.	\$ 1.00	\$ 225.00
Piping Appurtenances	1.00	L.S.	\$ 16,888.13	\$ 16,888.13
<b>SUB TOTAL CONSTRUCTION</b>				\$ 402,522
Contingencies	20%			\$ 80,504.37
Engineering	20%			\$ 96,605.24
<b>SUB TOTAL PROJECT</b>				\$ 579,631.43
<b>PROPERTY FOR IRRIGATION</b>	24.00	AC.	\$ 50,000.00	\$ 1,200,000.00
<b>TOTAL</b>				\$ 1,779,631

### 2.1.2 Rapid Infiltration Basins

Rapid infiltration basins (RIBs) consist of earthen basins, which are flooded with wastewater. The wastewater then percolates through the soil to the ground water.

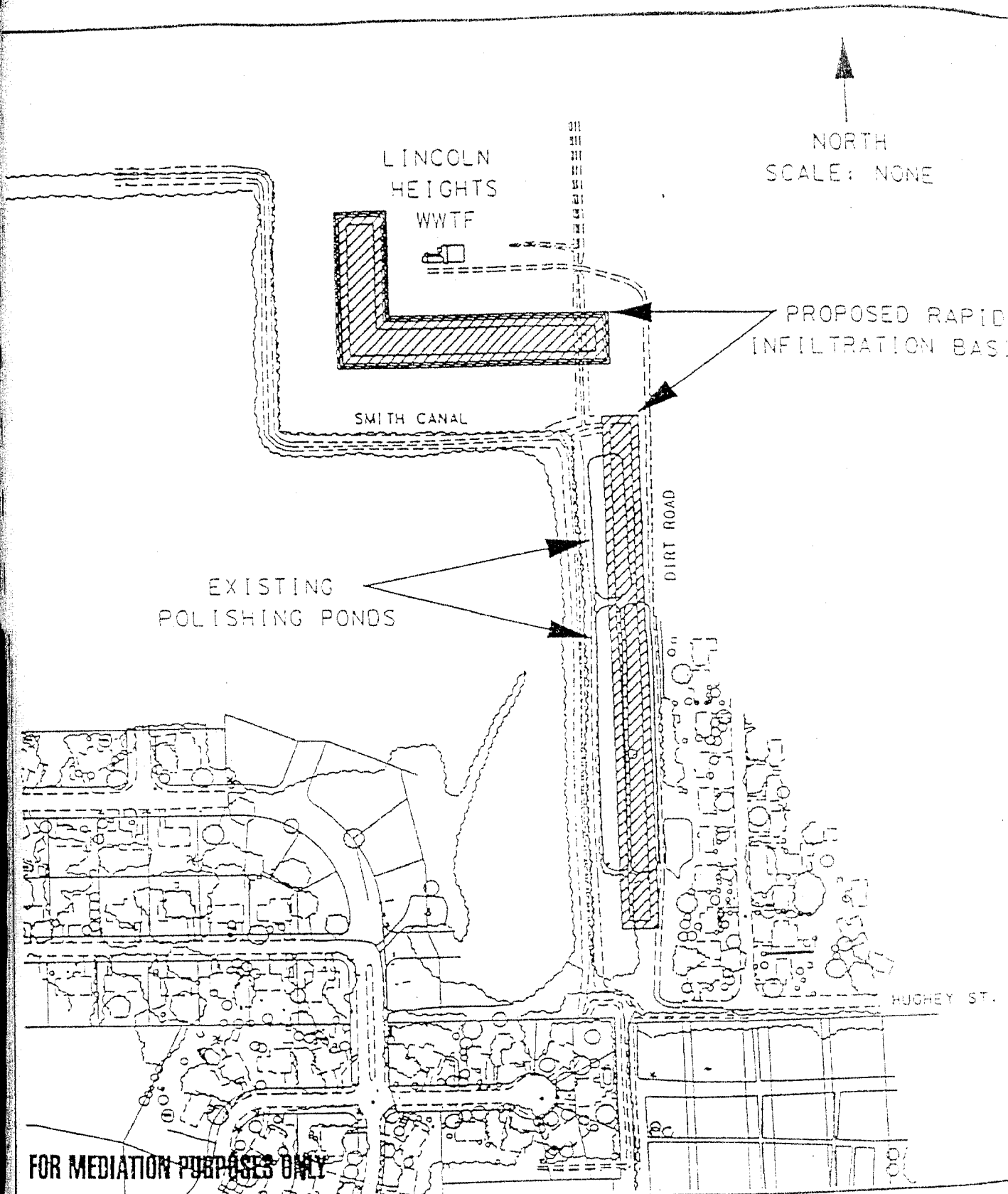
For this option, Yovaish Engineering Services Inc. was retained to provide geotechnical services to determine the feasibility of rapid infiltration basins on the existing Facility site (before taking). The Yovaish report entitled, *Additional Seepage Analysis, Proposed Effluent Disposal Ponds (Rapid Rate Infiltration Basins), Lincoln Heights Wastewater Treatment Plant, Sanford, Florida (PN 97-542.1B)*, concluded the RIBs could be installed on the existing property by reconstructing the existing polishing ponds and overexcavating portions of existing sands and replacing them with more permeable soils for percolation enhancement (see Figure 3).

Table 2 is a breakdown of the various costs associated with the construction of the RIBs. Included in the cost is clearing, grubbing, overexcavation, compaction, grading, sodding & seeding of the site, select fill & hauling, a wet well & effluent pumps, piping and appurtenances plus a 20 percent allowance each for construction contingencies and engineering fees. The estimated cost for compliance associated with this option is \$591,520.

### 2.1.3 Recommended Improvement Alternative (Before Taking)

Based upon the evaluation, the rapid infiltration basin alternative is the most likely option to be selected prior to the taking. This option is the least costly of the two land application alternatives. This disposal process has a successful history in central Florida and can be constructed on the Utility's property.





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GLACE & RADCLIFFE, INC.  
Consulting Engineers  
630 N. Wymore Road Suite 370  
Maitland, Florida 32751  
(407)647-5623 fax: (407)639-0575

FIGURE 3: UTILITIES &  
LINCOLN HEIGHTS WWT  
PROPOSED RAPID  
INFILTRATION BASINS

**TABLE 2**  
**RAPID INFILTRATION BASIN COST ESTIMATE**  
**UTILITIES, INC.**  
**LINCOLN HEIGHTS WASTEWATER TREATMENT FACILITY**

Description	Quantity	Units	Unit Cost	Total
Cleaning and Grubbing	4.80	AC.	\$ 5,373.00	\$ 25,790.40
Over Excavation	39,000.00	S.Y.	\$ 1.50	\$ 58,500.00
Select Fill	54,050.00	C.Y.	\$ 1.75	\$ 94,587.50
Select Fill Hauling	54,050.00	C.Y.	\$ 2.00	\$ 108,100.00
Grading and Compaction	40,172.00	S.Y.	\$ 1.50	\$ 60,258.00
Dewatering	1.00	L.S.	\$ 5,000.00	\$ 5,000.00
Sodding (Bahia)	2.50	AC.	\$ 6,000.00	\$ 15,000.00
Seeding (Bahia)	3.85	AC.	\$ 920.00	\$ 3,542.00
6' Diameter Wet Well	1.00	L.S.	\$ 4,000.00	\$ 4,000.00
2.7 HP Effluent Pump	2.00	EA.	\$ 3,750.00	\$ 7,500.00
6" PVC Effluent Piping	1,500.00	L.F.	\$ 10.00	\$ 15,000.00
8" PVC By-Pass Piping	600.00	L.F.	\$ 15.00	\$ 9,000.00
Piping Appurtenances	1	L.S.	\$ 4,500.00	\$ 4,500.00
<b>SUB TOTAL</b>				<b>\$ 410,777.90</b>
Contingencies	20%			\$ 82,155.58
Engineering	20%			\$ 98,586.70
<b>TOTAL</b>				<b>\$ 591,520</b>

## 2.2 AFTER TAKING

The property taken by SR 417 and Airport Boulevard results in the Utility being left with a small triangular property surrounding the wastewater treatment plant site and the oxidation ponds. The taking prevents the construction of one of the two rapid infiltration basins, recommended previously. The proposed northern rapid infiltration basin adjoining the wastewater treatment facility could not be installed as it is located on property taken by the condemning authorities. The second or south proposed rapid infiltration basin to be constructed on the existing oxidation ponds does not have sufficient capacity to meet plant flow and permitted capacity requirements.

Therefore the Utility must seek another solution. As stated previously, further polishing of effluent prior to discharge to the Smith Canal is an expensive, unproven solution. Slow rate irrigation is expensive due to the land requirements. The Utility has discussed with the City of Sanford connecting the Lincoln Heights system to the City's sewer system. Therefore, G&R further evaluated this option as a second "after taking" scenario alternative available to the Utility to compare to the slow rate irrigation alternative.

### 2.2.1 Connection to the City of Sanford

This option involves the abandonment of the Lincoln Heights WWTF and construction of a new lift station and forcemain to route wastewater to the City of Sanford. As part of this analysis, it is assumed that the City will allow connection to their system. Further in addition to the physical facilities that must be constructed, the City will require payment of up front connection fees for reservation of capacity in their system.

Three potential routes were considered to the construct the forcemain to nearest City of Sanford manhole at Bevier Road and Jewitt Lane. The shortest route is the unimproved right-of-way north of the WWTF. This route leads directly to the intersection of Bevier and Jewitt. This is the recommended route for this preliminary analysis. It is assumed that the ROW is available for use without acquisition of property or easements.

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Table 3 is a breakdown of the capital components for this alternative. Also included in the current cost of the connection fees at \$1700/ERU. The City also imposes a 25% surcharge on customers outside the City limits of Sanford. As the Ravenna Park and Lincoln Heights subdivisions are outside the City limits the 25% surcharge is included. It was assumed the Utility would purchase the number of ERU's or connections (400) to match the permitted capacity of the Utility's wastewater treatment facility.

The estimated cost of compliance for this option is \$1,446,786. The cost of compliance, at this time, does not include any difference in the cost of operation and maintenance of the Utility's wastewater treatment facility and the volume charges the City would assess for transmission and treatment of the Utility's customers.

### **2.2.2 Recommended Improvement Alternative (After Taking)**

The City of Sanford connection is less costly than the slow rate irrigation option. Therefore, the recommended improvement alternative is connection to the City of Sanford. The compliance cost for the Sanford connection is preliminary subject to final route selection for the forcemain and final negotiations with the City of Sanford.

**TABLE 3**  
**City of Sanford Connection Cost Estimate**  
**UTILITIES, INC.**  
**LINCOLN HEIGHTS WASTEWATER TREATMENT FACILITY**

Description	Quantity	Units	Unit Cost	Total
<b>SANFORD CONNECTION PROJECT</b>				
General Requirements and Bonds (1)	1.00	LS	\$ 8,175.00	\$ 8,175.00
Modifications to Yard piping and Fencing on WWTF Property (1)	1.00	LS	\$ 9,830.00	\$ 9,830.00
New Master Lift Station, appurtenances, and associated Site Improvements (1)	1.00	LS	\$ 81,807.00	\$ 81,807.00
6 inch DIP Forcemain (1)	1.00	LS	\$ 63,253.00	\$ 63,253.00
6 inch Directional Drill (1)	1.00	LS	\$ 26,433.00	\$ 26,433.00
Connection to Existing 15 inch Gravity Sewer Main (1)	1.00	LS	\$ 14,525.00	\$ 14,525.00
Valves, Fittings, Restraining Devices and Appurtenances (1)	1.00	LS	\$ 35,281.00	\$ 35,281.00
Maintenance of Traffic (1)	1.00	LS	\$ 2,575.00	\$ 2,575.00
Restoration of Disturbed Areas (1)	1.00	LS	\$ 9,000.00	\$ 9,000.00
Hydrostatic Testing (1)	1.00	LS	\$ 1,937.00	\$ 1,937.00
Emergency Generator (1)	1.00	LS	\$ 48,765.00	\$ 48,765.00
Flow Meter, Chart Recorder and RTU (1)	1.00	LS	\$ 12,789.00	\$ 12,789.00
Miscellaneous Work (1)	1.00	LS	\$ 17,237.00	\$ 17,237.00
<b>SUB TOTAL SANFORD CONNECTION CONSTRUCTION COST</b>				<b>\$ 331,607.00</b>
Contingencies	10%			\$ 33,160.70
Engineering (2)	1.00	LS	\$ 46,614.85	\$ 46,614.85
Capitalized Time (5%)	1.00	LS	\$ 20,569.13	\$ 20,569.13
<b>SUBTOTAL SANFORD CONNECTION PROJECT</b>				<b>\$ 431,851.68</b>
<b>WWTF DEMOLITION PROJECT</b>				
WWTF Demolition and Removal of Debris	1.00	LS	\$ 169,114.00	\$ 169,114.00
<b>SUB TOTAL DEMOLITION CONSTRUCTION COST</b>				<b>\$ 169,114.00</b>
Contingencies	20%			\$ 33,822.80
Engineering	20%			\$ 40,587.36
<b>SUB TOTAL DEMOLITION PROJECT</b>				<b>\$ 243,524.16</b>
<b>CONNECTION FEES TO CITY OF SANFORD</b>				
Connection Fee to Sanford	400	ERU	\$ 1,700.00	\$ 680,000.00
25% Surcharge	400	ERU	\$ 425.00	\$ 170,000.00
<b>SUBTOTAL CONNECTION FEES</b>				<b>\$ 850,000.00</b>
<b>TOTAL CITY OF SANFORD CONNECTION PROJECT COSTS</b>				<b>\$ 1,525,476</b>

(1) Costs from Bid from Contractor  
 (2) Engineering fees from Jim Boyd

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3.0 CONCLUSION

The effluent limitations established in Draft Permit No. FL0025917, it will require additional treatment to be added to Facility to consistently produce effluent meeting surface water discharge limitations. To avoid additional costly modifications of experimental technologies to the existing Facility, it is recommended that the Utility consider land application discharge. This analysis also includes consideration of the before and after taking of the property on the alternatives.

The two most feasible land application disposal alternatives considered were:

- Slow Rate Irrigation
- Rapid Infiltration Basins

Both alternatives were analyzed to determine the most efficient and economical solution. Due to the large amount of acreage involved with implementing the slow rate irrigation alternative and the associated cost with acquiring this land, in the before condition, the recommended alternative is to construct the rapid infiltration basins on the existing property.

However, due to the property being taken, the rapid infiltration basin alternative is no longer feasible. Therefore a third option (connection to the City of Sanford) was explored as comparison with off site slow rate irrigation. The connection with the City of Sanford was found to be less expensive than slow rate irrigation and is recommended as the alternative to implement for compliance.

The preliminary total cost of compliance for connection to the City of Sanford is \$1,446,786.

• 1,525,476.

Utilities, Inc. of Florida  
Data Request  
Submitted April 23, 2007

Exhibit 35

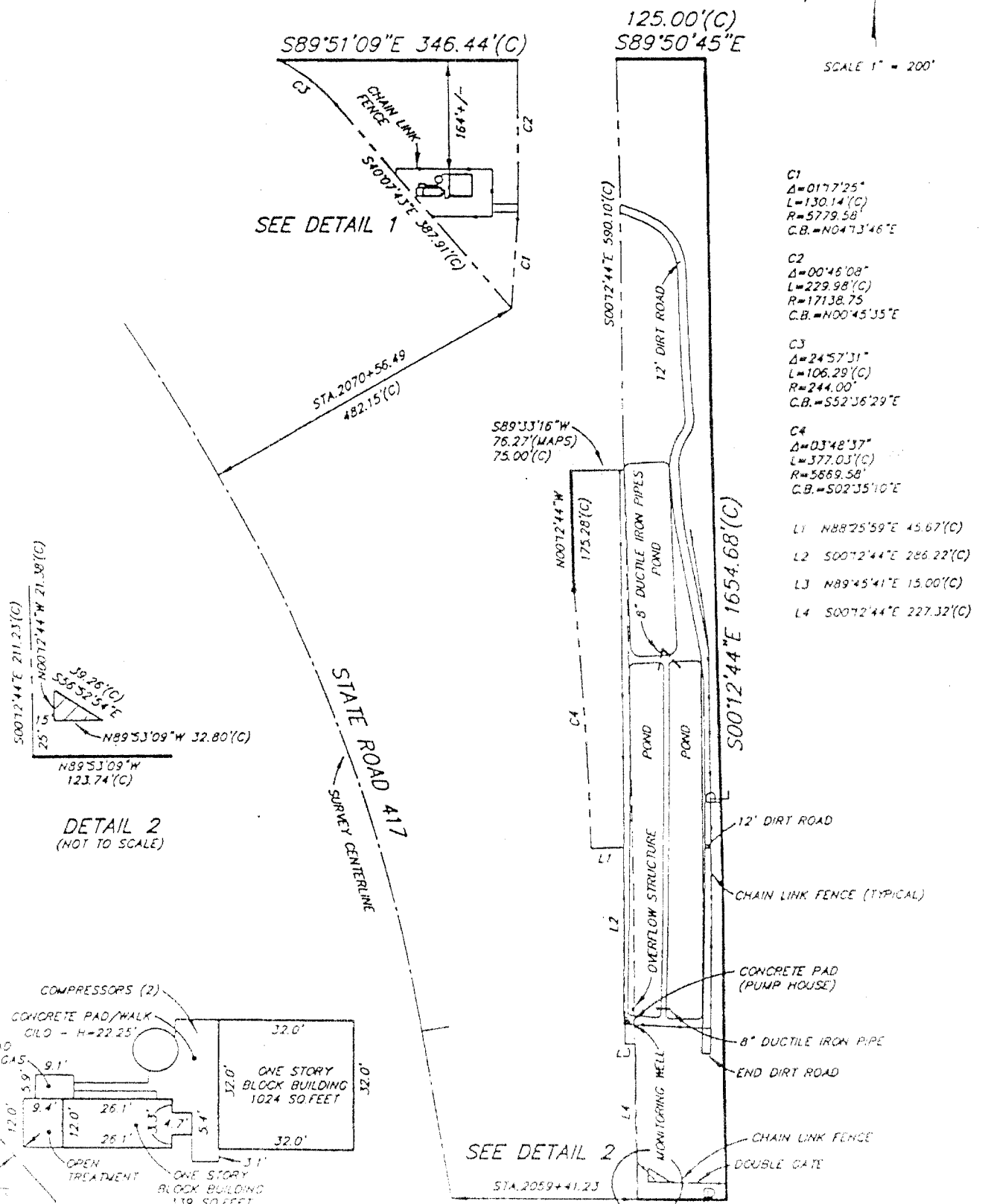
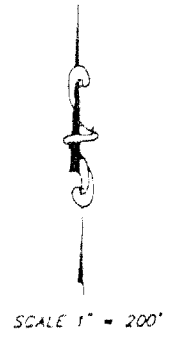




STATE ROAD 417 (SEMINOLE COUNTY, FLORIDA)  
 PARCEL 265 - SKETCH OF REMAINDER  
 DESCRIPTION: VACANT

SKETCH FOR: HASTINGS & SPIVEY, INC.

AREA OF REMAINDER = 6.548 ACRES

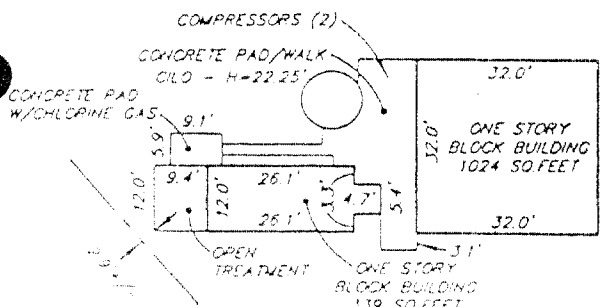


SEE DETAIL 1

DETAIL 2  
(NOT TO SCALE)

SEE DETAIL 2

- C1  
 $\Delta = 0177'25''$   
 $L = 130.14'(C)$   
 $R = 5779.58'$   
 $C.B. = N0473'46''E$
- C2  
 $\Delta = 00'46'08''$   
 $L = 229.98'(C)$   
 $R = 17138.75'$   
 $C.B. = N00'45'35''E$
- C3  
 $\Delta = 24'57'31''$   
 $L = 106.28'(C)$   
 $R = 244.00'$   
 $C.B. = S52'36'29''E$
- C4  
 $\Delta = 03'48'37''$   
 $L = 377.03'(C)$   
 $R = 5869.58'$   
 $C.B. = S02'35'10''E$
- L1 N88°25'59"E 45.67'(C)
- L2 S00°12'44"E 286.22'(C)
- L3 N89°45'41"E 15.00'(C)
- L4 S00°12'44"E 227.32'(C)



- NOTES:  
 1. FOR CUL-DE-SAC DETAILS, SEE SHEET NO. 5  
 2. FOR TOLL PLAZA DETAILS, SEE SHEET NOS.  
 3. FOR RAMP C & D GORE DETAILS SEE SHEET NOS.

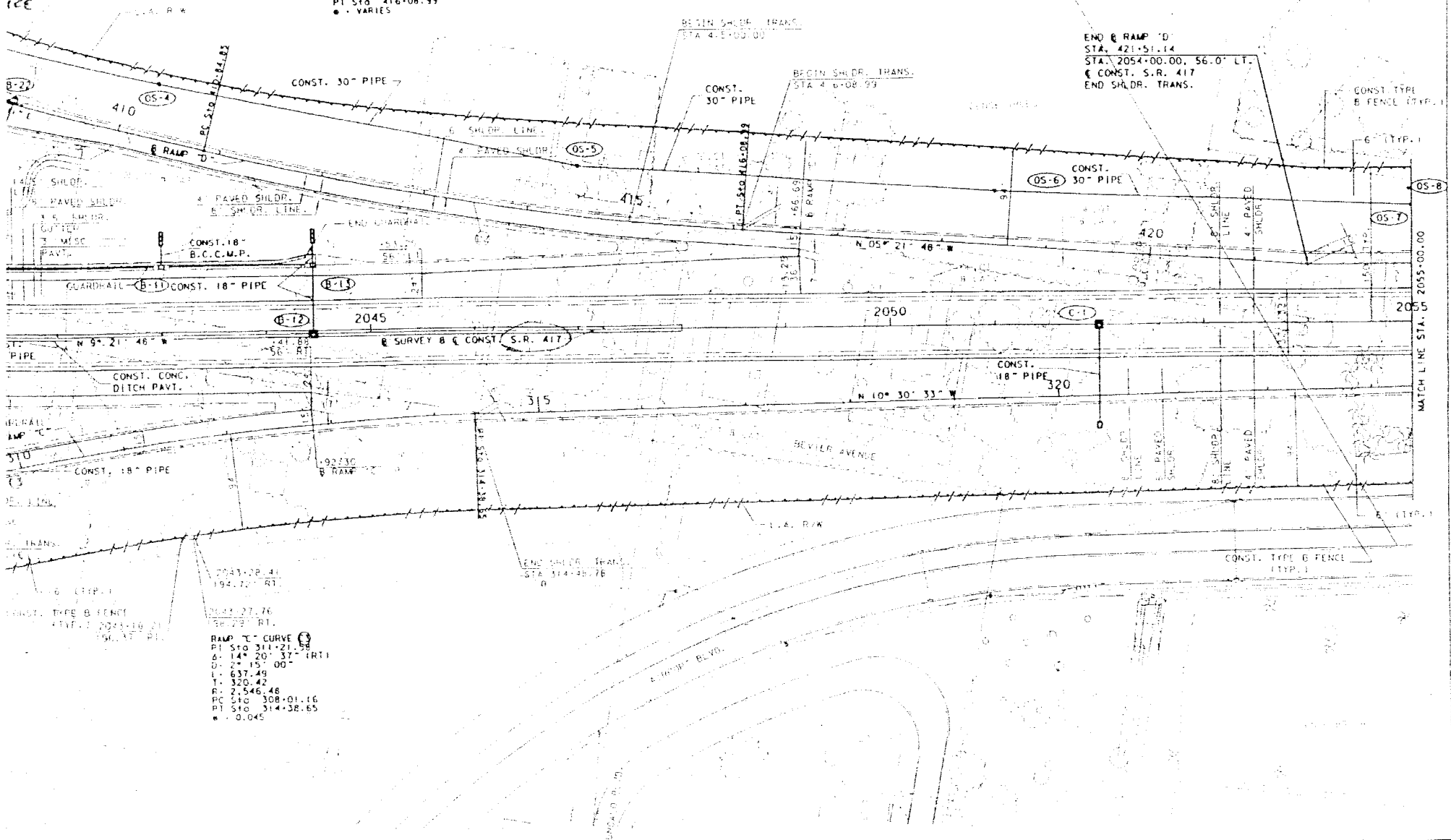
NOTE:  
 FOR GUARDRAIL AND SHOULDER GUTTER LOCATION,  
 SEE SUMMARY OF QUANTITY SHEET

100'  
 EXHIBIT 35  
 PAGE 1 OF 3

UTEN  
 PIPE  
 CR 10  
 S 10  
 ICE

RAMP 'D' CURVE  
 PI STA 413+41.85  
 Δ: 10° 28' 59" (LT)  
 D: 2° 00' 00"  
 L: 524.15  
 T: 262.81  
 R: 2,864.79  
 PC STA 410+84.85  
 PT STA 416+08.99  
 ● = VARIES

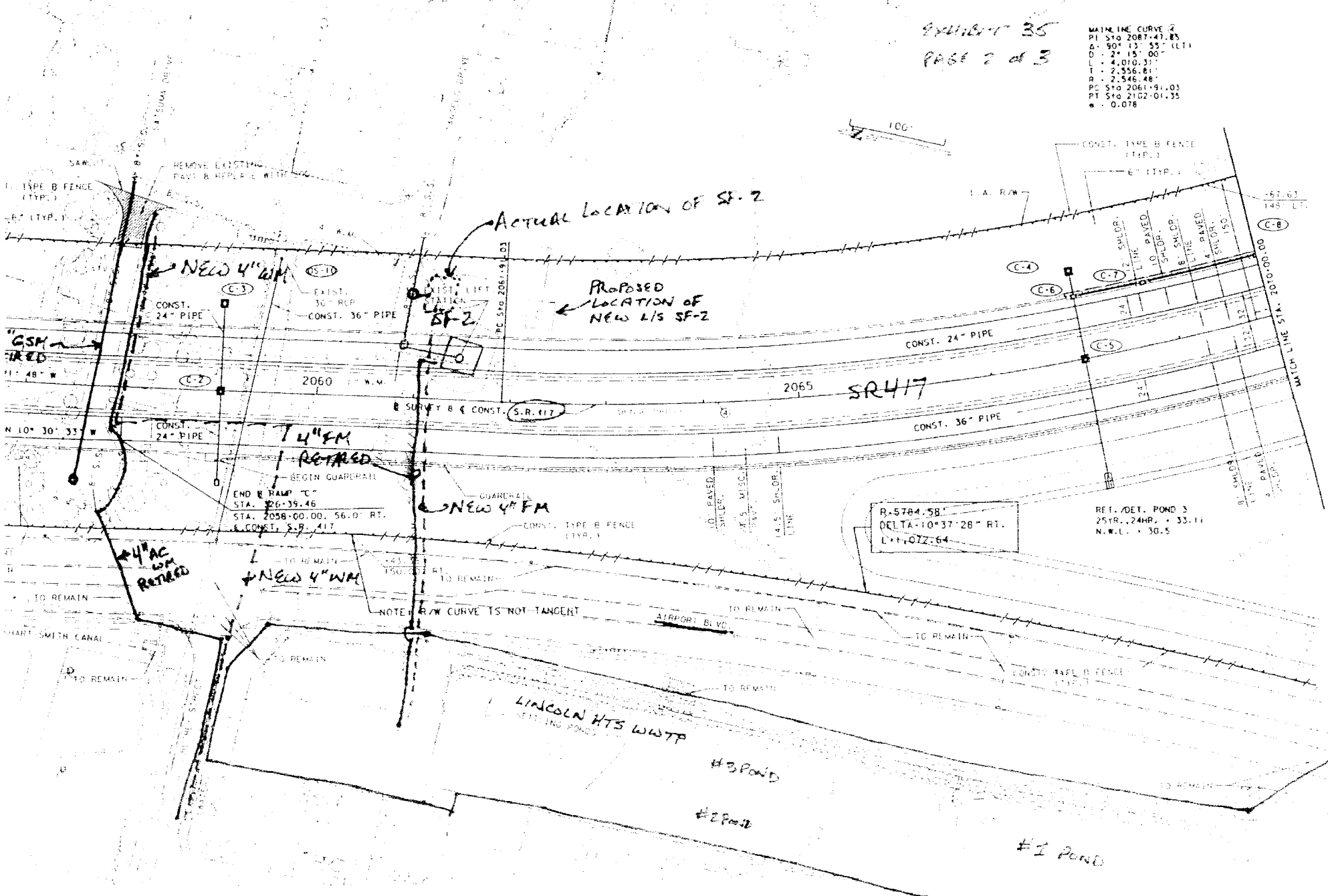
END RAMP 'D'  
 STA. 421+51.14  
 STA. 2054+00.00, 56.0' LT.  
 CONST. S.R. 417  
 END SHLDR. TRANS.



NOTES FOR GUARDRAIL AND SHOULDER CUTTER LOCATION. SEE SUMMARY OF QUANTITY SHEET

EXHIBIT 35  
PAGE 2 of 3

MAIN LINE CURVE 2  
PI STA 2087+47.85  
Δ = 90° 13' 55" (LTI)  
D = 2" 15' 00"  
L = 4,010.31'  
T = 2,556.81'  
R = 2,546.48'  
PC STA 2061+91.03  
PT STA 2102+01.35  
e = 0.078



ACTUAL LOCATION OF SF-2

PROPOSED LOCATION OF NEW L/S SF-2

R=5784.58'  
DELTA=10°37'28" RT.  
L=11,672.64'

REF. DET. POND 3  
25TR. 24HR. = 33.11  
N.W.L. = 30.5

END R RAMP "C"  
STA. 2058+00.00, 56.0' RT.  
CONST. S.R. 417

LINCOLN HTS WSTP  
SETTLING POND

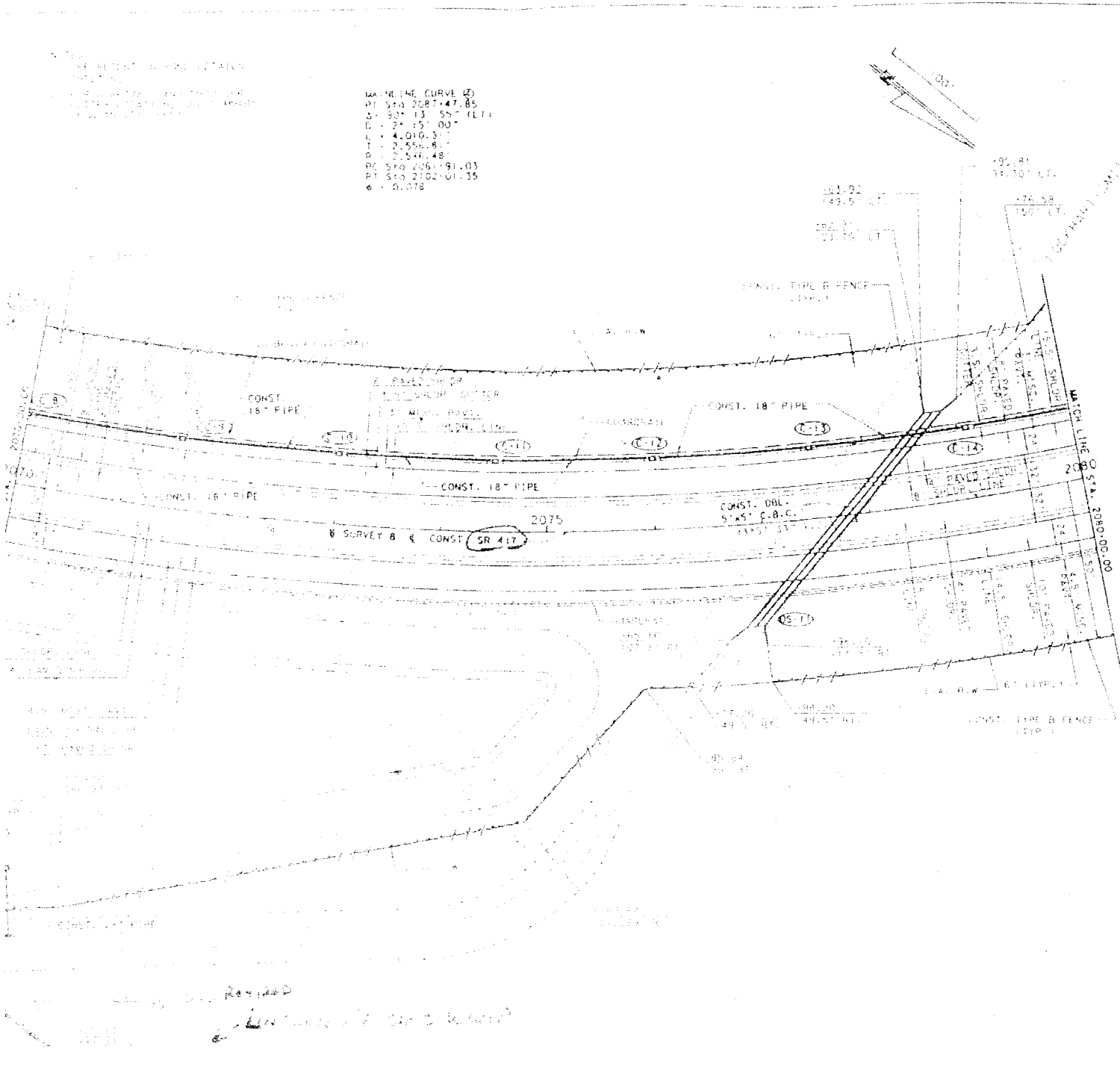
#3 POND

#2 POND

#1 POND

MAINLINE CURVE (2)  
 PT SPO 2087+47.85  
 Δ = 90° 13' 55" (L.F.)  
 D = 2° 45' 00"  
 L = 4,010.3'  
 T = 2,550.8'  
 P = 2,546.48'  
 PC SPO 2061+91.03  
 PT SPO 2102+01.35  
 e = 0.078

EXHIBIT 35  
 PAGE 3 OF 3



REVISIONS  
 1. [unclear] [unclear]  
 2. [unclear] [unclear]

**Utilities, Inc. of Florida  
Data Request  
Submitted April 23, 2007**

**Exhibit 46**

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT	)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION,	)	CENTRAL DISTRICT
	)	
Complainant,	)	
	)	OGC FILE NO. 98-2102
vs.	)	
	)	
UTILITIES, INC. OF FLORIDA,	)	
Facility ID Number FL0025917,	)	
	)	
Respondent.	)	
<hr/>		

CONSENT ORDER

This Consent Order is made and entered into between the State of Florida Department of Environmental Protection ("Department") and Utilities, Inc. Of Florida ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and the Respondent neither admits nor denies the following:

1. 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 ("F.S."), and the rules promulgated thereunder, Florida Administrative Code ("F.A.C.") Title 62. The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondent is a person within the meaning of Section 403.031(5), F.S.

3. Respondent is the owner and is responsible for the operation of the Lincoln Heights, a 0.120 MGD activated sludge wastewater treatment facility ("Facility") with dechlorinated effluent discharged to surface water through three (3) in-line polishing ponds to Smith Canal to the St. Johns River. The Facility is located at Hughey Avenue off Airport Boulevard, Sanford, Florida, Latitude 28°47'40" North, Longitude 81°18'07" West.

4. Respondent operated the Facility under Department permit No. D059-185633 which had an expiration date of January 5, 1996. The Facility had an EPA NPDES Permit No. FL0025917 which had an expiration date of April 30, 2000. Upon receiving EPA delegation in May 1995, the Department issued a letter combining the permits as a consolidated permit which had an expiration date of January 5, 1996. The Department received a Wastewater Permit application on August 4, 1995, and has been deemed complete. As a result, issuance of the wastewater permit renewal is pending the execution of this Consent Order.

5. On December 10, 1997, the Department issued Warning Letter OWL-WW-97-0023 which addressed the following violations/issues:

A. Failure to meet effluent limits required by the permit:

- (1) The Total Suspended Solids (TSS) annual average result (21 mg/L) as reported on the Discharge Monitoring Report (DMR) for May 1996 exceeded the maximum limit of 20 mg/L.
- (2) The Total Recoverable Silver daily maximum result (2.04 ug/L) as reported on the DMR for the quarter April - June 1996 exceeded the maximum limit of 0.07

ug/L. The result for the July - September 1996 quarter was reported as <1.0 ug/L which may exceed the maximum limit.

- (3) The Total Recoverable Copper daily maximum result (5.75 ug/L) as reported on the DMR for the quarter April - June 1996 exceeded the maximum limit of 0.0 ug/L. The Total Recoverable Copper result of the sample taken by Department personnel on August 18, 1997, was 46.2 ug/L.
- (4) The Total Recoverable Mercury daily maximum results as reported on the DMRs for the quarters April - June (0.21 ug/L), July - September 1996 (.21 ug/L) and January - March 1997 (1.0 ug/L) exceeded the maximum limit of 0.012 ug/L.
- (5) The Dissolved Oxygen (DO) results as reported on the Monthly Operating Reports (MORs) for September 1996 (4.1 mg/L and 5.1 mg/L) and May 1997 (4.4 mg/L) was below the minimum limit of 6.0 mg/L.
- (6) The TSS monthly average result (35 mg/L) as reported on the DMR for April 1997 exceeded the maximum limit of 30 mg/L.

B. Failure to comply with Department quality assurance and analytical methodology requirements:

- (1) The beginning and ending date and time of composite sample collection was not documented.
- (2) The temperature of the composite samples was not documented.
- (3) Samples were not being preserved with ice during the collection period.
- (4) The pH was being measured with a bench meter, which was calibrated daily with only one buffer. The requirement is to calibrate the pH meter daily with at least two buffers.
- (5) The total residual chlorine was being analyzed with a DR700 meter which was not being checked daily against known standards.

C. Failure to comply with the requirements of the ground water monitoring plan.

- (1) The Department has not received the quarterly ground water monitoring reports for the following quarters: 3rd and 4th Quarters of 1995, 1st, 2nd, 3rd and 4th Quarters of 1996, and the 1st and 2nd Quarters of 1997.
- (2) The ground water wells are not being analyzed for total coliform as stipulated by the permit requirement and approved ground water monitoring plan.



- (3) The quarterly monitoring reports are not being submitted in the correct format (DER Form 17-1.216(2)). All required information must be included on this form.

6. On January 22, 1998, a meeting between the Department and the Respondent was held to discuss the issues addressed in the Warning Letter. The Respondent's consultant, James Boyd, P.E., advised Department staff that a one year study had been conducted to investigate the use of biological addition to improve the effluent discharged from the facility. Mr. Boyd gave a brief overview of the possible Alternative Improvement Options ("Improvement Alternate(s)"). Mr. Boyd provided a written list of Improvement Alternate(s) in his letter dated January 21, 1998. A combination of the options could be used to correct the effluent violations. The Respondent can not determine which options to implement because Florida DOT and the Seminole County Road Department are in the process of condemning property in the vicinity of the facility for road improvements. Other representatives of the Respondent discussed the quality assurance and ground water issues. Actions have already been implemented to assure that the quality assurance program complies with Department rules. The Respondent resubmitted copies of the missing ground water reports and advised that actions had been implemented to assure that the ground water reports would be submitted in the correct format and that the monitoring wells would be sampled for total coliform. Department staff gave an overview of the enforcement process and entry of a Consent Order and presented the proposed civil penalties. Respondent stated a

willingness to enter a Consent Order to resolve this matter. Respondent will submit a written response to the meeting within 10 days.

7. On February 2, 1998, the Department received a letter dated January 28, 1998, from the Respondent's attorney, Gerald T. Buhr, responding to the meeting of January 22, 1998. Mr. Buhr reiterated the efforts of the Respondent to resolve the effluent issues prior to the issuance of the Warning Letter and expressed a willingness of the Respondent to work with the Department to resolve these issues. He also discussed the alleged violations and the severity of the penalties and suggested reduction of the proposed penalties presented at the meeting on January 22, 1998. On February 17, 1998, the Department issued a letter to the Respondent reducing the civil penalties for good faith after discovery of the violations for implementation of corrective actions. In a letter dated February 24, 1998, Mr. Buhr, on behalf of the Respondent, agreed to the civil penalties and expressed a willingness to enter a Consent Order.

8. Having reached a resolution of the matter the Department and the Respondent mutually agree and it is

**ORDERED:**

9. As of the effective date of this Consent Order, the following discharge limitations, sampling and analysis of the effluent shall be in accordance with Consolidated Permit No. FL0025917 which incorporated State Permit No. D059-185633 and NPDES Permit No. FL0025917. The Consolidated Permit is administratively continued until the issuance of the pending

wastewater permit application received on August 4, 1995. Those parameter limits that are changed from the original permits are to be considered Interim Parameter Limits for the period of operation from the effective date of this Consent Order until no later than January 1, 2002.

A. Such discharges shall be limited and monitored by the Respondent as specified below:

Parameter	Units	Max/Min	Annual Average	Monthly Average	Single Sample	Monitoring Frequency	Sample Type	Monitoring Location Site Number
Flow	mgd	Maximum	0.12	Report	-	Continuous	Recording Flow Meter and Totalizer	EFF-1
Carbonaceous Biochemical Oxygen Demand (5 day)	mg/L	Maximum	20.0	Report	60.0	Once/2Weeks	8-Hour Flow Proportioned composite	EFD-1
Carbonaceous Biochemical Oxygen Demand (5 day) (Influent)	mg/L	Maximum	-	Report	-	Once/2Weeks	8-Hour Flow Proportioned composite	INF-1
Total Suspended Solids	mg/L	Maximum	30.0	Report	70.0	Once/2Weeks	8-Hour Flow Proportioned composite	EFD-1
Total Suspended Solids (Influent)	mg/L	Maximum	-	Report	-	Once/2Weeks	8-Hour Flow Proportioned composite	INF-1
Fecal Coliform Bacteria	#/100 mL	Maximum	See Paragraph 9. A. (2).			Monthly	Grab	EFA-1
pH	std. units	Range	-	-	6.0-8.5	5 Days/Week	Grab	EFD-1
Total Residual Chlorine (For Disinfection)	mg/L	Minimum	-	-	0.5	5 Days/Week	Grab	EFA-1
Total Residual Chlorine (For Dechlorination)	mg/L	Maximum	-	-	0.01	5 Days/Week	Grab	EFD-1
Nitrogen, Total Kjeldahl as N	mg/L as N	Maximum	7.9	Report	-	Once/2Weeks	8-Hour Flow Proportioned composite	EFD-1
Whole Effluent Toxicity	See Paragraph 9. B.							EFD-1
Oxygen, Dissolved (DO)	mg/L	Minimum	-	-	4.0	Once/2Weeks	Grab	EFD-1
Nitrate as N	mg/L	Maximum	-	-	12.0	Once/2Weeks	8-Hour Flow Proportioned composite	EFA-1
Mercury Total Recoverable as Hg**	ug/L	Maximum	-	-	0.2	Monthly	Grab	EFD-1
Silver, Total Recoverable as Ag ***	ug/L	Maximum	-	-	2.0	Monthly	Grab	EFD-1
Copper, Total Recoverable as Cu	ug/L	Maximum	-	-	50.0	Monthly	Grab	EFD-1
* Hardness, Total as CaCO <sub>3</sub>	mg/L as CaCO <sub>3</sub>	Maximum	-	-	Report	Monthly	Grab	EFD-1

- \* For those parameters where the water quality limit is hardness based, Chapter 62-302, F.A.C. specifies a calculation in which  $\ln H$  is the natural logarithm of the total hardness expressed as mg/l  $\text{CaCO}_3$ . The hardness value resulting from the monitoring requirements above (Paragraph 9. A.) shall be used. The equations can only be applied for Hardness in the range of 25 mg/l to 400 mg/l as  $\text{CaCO}_3$ . If analysis of the effluent reveals a Total Hardness less than 25 mg/l  $\text{CaCO}_3$ , use 25 mg/l for Total Hardness. If the Total Hardness is above 400 mg/l  $\text{CaCO}_3$ , then use 400 mg/l in the calculation. If the reported effluent value for the above referenced total recoverable metal exceeds the calculated values, then it shall constitute a violation of the effluent limitation. [62-302.530, 12-26-96]
- \*\* The EPA Method 245.1 or 245.2 with a target MDL of 0.20 ug/L shall be used to test for Mercury. Use of a different method will require prior approval from the Department.
- \*\*\* The EPA Method 272.2 with a target MDL of 0.10 ug/L shall be used to test for Silver. Use of a different method will require prior approval from the Department.

Effluent samples shall be taken at the monitoring site locations described below:

Monitoring Location Site Number	Description of Monitoring Location
EFF-1	Effluent flow meter at discharge of chlorine contact chamber.
EFA-1	Discharge from chlorine contact chamber.
EFD-1	Discharge from overflow structure after dechlorination.
INF-1	Flow proportioned composite sample prior to bar screen.

(1.) Recording flow meters shall be utilized to measure flow and shall be calibrated at least annually. [62-601.200(17) and .500(6), 5-31-93]

(2.) The arithmetic mean of the monthly fecal coliform values collected during an annual period shall not exceed 200 per 100 mL of reclaimed water sample. The geometric mean of the fecal coliform values for a minimum of 10 samples of reclaimed water, each collected on a separate day during a period of 30

consecutive days (monthly), shall not exceed 200 per 100 mL of sample. No more than 10 percent of the samples collected (the 90th percentile value) during a period of 30 consecutive days shall exceed 400 fecal coliform values per 100 mL of sample. Any one sample shall not exceed 800 fecal coliform values per 100 mL of sample. Note: To report the 90th percentile value, list the fecal coliform values obtained during the month in ascending order. Report the value of the sample that corresponds to the 90th percentile (multiply the number of samples by 0.9). For example, for 30 samples, report the corresponding fecal coliform number for the 27th value of ascending order. [62-610.510, 1-9-96 and 62-600.440(4)(c), 12-24-96]

(3.) A minimum of 0.5 mg/L total residual chlorine must be maintained for a minimum contact time of 15 minutes based on peak hourly flow. [62-610.510, 1-9-96 and 62-600.440(4)(b), 12-24-96]

(4.) The sampling program required in this condition contains minimum requirements. More frequent samples may be analyzed at the Respondent's discretion. All available, valid data shall be reported and incorporated into the self-monitoring reports submitted to the Department.

(5.) There shall be no discharge of floating solids or visible foam in other than trace amounts. The discharge shall not cause a visible sheen on the receiving waters.

(6.) These monitoring requirements do not act as State of Florida Department of Environmental Protection Wastewater Permit effluent limitations, nor do they authorize or otherwise

justify violation of the Florida Air and Water Pollution Control Act ("Act"), Part I, Chapter 403, F.S., during the pendency of this Consent Order.

(7.) Analyses shall be reported once each month on a Discharge Monitoring Report (DMR), DEP Form 62-620.910(10), attached as Exhibit No. 1. These reports shall be mailed or hand delivered to the Department of Environmental Protection, Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767 once each month and must be received by the Department no later than the 28th day following the end of the reporting period (e.g., the August report would be due not later than September 28th.).

B. Within 60 days of the effective date of this Consent Order, the Respondent shall initiate the series of tests described below to evaluate whole effluent toxicity of the discharge. All test species, procedures and quality assurance criteria used shall be in accordance with Methods for Measuring Acute Toxicity of Effluents to Freshwater and Marine Organisms, EPA/600/4-90/027F, or the most current edition. The control water and dilution water used will be moderately hard water as described in EPA/600/4-90/027F, Table 6, or the most current edition. A standard reference toxicant (SRT) quality assurance (QA) acute toxicity test shall be conducted concurrently or no greater than 30 days before the date of the "routine" test, with each species used in the toxicity tests. The results of all toxicity tests shall be submitted with the discharge monitoring report (DMR). Any deviation of the bioassay procedures outlined herein shall be submitted in writing to the Department for review and approval prior to use.

(1.) The permittee shall conduct 96-hour acute static renewal toxicity tests using the daphnid, Ceriodaphnia dubia, and

the bannerfin shiner, Cyprinella leedsii. All tests will be conducted on four separate grab samples collected at evenly-spaced (6-hr) intervals over a 24-hour period and used in four separate tests in order to catch any peaks of toxicity and to account for daily variations in effluent quality..

(2.) If control mortality exceeds 10% for either species in any test, the test for that species (including the control) shall be repeated. A test will be considered valid only if control mortality does not exceed 10% for either species. If, in any separate grab sample test, 100% mortality occurs prior to the end of the test, and control mortality is less than 10% at that time, that test (including the control) shall be terminated with the conclusion that the sample demonstrates unacceptable acute toxicity.

(3.) The toxicity tests specified above shall be conducted once every two months until 4 valid bimonthly tests are completed. These tests are referred to as "routine" tests. Upon the completion of six valid tests which demonstrate that no unacceptable toxicity (as defined in Paragraph 9.B.(7.), below, has been identified, the permittee may petition the Department for a reduction in monitoring frequency.

(4.) Results from "routine" tests shall be reported according to EPA/600/4-90/027F, Section 12, Report Preparation (or the most current edition), and shall be submitted to:

Florida Department of Environmental Protection  
Central District Office  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

(5.) All "routine" test shall be conducted using a control (0% effluent) and a test concentration of 100% final effluent.

(6.) Mortalities of greater than 50% in a 100% effluent in any "routine" sample or an LC50 of less than 100% effluent in any additional definitive test will constitute a violation of these permit conditions, and Rule 62-302.200(1), Rule 62-302.500(1)(d) and Rule 62-4.244(3)(a), F. A. C.

(7.) If unacceptable acute toxicity (greater than 20% mortality of either test species in any grab sample test) is found in a "routine" test, the permittee shall conduct three additional tests on each species indicating unacceptable toxicity. The first additional test will include four grab samples taken as described in Paragraph 9.B.(1.), above, and run as four separate definitive analyses. The second and third additional definitive tests will be run on a single grab sample collected on the day and time when the greatest toxicity was identified in the "routine" test. Results for each additional test will include the determination of LC50 values with 95% confidence limits.

(8.) The first additional test shall be conducted using a control (0% effluent) and a minimum of five dilutions: 100%, 50%, 25%, 12.5% and 6.25% effluent. The dilution series may be modified in the second and third test to more accurately identify the toxicity, such that at least two dilutions above and two dilutions below the target toxicity and a control (0% effluent) are run.



(9.) For each additional test, the sample collection requirements and the test acceptability criteria specified in Paragraphs 9.B.(1.) & (2.), above, must be met for the test to be considered valid. The first test shall begin within two weeks of the end of the "routine" tests, and shall be conducted weekly thereafter until three additional, valid tests are completed. The additional tests will be used to determine if the toxicity found in the "routine" test is still present.

(10.) Results from additional tests, required due to unacceptable acute toxicity in the "routine" tests, shall be submitted in a single report prepared according to EPA/600/4-90/027F, Section 12, or the most current edition and submitted within 45 days of completion of the third additional, valid test. Upon completion of the third additional test, the permittee will meet with the Department within 30 days of the report submittal to identify corrective actions necessary to remedy the unacceptable acute toxicity.

10. Within 60 days of the effective date of this Consent Order, Respondent shall submit a proposal for an interim method to maintain the dissolved oxygen concentration in the effluent at or above 6.0 mg/L.

11. Within 180 days of the effective date of this Consent Order, Respondent shall implement the interim method to maintain the dissolved oxygen concentration in the effluent at or above 6.0 mg/L.

12. On or before February 1, 2000, Respondent shall submit a Wastewater Permit Application for a substantial modification to

construct the selected Improvement Alternative(s) to return the facility to compliance or a permit application to construct a collection/transmission system to divert all flow to a regional facility, along with the appropriate fee, to the Department. The application shall meet all requirements of Chapter 62-620 & 62-604, F.A.C.; including, but not limited to being prepared and sealed by a professional engineer registered in the State of Florida. The Respondent shall provide all requested information in writing within thirty (30) days after receipt of such a request in the event the Department requires additional information in order to process the wastewater permit application referenced above.

13. On or before July 1, 2001, Respondent shall complete construction of the selected Improvement Alternative(s) or the collection/transmission system referenced in Paragraph 12, above.

14. Within 30 days of completing construction of the selected Improvement Alternates(s) or collection/transmission system, Respondent shall submit a Notification/Certification of Completion of Construction of the selected Improvement Alternates(s) or collection/transmission system authorized by the Wastewater Permit referenced in Paragraph 12, above, to the Department.

15. On or before January 1, 2002, Respondent shall demonstrate compliance with the following final parameter limits if the facility has not been connected to a regional facility:

Parameter	Units	Max/Min	Annual Average	Monthly Average	Single Sample	Monitoring Frequency	Sample Type	Monitoring Location Site Number
Flow	mgd	Maximum	0.12	Report	-	Continuous	Recording Flow Meter and Totalizer	EFF-1
Carbonaceous Biochemical Oxygen Demand (5 day)	mg/L	Maximum	20.0	30.0	60.0	Once/2Weeks	8-Hour Flow Proportioned composite	EFD-1
Carbonaceous Biochemical Oxygen Demand (5 day) (Influent)	mg/L	Maximum	-	Report	-	Once/2Weeks	8-Hour Flow Proportioned composite	INF-1
Total Suspended Solids	mg/L	Maximum	20.0	30.0	60.0	Once/2Weeks	8-Hour Flow Proportioned composite	EFD-1
Total Suspended Solids (Influent)	mg/L	Maximum	-	Report	-	Once/2Weeks	8-Hour Flow Proportioned composite	INF-1
Fecal Coliform Bacteria	#/100 mL	Maximum	See Paragraph 9. A. (2).			Monthly	Grab	EFA-1
pH	std. units	Range	-	-	6.0-8.5	5 Days/Week	Grab	EFD-1
Total Residual Chlorine (For Disinfection)	mg/L	Minimum	-	-	0.5	5 Days/Week	Grab	EFA-1
Total Residual Chlorine (For Dechlorination)	mg/L	Maximum	-	-	0.01	5 Days/Week	Grab	EFD-1
Nitrogen, Total Kjeldahl as N	mg/L as N	Maximum	7.9	Report	-	Once/2Weeks	8-Hour Flow Proportioned composite	EFD-1
Whole Effluent Toxicity	See Paragraph 9. B.							EFD-1
Oxygen, Dissolved (DO)	mg/L	Minimum	-	-	6.0	Once/2Weeks	Grab	EFD-1
Nitrate as N	mg/L	Maximum	-	-	12.0	Once/2Weeks	8-Hour Flow Proportioned composite	EFA-1
Mercury, Total Recoverable as Hg	ug/L	Maximum	-	-	0.012	Monthly	Grab	EFD-1
Silver, Total Recoverable as Ag	ug/L	Maximum	-	-	0.07	Monthly	Grab	EFD-1
Copper, Total Recoverable as Cu	ug/L	Maximum	-	-	-	Monthly	Grab	EFD-1
Hardness, Total as CaCO <sub>3</sub>	mg/L as CaCO <sub>3</sub>	Maximum	-	-	Report	Monthly	Grab	EFD-1

\* The daily maximum of Total Recoverable Copper shall not exceed the amount resulting from the following equation:

$$\text{ug/L Cu} = e^{[0.8545(\ln H) - 1.465]}$$

For those parameters where the water quality limit is hardness based, Chapter 62-302, F.A.C. specifies a calculation in which  $\ln H$  is the natural logarithm of the total hardness expressed as mg/l CaCO<sub>3</sub>. The hardness value resulting from the monitoring requirements above (Paragraph 15) shall be used. The equations can only be applied for Hardness in the range of 25 mg/l to 400 mg/l as CaCO<sub>3</sub>. If analysis of the effluent reveals a Total Hardness less than 25 mg/l CaCO<sub>3</sub>, use 25 mg/l for Total Hardness. If the Total Hardness is above 400 mg/l CaCO<sub>3</sub>, then use 400 mg/l in the calculation. If the reported effluent value for the above referenced total recoverable metal exceeds the calculated

values, then it shall constitute a violation of the effluent limitation. [62-302.530, 12-26-96]

The final parameter limits are based on the facility continuing to discharge to the Smith Canal without any modifications to the existing method of disposal. The selected Improvement Alternate(s) may result in a modification of the final parameter limits based on the specific method of treatment or alternate disposal method approved. Any revised final limits approved by a permit modification will supersede these final limits.

16. Every calendar quarter after the effective date of this Consent Order, Respondent shall submit in writing to the Department a report containing information concerning the status and progress of projects being completed under this Consent Order, information as to compliance or noncompliance with the applicable requirements of this Consent Order including construction requirements and effluent limitations, and any reasons for noncompliance. Such reports shall also include a projection of the work to be performed pursuant to this Consent Order. The reports shall be submitted to the Department within thirty (30) days following the end of the quarter.

17. In the event of a sale or conveyance of the Facility or of the property upon which the Facility is located, if all of the requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the property or Facility, (1) notify the Department of such sale or conveyance, (2) provide the name and address of the purchaser, or operator, or person(s) in control of the

Facility, and (3) provide a copy of this Consent Order with all attachments to the new owner. The sale or conveyance of the Facility, or the property upon which the Facility is located shall not relieve the Respondent of the obligations imposed in this Consent Order.

18. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department \$7,250.00 in settlement of the matters addressed in this Consent Order. This amount includes \$7,000.00 in civil penalties for alleged violations of Section 403.161, F.S., and of the Department's rules and \$250.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. Payment shall be made by cashier's check or money order. The instrument shall be made payable to "The Department of Environmental Protection" and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to the Department of Environmental Protection, Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767.

19. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of Paragraphs 9, 10, 11, 12, 13, 14, 15, 16, 18 and 21 of this Consent Order. A separate stipulated penalty shall be assessed for each violation of this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment

of the appropriate stipulated penalties to "The Department of Environmental Protection" by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767. The Department may make demands for payment at any time after violations occur. Nothing in this Paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Consent Order. Any penalties assessed under this Paragraph shall be in addition to the settlement sum agreed to in Paragraph 18 of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this Paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this Paragraph.

20. If any event, including administrative or judicial challenges by third parties unrelated to the Respondent, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondent and could not have been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall the failure of a contractor, subcontractor, materialman or other

agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this Paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

21. Respondent shall publish the following notice in a newspaper of daily circulation in Seminole County, Florida. The notice shall be published one time only within 21 days after the effective date of the Consent Order. Respondent shall provide a

certified copy of the published notice to the Department within 10 days of publication.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF CONSENT ORDER

The Department of Environmental Protection gives notice of agency action of entering into a Consent Order with Utilities, Inc. of Florida. The Consent Order addresses failure to meet permitted effluent parameter limits at the Lincoln Heights Wastewater Treatment Facility in the vicinity of Hughey Avenue off Airport Boulevard, Sanford, Florida. 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, Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767.

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, F.S.



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, F.S., 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 Florida Administrative Code Rule 28-106.205.

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 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, by the same 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;

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 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.

22. In addition to routine inspections, Respondent shall allow all authorized representatives of the Department access to the property and Facility at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules of the Department.

23. All plans, applications, penalties, stipulated penalties, costs and expenses, and information required by this Consent Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767.

24. This Consent Order is a settlement of the violations alleged by the Department in Paragraph 5, above, pursuant to the Department's civil and administrative authority under Chapters 403 and 376, F.S. This Consent Order does not address settlement

of any criminal liabilities which may arise from Sections 403.161(3) through (5), 403.413(5), 403.727(3)(b), 376.302(3) and (4), or 376.3071(10), F.S., nor does it address settlement of any violation which may be prosecuted criminally or civilly under federal law.

25. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.

26. 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, F.S. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), F.S.

27. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations through the date of the filing of this Consent Order as outlined in this Consent Order.

28. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per offense, and criminal penalties.

29. Entry of this Consent Order does not relieve Respondent of the need to comply with any and all applicable federal, state or local laws, regulations or ordinances.

30. The provisions of this Consent Order shall apply to and be binding upon the parties, their officers, their directors, agents, servants, employees, successors, and assigns and all persons, firms and corporations acting under, through or for them and upon those persons, firms and corporations in active concert or participation with them.

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

32. Respondent acknowledges but waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, F.S., but waives that right upon signing this Consent Order.

33. This Consent Order is a final order of the Department pursuant to Section 120.52(7), F.S., 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, F.S. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

34. This Consent Order shall terminate upon timely completion of Paragraphs 9, 10, 11, 12, 13, 14, 15, 16, 18, and

21, and the Department shall issue a letter acknowledging such termination for timely compliance upon a written request by the Respondent.

FOR THE RESPONDENT

6/16/99  
DATE

Donald Rasmussen  
Donald Rasmussen  
Vice President  
Utilities, Inc. of Florida

DONE AND ORDERED this 23rd day of June, 1999, in Orlando, Orange County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

Vivian F. Garfein  
Vivian F. Garfein  
Director of District Management  
Central District  
3319 Maguire Boulevard  
Suite 232  
Orlando, Florida 32803-3767

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

J. Salonda  
Clerk

6/23/99  
Date

Copies furnished to:

Larry Morgan  
Ilia Herrera