

DOCKET NO.: 070293-SU - Application for increase wastewater rates in Monroe County by K W Resort Utilities Corp.

WITNESS: Direct Testimony of Steven Johnson,  
Appearing on Behalf of the Staff of the Florida Public Service Commission.

DATE FILED: December 31, 2007

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DOCUMENT NUMBER-DATE  
11292 DEC 31 07  
FPSC-COMMISSION CLERK

DIRECT TESTIMONY OF STEVEN JOHNSON

- 1
- 2 Q. Please state your name and business address.
- 3 A. Steven Johnson, Florida Department of Environmental Protection, 2796 Overseas  
4 Highway, Suite 221, Marathon, Florida 33050.
- 5 Q. Please state a brief description of your educational background and experience.
- 6 A. Bachelor of Science in Biology/Physical Science—Almost 17 years combined  
7 experience in Environmental Regulation.
- 8 Q. By whom are you presently employed?
- 9 A. Florida Department of Environmental Protection.
- 10 Q. How long have you been employed with the FDEP and in what capacity?
- 11 A. Five years—Environmental Specialist II/ Environmental Supervisor II/Environmental  
12 Manager.
- 13 Q. What are your general responsibilities at the FDEP?
- 14 A. I am manager of the Water Resource Management Section for the Marathon Branch  
15 Office.
- 16 Q. Are you familiar with K W Resort Utilities, Corp.'s (utility) wastewater system in  
17 Monroe County?
- 18 A. Yes.
- 19 Q. Does the utility have appropriate current permits from the FDEP?
- 20 A. Yes.
- 21 Q. Does the system have a valid operating permit?
- 22 A. Yes.
- 23 Q. Please state the issuance date and the expiration date of any construction permits.
- 24 A. **Issuance Date:** April 11, 2007 **Expiration Date:** April 10, 2012
- 25 Q. Is the utility in compliance with its permits?

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FPSC-COMMISSION CLERK

- 1 A. No, not at the present time.
- 2 Q. Why not?
- 3 A. The utility did not report a wastewater spill that occurred after hours in September.
- 4 Since that time, the utility has taken action to correct the problem that caused the spill
- 5 and prevent future spills.
- 6 Q. Are the wastewater collection, treatment and disposal facilities adequate to serve
- 7 present customers based on permitted capacity?
- 8 A. Yes, according to an independent engineering study by URS.
- 9 Q. Has FDEP required the utility to take any action so as to minimize possible adverse
- 10 effects resulting from odors, noise, aerosol drift or lighting?
- 11 A. No. Nothing other than standard permit requirements.
- 12 Q. Do pump stations and lift stations meet FDEP requirements with respect to location,
- 13 reliability and safety?
- 14 A. I am not certain at this time. As a result of recent spills partially attributed to inflow
- 15 and infiltration, the FDEP will request that the collection system be re-evaluated by a
- 16 professional engineer licensed by the State of Florida.
- 17 Q. Does the utility have certified operators as required by Chapter 62-602, Florida
- 18 Administrative Code?
- 19 A. Yes.
- 20 Q. Is the overall maintenance of the treatment, collection, and disposal facilities
- 21 satisfactory?
- 22 A. No, the facility is currently undergoing repairs and upgrades to address this issue.
- 23 Q. Does the utility meet all applicable technology based effluent limitations (TBELS) and
- 24 water quality based effluent limitations (WQBELS)?
- 25 A. No. Total Suspended Solids (TSS) effluent violations were noted in the most recent

1 inspection.

2 Q. Does the facility meet the effluent disposal requirements of Rules 62-611 and 62-  
3 600.530, Florida Administrative Code?

4 A. Yes, Rule 62-611 is not applicable.

5 Q. Are the collection, treatment and disposal facilities in compliance with all other  
6 provisions of Chapter 62, Florida Administrative Code, not previously mentioned?

7 A. Yes, other than those outlined in the November 26, 2007 warning letter.

8 Q. Has the utility been the subject of any FDEP enforcement action within the past two  
9 years?

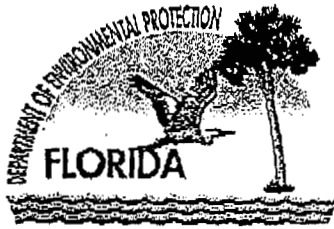
10 A. Yes, as a result of our last inspection, the facility has been issued a warning letter. A  
11 copy of the warning letter is attached as Exhibit SJ-1.

12 Q. What is a warning letter and what was it for?

13 A. A warning letter is a precursor to the filing of a Consent Order. The warning letter in  
14 this case was in conjunction with the spill that occurred after hours in September.  
15 Although the utility is being cooperative and has taken actions to correct the problem,  
16 a Consent Order may still have to be issued.

17 Q. Do you have anything further to add?

18 A. This facility is currently under construction for maintenance related repairs and is  
19 upgrading in order to meet AWT standards.  
20  
21  
22  
23  
24  
25



## Florida Department of Environmental Protection

South District Marathon Branch  
2796 Overseas Highway Suite 221  
Marathon, FL 33050  
305-289-2310

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

CERTIFIED MAIL NO: 7004 2510 0002 0514 3770  
RETURN RECEIPT REQUESTED

November 26, 2007

Mr. Doug Carter  
General Manager  
6450 College Road  
Key West, Florida 33040

RE: Monroe County - DW  
Key West Resort Utilities Corp WWTP  
FLA014951

Dear Mr. Carter:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. A file review and a field inspection of the above referenced Wastewater Treatment Plant (WWTP) on November 6, 2007 indicate that violations of Florida Statutes (F.S.) and Rules may exist.

1. Department personnel received a complaint in reference to a September 27, 2007 spill that was documented by video evidence. Our records indicate that this spill was not reported to the Department in a timely manner as required in General Condition IX (20) of your facility permit and Florida Administrative Code (F.A.C.) 62-620.610(20).
2. At the time of the facility inspection, on November 6, 2007, one of the chlorine contact chambers (CCC) and the tertiary filters were disabled. The single CCC tank that was online was operating with an excessive amount of solids and in a state of disrepair with extensive rust and holes visible above the water line. The operation of the facility in this manner could result in the discharge of improperly treated wastewater and the structural integrity of these tanks could be compromised. F.A.C. Rule 62-600.740(2)(c) states that a facility shall be maintained in a condition that will enable the intended function. Additionally, F.A.C. Rule 62-600.740(2)(a) prohibits the release of inadequately treated wastewater.

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3. Our records show that within the past three months, your facility has experienced at least three separate wastewater spills, including the spill referenced in paragraph 1 of this letter. During the November 6 inspection, facility representatives explained that the spills were caused by several factors including: excessive flows, due to inflow of storm water during heavy rains, and the operation of the plant with limited capacity due to some of the tanks being offline during the construction of the AWT upgrade. It was also brought to our attention that one or more of the Class V disposal wells may have collapsed and may be operating with decreased capacity and efficiency. F.A.C. Rule 62-600.740(2)(c) states that a facility shall be maintained in a condition that will enable the intended function. Additionally, F.A.C. Rule 62-600.740(2)(a) prohibits the release of inadequately treated wastewater.
  
4. A review of the last twelve months of your discharge monitoring reports (DMR's) revealed that for the dates of March 15, 2007 thru March 20, 2007, a Total Residual Chlorine (TRC) result for disinfection was not reported for the effluent flow to the injection wells. In addition, for the dates of March 15, 2007 thru March 21, 2007, a TRC result was not reported for effluent flow to the reuse system. F.A.C. Rule 62-620.610(1) and Section 403.161, Florida Statutes state that the facility shall be operated in compliance with the permit. Section I.A.1. of the permit states that for underground injection, the TRC shall be a minimum of 0.5 mg/L for a single sample and that the TRC shall be monitored five days per week. Additionally, Section I.B.1. of the permit states that for reuse systems, a minimum TRC of 1.0 mg/L shall be maintained and that the TRC shall be monitored continuously.

In your response letter to the Department, dated November 1, 2007, logbook photocopies indicate that the TRC for March 15, 2007 thru March 21, 2007 were taken but not reported due to a clerical error. Please be advised that an amended DMR for the referenced period including the missing values will be required to resolve this matter

5. A review of the last twelve months of the DMR's revealed the following TSS single grab exceedances for effluent discharged to the reuse system:
  - May 23, 2007 - TSS = 11.0 mg/L
  - May 22, 2007 - TSS = 7.0 mg/L
  - April 24, 2007 - TSS = 7.8 mg/L

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- April 16, 2007 - TSS = 5.8 mg/L
- March 21, 2007 - TSS = 6.6 mg/L
- March 20, 2007 - TSS = 6.6 mg/L

F.A.C. Rule 62-620.610(1) and Section 403.161, Florida Statutes state that the facility shall be operated in compliance with the permit. Section I B.1. of the facility permit states that 5.0 mg/L shall be the maximum permitted limit for a single grab sample for Total Suspended Solids (TSS) for a reuse system. Your letter of November 1, 2007 indicates that any effluent discharged during March 21, 2007, April 16, 2007 and April 24, 2007 which did not meet the TSS standards for reuse was sent to the injection wells. Please be advised that a corrected DMR for the referenced period will be required to resolve this matter.

Any activity at the facility that may be contributing to violations of the above described statutes and rules should be ceased. Continued activities at the facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties up to \$10,000 per violation per day, pursuant to Sections 403.141 and 403.161, F.S.

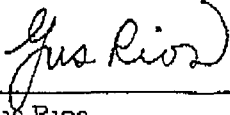
Please contact Greg Wright or Steve Johnson in the Marathon Branch Office at (305) 289-2310 within 15 days of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

**PLEASE BE ADVISED** that this Warning Letter is a part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), F.S. We look forward to your cooperation in completing the investigation and resolution of this matter.

Pursuant to the Americans With Disabilities Act, any person requiring special accommodations to participate in this meeting/workshop/hearing is asked to advise the agency at least 48 hours before the meeting by calling the Bureau of Personnel Services at (850) 245-2511, or by calling (800) 955-8771 (TDD) or (800) 955-8770 (Voice) via the Florida Relay Service.

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Sincerely,



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Gus Rios  
Environmental Administrator

cc: Keith Kleinmann, DEP Ft. Myers  
Gerald Edwards, Public Service Commission  
Dave Koppel, Monroe County



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp. | DOCKET NO. 070293-SU  
| FILED: DECEMBER 31, 2007

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Direct Testimony of Steven Johnson, on behalf of the Florida Public Service Commission, has been furnished by U.S. Mail, this 31<sup>st</sup> day of December, 2007, to the following:

Office of Public Counsel  
C. Beck/S. C. Reilly/S. C. Burgess  
c/o The Florida Legislature  
111 W. Madison Street, RM 812  
Tallahassee, FL 32399-1400

Monroe County  
County Attorney, Suzanne A. Hutton  
P.O. Box 1026  
Key West, FL 33041-1026

K W Resort Utilities Corp.  
Mr. Doug Carter  
P.O. Box 2125  
Key West, FL 33045-2125

Rose Law Firm  
F. Marshall Deterding  
2548 Blairstone Pines Drive  
Tallahassee, FL 32301



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