

Holland & Knight

315 South Calhoun Street, Suite 600 | Tallahassee, FL 32301 | T 850.224.7000 | F 850.224.8832
Holland & Knight LLP | www.hklaw.com

100049-WS

January 22, 2010

D. BRUCE MAY, JR.
850-425-5607
bruce.may@hklaw.com

VIA HAND DELIVERY

Ann Cole, Director
Division of Commission Clerk and
Administrative Services
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED-FPSC
10 JAN 22 PM 3:05
COMMISSION
CLERK

Re: In re: Application by Aqua Utilities Florida, Inc. for Change in Reuse Rate

Dear Ms. Cole:

Enclosed for filing on behalf of Aqua Utilities Florida, Inc. ("AUF") are the original and seven (7) copies of AUF's Application for Approval of Change in Reuse Rate.

Please acknowledge receipt of this filing by stamping the extra copy of this letter "filed" and returning the copy to me. Thank you for your assistance.

COM _____
APA _____
ECR _____
GCL _____
RAD _____
SSC _____
ADM _____
OPC _____
CLK _____

DBM:kjg

Sincerely,

HOLLAND & KNIGHT LLP

D. Bruce May
D. Bruce May, Jr.

Enclosures

cc: Kimberly A. Joyce, Esq.
William T. Rendell
Lee County, County Manager

Atlanta | Bethesda | Boston | Chicago | Fort Lauderdale | Jacksonville | Lakeland | Los Angeles | Miami | New York
Northern Virginia | Orlando | Portland | San Francisco | Tallahassee | Tampa | Washington, D.C. | West Palm Beach
Abu Dhabi | Beijing | Caracas* | Mexico City | Tel Aviv*
* Representative Office

DOCUMENT NUMBER-DATE
00551 JAN 22 2010

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application by Aqua Utilities Florida, Inc. for Change in Reuse Rate	Docket No: 100049 Filed: January 22, 2010
---	--

**AQUA UTILITIES FLORIDA, INC.'S APPLICATION FOR
APPROVAL OF CHANGE IN REUSE RATE**

Aqua Utilities Florida, Inc. ("AUF"), pursuant to Section 367.091, Florida Statutes, requests that the Commission approves a change to its reuse rate schedule, and states:

1. AUF is a water and wastewater utility subject to the regulatory jurisdiction of the Commission under Chapter 367, Florida Statutes. AUF's address and telephone number are: 1100 Thomas Avenue, Leesburg, Florida 34748; (352) 435-4030.

2. All notices, pleadings and other communications required to be served on AUF should be directed to:

D. Bruce May, Jr.
Holland & Knight, LLP
Post Office Drawer 810
Tallahassee, Florida 32302-0810
(850) 224-7000 (Telephone)
(850) 224-8832 (Facsimile)
bruce.may@hkclaw.com

-and-

Kimberly A. Joyce, Esquire
Aqua America, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19010
(610) 645-1077 (Telephone)
(610) 519-0989 (Facsimile)
kajoyce@aquaamerica.com

DOCUMENT NUMBER-DATE

00551 JAN 22 2010

FPSC-COMMISSION CLERK

3. BRE/South Seas Resort Owner, L.L.C. is the owner of South Seas Island Resort ("SSIR") located on Captiva Island in Lee County, Florida.

4. The requested change in reuse rates involves a wastewater treatment plant owned by AUF, which is located on Captiva Island in Lee County, Florida (the "WWTP"). AUF is required by law to properly dispose of treated effluent from its WWTP and has determined that the only feasible disposal site is the SSIR golf course located adjacent to the WWTP. A copy of the pertinent Florida Department of Environmental Protection ("FDEP") permit for the Reuse Project is attached as Exhibit "A".

5. To ensure that the treated effluent from the WWTP continues to be properly disposed of, FDEP has required AUF to enter into a contract with the disposal site owner. In order to comply with FDEP's directive, AUF has entered into an Effluent and Irrigation Agreement with SSIR ("Reuse Agreement"), which is attached as Exhibit "B". AUF executed the Reuse Agreement with SSIR with the understanding that all costs to pipe and deliver the effluent to SSIR would be borne by AUF, and that SSIR would pay AUF for the volume of effluent delivered pursuant to the reuse rate set forth in AUF's existing tariff.

6. Despite AUF's diligent efforts to collect its tariffed reuse rate from SSIR, SSIR has steadfastly refused to pay AUF's tariff reuse rate for the effluent. SSIR continues to assert that it is entitled to receive the effluent from AUF's WWTP at no cost.

7. In an attempt to resolve the impasse AUF has offered a payment plan to SSIR whereby SSIR could pay the tariffed reuse rate over time. SSIR has rejected this offer and made it clear that it will cease to allow AUF to dispose its effluent on SSIR

property if AUF continues to insist on imposing and collecting its tariffed reuse rate. As previously explained, the SSIR golf course is AUF's only viable effluent disposal site that would enable the utility to comply with FDEP requirements. Thus, to avoid litigation and to ensure an adequate disposal site for its effluent, AUF is requesting Commission approval of the special reuse rate arrangement which would allow AUF to provide the effluent to SSIR at no cost. A proposed tariff reflecting the zero change is attached as Exhibit "C."

8. The Commission has acknowledged that all customers benefit from water resource protections afforded by reuse projects. See *In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp.*, Docket No. 060258-WS; Order No. PSC 07-0205-PAA-WS. In addition, the Commission has allowed a utility not to charge an effluent disposal site owner for reuse services where the effluent site is the most cost-effective disposal alternative and where the disposal site owner will not accept the effluent if charged – which is precisely the factual basis for this Application. See *In re: Application for approval of Reuse Proejct Plan and increase in wastewater rates in Pasco County by Aloha Utilities, Inc.* *In re: Investigation of utility rates of Aloha Utilities in Pasco County*, Docket No. 950615-SU; Docket No. 960545-WS, Order No. PSC-97-0820-FOF-WS. The Commission has also recognized that providing a disposal site owner with reuse services at no charge is not unfairly discriminatory even though it results in differing rates among reuse customers. See *In re: Application for increase in wastewater rates in Seven Springs System in Pasco County by Aloha Utilities, Inc.*, Docket No. 991643-SU; Order No. PSC-01-0326-FOF-SU ("Given

that the Legislature has recognized the benefit of reuse to the state and we encourage reuse, we find that charging different reuse rates . . . is not unfairly discriminatory.").

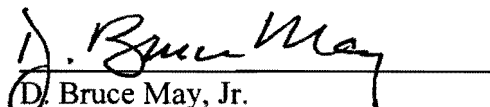
9. Not only is the special reuse rate consistent with Commission precedent, it also provides several important benefits to AUF, SSIR and AUF customers. For example, it would enable AUF to utilize the most cost effective means of effluent disposal. It would enable SSIR to irrigate its golf course with reuse water and thus protect and conserve important water resources. And, it would enable AUF to comply with FDEP regulations for the appropriate disposal of effluent.

10. A copy of this Application has been mailed to Lee County.

WHEREFORE, AUF respectfully requests that Commission approve the Reuse Project and authorize AUF to provide effluent to SSIR pursuant to the Reuse Agreement at no charge to SSIR.

Respectfully submitted this 22nd day of January, 2010.

HOLLAND & KNIGHT LLP



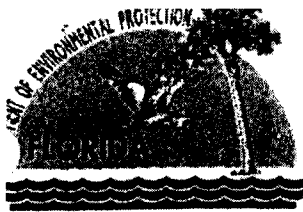
D. Bruce May, Jr.
Florida Bar No. 354473
Holland & Knight, LLP
Post Office Drawer 810
Tallahassee, Florida 32302-0810
(850) 224-7000 (Telephone)
(850) 224-8832 (Facsimile)

-and-

Kimberly A. Joyce, Esquire
Aqua America, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19010
(610) 645-1077 (Telephone)
(610) 519-0989 (Facsimile)

Attorneys for Aqua Utilities Florida, Inc.

EXHIBIT "A"



Department of Environmental Protection

Jeb Bush
Governor

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

Colleen M. Castille
Secretary

CERTIFIED MAIL NUMBER:7005 0390 0002 0289 4944
RETURN RECEIPT REQUESTED

In the Matter of an
Application for Permit by:

Aqua Utilities Florida, Inc.
Mr. Glenn LaBrecque
Vice President and Chief Operating Officer
6960 Professional Parkway East, Suite 40
Sarasota, FL 34240

Lee County-DW
South Seas Resort WWTP
Permit No. FLA014686
PA File No. FLA014686-007-DW2P
Caloosahatchee to Lee Coast EMA

NOTICE OF PERMIT ISSUANCE

Enclosed is Permit Number FLA014686 to operate domestic wastewater treatment plant and disposal system, issued under section(s) 403.087 FAC, Florida Statutes.

The Department's proposed agency action shall become final unless a timely petition for an administrative hearing is filed under Sections 120.569 and 120.57, Florida Statutes, within fourteen days of receipt of notice. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Under Rule 62-110.106(4), Florida Administrative Code, a person may request enlargement of the time for filing a petition for an administrative hearing. The request must be filed (received by the clerk) in the Office of General Counsel before the end of the time period for filing a petition for an administrative hearing.

Petitions by the applicant or any of the persons listed below must be filed within fourteen days of receipt of this written notice. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3), Florida Statutes, must be filed within fourteen days of publication of the notice or within fourteen days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), Florida Statutes, however, any person who has asked the Department for notice of agency action may file a petition within fourteen days of receipt of such notice, regardless of the date of publication.

Page 1 of 3

"More Protection, Less Process"

Printed on recycled paper.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition or request for enlargement of time within fourteen days of receipt of notice shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, Florida Statutes. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any; the Department permit identification number 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 Department action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department action;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A statement of facts that the petitioner contends warrant reversal or modification of the Department action;
- (f) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that 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 such final decision of the Department have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

In addition to requesting an administrative hearing, any petitioner may elect to pursue mediation. The election may be accomplished by filing with the Department a mediation agreement with all parties to the proceeding (i.e., the applicant, the Department, and any person who has filed a timely and sufficient petition for a hearing). The agreement must contain all the information required by Rule 28-106.404, Florida Administrative Code. The agreement must be received by the clerk in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within ten days after the deadline for filing a petition, as set forth above. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement.

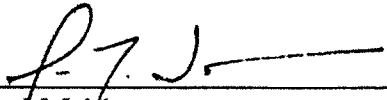
As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for holding an administrative hearing and issuing a final order. Unless otherwise agreed by the parties, the mediation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

This permit is final and effective on the date filed with the clerk of the Department unless a petition (or request for enlargement of time) is filed in accordance with the above. Upon the timely filing of a petition (or request for enlargement of time) this permit will not be effective until further order of the Department.

Any party to this permit has the right to seek judicial review under Section 120.68, Florida Statutes, by the filing of a notice of appeal under Rules 9.110 and 9.190, Florida Rules of Appellate Procedure with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when this permit is filed with the clerk of the Department.

Executed in Ft. Myers, FL, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



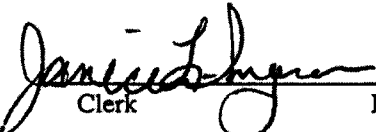
Jon M. Iglehart
Acting Director of
District Management

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this NOTICE OF PERMIT ISSUANCE and all copies were mailed before the close of business on June 21, 2005 to the listed persons.

FILING AND ACKNOWLEDGMENT

FILED, on this date, under Section 120.52, Florida Statutes, with the designated deputy clerk, receipt of which is hereby acknowledged.


Clerk
6-21-05
Date

JMI/CVR/jli

Copies furnished with attachments to:

David Farabee, P.E.
Keith Kleinmann



Department of Environmental Protection

Jeb Bush
Governor

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

Colleen M. Castille
Secretary

STATE OF FLORIDA DOMESTIC WASTEWATER FACILITY PERMIT

PERMITTEE:

Aqua Utilities Florida, Inc.

PERMIT NUMBER: FLA014686
PA FILE NUMBER: FLA014686-007-DW2P
ISSUANCE DATE: June 22, 2005
EXPIRATION DATE: June 21, 2010

RESPONSIBLE AUTHORITY:

Mr. Glenn LaBrecque
Vice President and Chief Operating Officer
6960 Professional Parkway East, Suite 40
Sarasota, FL 34240

(941) 907-7420

FACILITY:

South Seas Resort WWTP
5400 Plantation Rd.
Captiva, FL 33924
Lee County
Latitude: 26° 32' 30" N Longitude: 82° 11' 31" W

This permit is issued under the provisions of Chapter 403, Florida Statutes, and applicable rules of the Florida Administrative Code. The above named permittee is hereby authorized to operate the facilities shown on the application and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

TREATMENT FACILITIES:

activated

Operate a 0.264 MGD annual average daily flow (AADF) contact sludge process domestic wastewater treatment plant with a 101,000 gallon equalization basin, a 42,810 contact basin, a 72,000 gallon reaeration basin, a 35,282 gallon clarifier, a 46,480 gallon digester, a 23,730 gallon digester, a filter with a surface area of 192 square feet, and three reject storage tanks with a total volume of 240,000 gallons and a 450,000 gallon reclaimed water storage tank.

REUSE:

Land Application: An existing 0.264 MGD annual average daily flow (AADF) permitted capacity slow-rate public access spray irrigation system (R-001). R-001 consisting of a 32 acres golf course, 450,000 gallon reclaimed water storage tank, a 240,000 gallon reject reclaimed water storage tank, and automatic diversion valves. The slow-rate public access spray irrigation system is located approximately at longitude 26° 32' 30" N and latitude 82° 11' 31" W.

IN ACCORDANCE WITH: The limitations, monitoring requirements and other conditions set forth in Pages 1 through 22 of this permit.

I. RECLAIMED WATER AND EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Reuse and Land Application Systems

1. During the period beginning on the issuance date and lasting through the expiration date of this permit, the permittee is authorized to direct reclaimed water to Reuse System R-001. Such reclaimed water shall be limited and monitored by the permittee as specified below:

Parameter	Units	Max/Min	Reclaimed Water Limitations				Monitoring Requirements			Notes
			Annual Average	Monthly Average	Weekly Average	Single Sample	Monitoring Frequency	Sample Type	Monitoring Location Site Number	
Flow	MGD	Maximum	0.264	-	-	-	5 Days/Week	Recording flow meters and totalizers	FLW-1	See Cond.I.A.3
Percent Capacity, (TMADF/Permitted Capacity) x 100	PERCENT	Maximum	-	Report	-	-	Monthly	Calculated	CAL-1	
BOD, Carbonaceous 5 day, 20C	MG/L	Maximum	20.0	30.0	45.0	60.0	Every Two Weeks	8-hour flow proportioned composite	EFA-1	
Solids, Total Suspended	MG/L	Maximum	-	-	-	5.0	4 Days/Week	Grab	EFB-1	See Cond.I.A.7
pH	SU	Range	-	-	-	6.0 to 8.5	5 Days/Week	Grab	EFA-1	See Cond.I.A.7
Coliform, Fecal, % less than detection	PERCENT	Minimum	See Permit Condition I.A.4.				4 Days/Week	Grab	EFA-1	See Cond.I.A.4 & 7
Coliform, Fecal	#/100ML	Maximum	See Permit Condition I.A.4.				4 Days/Week	Grab	EFA-1	See Cond.I.A.4 & 7
Total Residual Chlorine (For Disinfection)	MG/L	Minimum	-	-	-	1.0	Continuous	On-line Monitor and Chart Recorder	EFA-1	See Cond.I.A.3 & 5
Turbidity	NTU	Maximum	See Permit Condition I.A.6.				Continuous	On-line Monitor and Chart Recorder	EFB-1	See Cond.I.A.3 & 6
Giardia	CYSTS/100 L	Maximum	-	-	-	Report	five years	Filtered	EFA-1	
Cryptosporidium	OOCYSTS/100 L	Maximum	-	-	-	Report	five years	Filtered	EFA-1	

2. Reclaimed water samples shall be taken at the monitoring site locations listed in Permit Condition I. A. 1. and as described below:

Monitoring Location Site Number	Description of Monitoring Location
CAL-1	Calculations are made via the data collected from FLW-1.
EFA-1	Samples are taken after the chlorine contact chambers and prior to the effluent pump station, which is upstream of the automatic diversion valves.
EFB-1	Samples are collected after tertiary filtration and prior to chlorination.
FLW-1	Samples are collected via a flow meter and totalizer, which is located at the chlorine contact chambers.

3. Recording flow meters and totalizers shall be utilized to measure flow and calibrated at least annually. *(62-601.200(17) and .500(6))*
4. Over a 30-day period, at least 75 percent of the fecal coliform values shall be below the detection limits. No sample shall exceed 25 fecal coliforms per 100 mL. No sample shall exceed 5.0 mg/L of total suspended solids (TSS) at a point before the application of the disinfectant. Note: To report the "% less than detection," count the number of fecal coliform observations that were less than detection, divide by the total number of fecal coliform observations in the month, and multiply by 100% (round to the nearest integer). *(62-600.440(5)(f))*
5. The minimum total chlorine residual shall be limited as described in the approved operating protocol, such that the permit limitation for fecal coliform bacteria will be achieved. In no case shall the total chlorine residual be less than 1.0 mg/L. *(62-600.440(5)(b); 62-610.460(2); and 62-610.463(2))*
6. The maximum turbidity shall be limited as described in the approved operating protocol, such that the permit limitations for total suspended solids and fecal coliforms will be achieved. *(62-610.463(2))*
7. Grab samples shall be collected during periods of minimal treatment plant pollutant removal efficiencies or maximum hydraulic and/or organic loading. *(62-600.740(1)(a)2)*

B. Other Limitations and Monitoring and Reporting Requirements

1. During the period beginning on the issuance date and lasting through the expiration date of this permit, the treatment facility shall be limited and monitored by the permittee as specified below:

Parameter	Units	Max/Min	Limitations				Monitoring Requirements			Notes
			Annual Average	Monthly Average	Weekly Average	Single Sample	Monitoring Frequency	Sample Type	Monitoring Location Site Number	
Solids, Total Suspended	MG/L	Maximum	-	Monthly	-	-	Every Two Weeks	8-hour flow proportioned composite	INF-1	See Cond.I.B.3
BOD, Carbonaceous 5 day, 20C	MG/L	Maximum	-	Report	-	-	Every Two Weeks	8-hour flow proportioned composite	INF-1	See Cond.I.B.3

2. Samples shall be taken at the monitoring site locations listed in Permit Condition I. B. 1 and as described below:

Monitoring Location Site Number	Description of Monitoring Location
INF-1	Samples are taken from the influent force main via a sample tap.

3. Influent samples shall be collected so that they do not contain digester supernatant or return activated sludge, or any other plant process recycled waters. *[62-601.500(4)]*
4. The treatment facilities shall be operated in accordance with all approved operating protocols. Only reclaimed water that meets the criteria established in the approved operating protocol(s) may be released to system storage or to the reuse system. Reclaimed water that fails to meet the criteria in the approved operating protocol(s) shall be directed to a reject storage tank until the required effluent quality can be regained. The operating protocol(s) shall be reviewed and updated periodically to ensure continuous compliance with the minimum treatment and disinfection requirements. Updated operating protocols shall be submitted to the Department for review and approval upon revision of the operating protocol(s) and with each permit application. *[62-610.320(6) and 62-610.463(2)]*
5. Instruments for continuous on-line monitoring of total residual chlorine and turbidity shall be equipped with an automated data logging or recording device. *[62-610.463(2) & .865(8)(d)]*
6. Intervals between sampling for Giardia and Cryptosporidium shall not exceed five years. Sampling results shall be reported on DEP Form 62-610.300(4)(a)4 which is attached to this permit. This form shall be submitted to the Department and to DEP's Reuse Coordinator in Tallahassee. *[62-610.463(4)]*
7. Parameters which must be monitored as a result of a surface water discharge shall be analyzed using a sufficiently sensitive method in accordance with 40 CFR Part 136. Parameters which must be monitored as a result of a ground water discharge (i.e., underground injection or land application system) shall be analyzed in accordance with Chapter 62-601, F.A.C. *[62-620.610(18)]*
8. The permittee shall provide safe access points for obtaining representative influent, reclaimed water, and effluent samples which are required by this permit. *[62-601.500(5)]*
9. Monitoring requirements under this permit are effective on the first day of the second month following permit issuance. Until such time, the permittee shall continue to monitor and report in accordance with previously effective permit requirements, if any. During the period of operation authorized by this permit, the permittee shall complete and submit to the Department's South District Office Discharge Monitoring Reports (DMRs) in accordance with the frequencies specified by the REPORT type (i.e., monthly, toxicity, quarterly, semiannual, annual, etc.) indicated on the DMR forms attached to this permit. Monitoring results for each monitoring period shall be submitted in accordance with the associated DMR due dates below.

6-21-05 Issued

Aug

REPORT Type	Monitoring Period	Due Date
Monthly or Toxicity	First day of month – last day of month	28 th day of following month
Quarterly	January 1 - March 31	April 28
	April 1 – June 30	July 28
	July 1 – September 30	October 28
	October 1 – December 31	January 28
Semiannual	January 1 – June 30	July 28
	July 1 – December 31	January 28
Annual	January 1 – December 31	January 28

DMRs shall be submitted for each required monitoring period including months of no discharge. The permittee shall make copies of the attached DMR form(s) and shall submit the completed DMR form(s) to the Department's South District Office at the address specified in Permit Condition I.B. 13 by the twenty-eighth (28th) of the month following the month of operation.

[62-620.610(18)][62-601.300(1), (2), and (3)]

10. During the period of operation authorized by this permit, reclaimed water or effluent shall be monitored annually for the primary and secondary drinking water standards contained in Chapter 62-550, F.A.C., (except for turbidity, total coliforms, color, and corrosivity). Twenty-four hour composite samples shall be used to analyze reclaimed water or effluent for the primary and secondary drinking water standards. These monitoring results shall be reported to the Department annually on the Reclaimed Water or Effluent Analysis Report, Form 62-620.910(15), or in another format if requested by the permittee and if approved by the Department as being compatible with data entry into the Department's computer system. During years when a permit is not renewed, a certification stating that no new non-domestic wastewater dischargers have been added to the collection system since the last reclaimed water or effluent analysis was conducted may be submitted in lieu of the report. The annual reclaimed water or effluent analysis report or the certification shall be completed and submitted in a timely manner so as to be received by the Department by January 28 of each year. *[62-601.300(4)][62-601.500(3)]*
11. The permittee shall submit an Annual Reuse Report using DEP Form 62-610.300(4)(a)2. on or before January 1 of each year. *[62-610.870(3)]*
12. The permittee shall maintain an inventory of storage systems. The inventory shall be submitted to the Department at least 30 days before reclaimed water will be introduced into any new storage system. The inventory of storage systems shall be attached to the annual submittal of the Annual Reuse Report. *[62-610.464(5)]*
13. Unless specified otherwise in this permit, all reports and other information required by this permit, including 24-hour notifications, shall be submitted to or reported to, as appropriate, the Department's South District Office at the address specified below:

South District Office
Florida Department of Environmental Protection
P O Box 2549
Ft. Myers, Florida 33902-2549

Phone Number - 239-332-6975
FAX Number - 239-332-6969

All FAX copies shall be followed by original copies. All reports and other information shall be signed in accordance with the requirements of Rule 62-620.305, F.A.C. *[62-620.305]*

II. RESIDUALS MANAGEMENT REQUIREMENTS

1. The method of residuals use or disposal by this facility is land application or disposal in a Class I or II solid waste landfill.
2. The permittee shall be responsible for proper treatment, management, use, and land application or disposal of its residuals. *[62-640.300(5)]*
3. The permittee will not be held responsible for violations resulting from land application of residuals if the permittee can demonstrate that it has delivered residuals that meet the parameter concentrations and appropriate treatment requirements of this rule and the applier (e.g. hauler, contractor, site manager, or site owner) has legally agreed in writing to accept responsibility for proper land application of the residuals. Such an agreement shall state that the applier agrees, upon delivery of residuals that have been treated as required by Chapter 62-640, F.A.C., that he will accept responsibility for

proper land application of the residuals as required by Chapter 62-640, F.A.C., and that the applier agrees that he is aware of and will comply with requirements for proper land application as described in the facility's permit. [62-640.300(5)]

4. Disposal of residuals, septage, and other solids in a solid waste landfill, or disposal by placement on land for purposes other than soil conditioning or fertilization, such as at a monofill, surface impoundment, waste pile, or dedicated site, shall be in accordance with Chapter 62-701, F.A.C. [62-640.100(6)(k)3 & 4]
5. Land application of residuals shall be in accordance with the conditions of this permit, the approved Agricultural Use Plan(s), and the requirements of Chapter 62-640, F.A.C. [62-640]
6. The domestic wastewater residuals for this facility are classified as Class B.
7. The permittee shall achieve Class B pathogen reduction by meeting the pathogen reduction requirements in section 503.32(b)(3) (Use of PSRP) of Title 40 CFR Part 503, revised as of October 25, 1995. [62-640.600(1)(b)]
8. The permittee shall achieve vector attraction reduction by meeting the vector attraction reduction requirements in section 503.33(b)(4) (Meet a specific oxygen uptake rate for aerobically treated biosolids) or 503.33(b)(6) (Add alkaline materials to raise the pH under specified conditions) of Title 40 CFR Part 503, revised as of October 25, 1995. [62-640.600(2)(a)]
9. Treatment of liquid residuals or septage for the purpose of meeting the pathogen reduction or vector attraction reduction requirements set forth in Rule 62-640.600, F.A.C., shall not be conducted in the tank of a hauling vehicle. Treatment of residuals or septage for the purpose of meeting pathogen reduction or vector attraction reduction requirements shall take place at the permitted facility. [62-640.400(8)]
10. The permittee shall sample and analyze the Class A or Class B residuals to monitor for pathogen and vector attraction reduction requirements of Rule 62-640.600, F.A.C., and the parameters listed in the table below at least once every twelve (12) months.

Parameter	Ceiling Concentrations (Single Sample)	Cumulative Application Limits
Total Nitrogen	(Report only) % dry weight	Not applicable
Total Phosphorus	(Report only) % dry weight	Not applicable
Total Potassium	(Report only) % dry weight	Not applicable
Arsenic	75 mg/kg dry weight	36.6 pounds/acre
Cadmium	85 mg/kg dry weight	34.8 pounds /acre
Copper	4300 mg/kg dry weight	1340 pounds/acre
Lead	840 mg/kg dry weight	268 pounds/acre
Mercury	57 mg/kg dry weight	15.2 pounds/acre
Molybdenum	75 mg/kg dry weight	Not applicable
Nickel	420 mg/kg dry weight	375 pounds/acre
Selenium	100 mg/kg dry weight	89.3 pounds/acre

Parameter	Ceiling Concentrations (Single Sample)	Cumulative Application Limits
Zinc	7500 mg/kg dry weight	2500 pounds/acre
pH	(Report only) standard units	Not applicable
Total Solids	(Report only) %	Not applicable

[62-640.650(1), 62-640.700(1), 62-640.700(3)(b), and 62-640.850(3)]

11. Sampling and analysis shall be conducted in accordance with Title 40 CFR Part 503, section 503.8 and the U.S. Environmental Protection Agency publication - POTW Sludge Sampling and Analysis Guidance Document, 1989. In cases where disagreements exist between Title 40 CFR Part 503, section 503.8 and the POTW Sludge Sampling and Analysis Guidance Document, the requirements in Title 40 CFR Part 503, section 503.8 will apply. *[62-640.650(1), 62-640.700(1), 62-640.700(3)(b), and 62-640.850(3)]*
12. Grab samples shall be used for pathogens and determinations of percent volatile solids. Composite samples shall be used for metals. *[62-640.650(1)(e)]*
13. Residuals shall not be land applied if a single sample result for any parameter exceeds the ceiling concentrations given in this permit. Residuals shall not be distributed and marketed if the monthly average of sample results for any parameter exceeds the Class AA parameter concentrations given in this permit. Monthly averages of parameter concentrations shall be determined by taking the arithmetic mean of all sample results for the month. *[62-640.650(1)(f)]*
14. The permittee shall submit the results of all residuals monitoring with the permittee's Discharge Monitoring Report under Chapter 62-601, F.A.C. The analytical results from each sampling event shall be submitted with the report for the month in which the sampling event occurs. *[62-640.650(3)(a)&(e)]*
15. Class B residuals shall not be used on unrestricted public access areas. Use of Class B residuals is limited to restricted public access areas such as agricultural sites, forests, and roadway shoulders and medians. *[62-640.600(3)(b)]*
16. Plant nursery use of Class B residuals is limited to plants which will not be sold to the public for 12 months after the last application of residuals. *[62-640.600(3)(b)1.]*
17. Use of Class B residuals on roadway shoulders and medians is limited to restricted public access roads. *[62-640.600(3)(b)2.]*
18. Food crops, feed crops, and fiber crops shall not be harvested for 30 days following the last application of Class B residuals. *[62-640.600(3)(b)6.]*
19. Food crops with harvested parts that touch the residuals/soil mixture and are totally above the land surface shall not be harvested for 14 months after the last application of Class B residuals. *[62-640.600(3)(b)3.]*
20. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of Class B residuals when the residuals remain on the land surface for four months or longer before incorporation into the soil. *[62-640.600(3)(b)4.]*
21. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of Class B residuals when the residuals remain on the land surface for less than four months before incorporation into the soil. *[62-640.600(3)(b)5.]*
22. Animals shall not be grazed on the land for 30 days after the last application of Class B residuals. *[62-640.600(3)(b)7.]*

23. Sod which will be distributed or sold to the public or used on unrestricted public access areas shall not be harvested for 12 months after the last application of Class B residuals. *[62-640.600(3)(b)8.]*
24. The public shall be restricted from application zones for 12 months after the last application of Class B residuals. *[62-640.600(3)(b)]*
25. Residuals that do not meet the requirements of Chapter 62-640, F.A.C., for Class AA designation shall not be used for the cultivation of tobacco or leafy vegetables. *[62-640.400(7)]*
26. Current Agricultural Use Plan(s) identify residuals landspreading on the following sites:

Site Name	Site Type (AG or LR)	App. Area (acres)	Site Location						
			County	Latitude			Longitude		
				DD	MM	SS	DD	MM	SS
4 Mile Grade Ranch	AG	1151	De Soto	27	13	36	81	42	07
V.C. Hollingsworth East	AG	3529	De Soto	27	03	37	81	35	18
Prairie River Grove	AG	874	De Soto	27	06	03	81	48	34
Duda-Labelle	AG	5779	Hendry	26	38	30	81	27	30

The wastewater treatment facility permittee shall apply for a minor permit revision on DEP Form 62-620.910(9) for new, modified, or expanded residuals land application sites. The facility's permit shall be revised to include the new or revised Agricultural Use Plan(s) prior to application of residuals to the new, modified, or expanded sites, unless all of the following conditions are met:

- a) The permittee notifies the Department within 24 hours that the site is being used;
- b) The site meets the site use restrictions of Rule 62-640.600(3), F.A.C., and the criteria for land application of residuals in Rule 62-640.700, F.A.C.;
- c) The permittee submits a new or revised Agricultural Use Plan for the site with a permit application in accordance with Rule 62-640.300(2), F.A.C., within 30 days of beginning use of the site;
- d) The permittee does not have another approved land application site, another approved disposal method (e.g. landfilling or incineration), or approved storage facilities available for use; and,
- e) The permittee demonstrates during permit application that application of additional residuals to an existing approved application site would have resulted in violation of Department rules, or was not possible due to circumstances beyond the permittee's control.

[62-640.300(2)&(3)]

27. Residuals application rates are limited to agronomic rates based on the site vegetation as identified in the Agricultural Use Plan. *[62-640.750(2)]*
28. Residuals shall be applied with appropriate techniques and equipment to assure uniform application over the application zone. *[62-640.700(2)(c)]*
29. The spraying of liquid domestic wastewater residuals shall be conducted so that the formation of aerosols is minimized. *[62-640.700(2)(d)]*
30. Residuals storage facilities at land application sites shall be subject to applicable setback requirements for residuals application sites. Residuals stored at land application sites shall be stored in a manner that will not cause runoff or seepage from the residuals, objectionable odors, or vector attraction. Storage areas must be fenced or otherwise provided with appropriate features to discourage the entry of animals and unauthorized persons. At the time of application, the stored residuals must meet the parameter concentrations, pathogen and vector attraction reduction requirements, and cumulative application limits of this permit. Residuals storage facilities at land application sites may be used only for temporary storage of stabilized residuals for no more than 30 days during periods of inclement weather or to

accommodate agricultural operations, or up to the period (not to exceed two years) specified in the Agricultural Use Plan. [62-640.700(2)(e)]

31. Residuals application sites shall be posted with appropriate advisory signs identifying the nature of the project area. [62-640.700(2)(f)]
32. The pH of the residuals soil mixture shall be 5.0 or greater at the time residuals are applied. At a minimum, soil pH testing shall be done annually. [62-640.700(5)(d)]
33. The permittee shall maintain records of application zones and application rates and shall make these records available for inspection within seven days of request by the Department, or delegated Local Program. The permittee shall maintain record items a. through e. below in perpetuity, and maintain record items f. through k. for five years:
 - a. Date of application of the residuals;
 - b. Location of the residuals application site as specified in the Agricultural Use Plan;
 - c. Identification of each application zone used by the permittee at the application site and the acreage of each zone;
 - d. Amount of residuals applied or delivered to each application zone;
 - e. Cumulative loading of each application zone;
 - f. The names of all other wastewater facilities using each of the application zones identified in item c.;
 - g. Method of incorporation (if any);
 - h. Measured pH of the residuals soil mixture at the time the residuals are applied (tested at least annually);
 - i. Unsaturated depth of soil above the water table level at the time of application;
 - j. Concentration of parameters in the residuals as required by this permit, and the date of last analysis; and
 - k. The results of any soil testing that is done under Rule 62-640.500(4)(a), F.A.C.

[62-640.650(2)]

34. The permittee shall submit an annual summary of residuals application activity to the South District Office on Department Form 62-640.210(2)(b) for all residuals applied during the period of January 1 through December 31. The summary for each year shall be submitted by February 19 of the following year. If more than one facility applies residuals to the same application zones, the summary must include a subtotal of each facility's contribution of residuals to the application zones. [62-640.650(3)(b)]
35. If residuals that are subject to the cumulative loading limitations of Rule 62-640.700(3), F.A.C., have been applied to an application zone, and the cumulative loading amount of one or more of the pollutants is not known, no further applications of residuals may be made to that application zone. [62-640.700(3)(f)]
36. A minimum unsaturated soil depth of two feet above the water table level is required at the time the residuals are applied to the soil. [62-640.700(6)(a)]
37. Residuals shall not be applied during rains that cause runoff from the site or when surface soils are saturated. [62-640.700(7)(a)]
38. Land application of "other solids" as defined in Chapter 62-640, F.A.C., is only allowed if specifically addressed in the Agricultural Use Plan(s) approved for this facility. Land application of "other solids" is subject to Chapter 62-640, F.A.C., and the permit conditions that apply to land applied residuals. [62-640.860]
39. If the permittee intends to accept residuals from other facilities, a permit revision is required pursuant to Rule 62-640.880(2)(d), F.A.C. [62-640.880(2)(d)]
40. Storage of residuals or other solids at the permitted facility shall require prior written notification to the Department. [62-640.300(4)]

III. GROUND WATER REQUIREMENTS

Operational Requirements

1. For the Part III Public Access system, all ground water quality criteria specified in Chapter 62-520, F.A.C., shall be met at the edge of the zone of discharge. For major users of reclaimed water (i.e., using 0.1 MGD or more), the zone of discharge shall extend horizontally 100 feet from the application site or to user's site property line, whichever is less, and vertically to the base of the shallow water table aquifer. [62-520.200(23)] [62-522.400 and 62-522.410]
2. The ground water minimum criteria specified in Rule 62-520.400 F.A.C., shall be met within the zone of discharge. [62-520.400 and 62-520.420(4)]
3. During the period of operation authorized by this permit, the permittee shall sample ground water in accordance with this permit and the approved ground water monitoring plan prepared in accordance with Rule 62-522.600, F.A.C. [62-522.600][62-610.463,]
4. The following monitoring wells shall be sampled in accordance with the monitoring frequencies specified in Permit Condition III.5. for Reuse System R-001. Quarterly sampling must be reasonably spaced to be representative of potentially changing conditions.

Monitoring Well ID	Alternate Well Name and/or Description of Monitoring Location	Depth (Feet)	Aquifer Monitored	New or Existing
MWB-36376	SSP-3 Background well located upgradient from R-001.	15.0	Surficial	Existing
MWI-21846	SSP-5 Intermediate well located within the golf course irrigation area.	15.0	Surficial	Existing
MWC-21842	SSP-1 Compliance well located at the edge of the golf course irrigation area (R-001).	15.0	Surficial	Existing

MWB = Background; MWI = Intermediate; MWC = Compliance

[62-522.600][62-610.463]

5. The following parameters shall be analyzed for each of the monitoring wells identified in Permit Conditions III. 4:

Parameter	Compliance Well Limit	Units	Sample Type	Monitoring Frequency
Water Level Relative to NGVD	Report	FEET	In-situ	Quarterly
Nitrogen, Nitrate, Total (as N)	10	MG/L	Grab	Quarterly
Solids, Total Dissolved (TDS)	500	MG/L	Grab	Quarterly
Chloride (as Cl)	250	MG/L	Grab	Quarterly
Coliform, Fecal	4	#/100ML	Grab	Quarterly
pH	6.5 to 8.5	SU	In-situ	Quarterly
Sulfate, Total	250	MG/L	Grab	Quarterly
Turbidity	Report	NTU	Grab	Quarterly
Sodium, Total Recoverable	160	MG/L	Grab	Quarterly

[62-522.600(1)(b)] [62-601.300(3), 62-601.700, and Figure 3 of 62-601][62-601.300(6)] [62-520.300(9)]

6. If the concentration for any constituent listed in Permit Condition III. 5. in the natural background quality of the ground water is greater than the stated maximum, or in the case of pH is also less than the minimum, the representative natural background quality shall be the prevailing standard. [62-520.420(2)]

FACILITY: South Seas Resort WWTP
PERMITTEE: Aqua Utilities Florida, Inc.
6960 Professional Parkway East, Suite 40
Sarasota, FL 34240

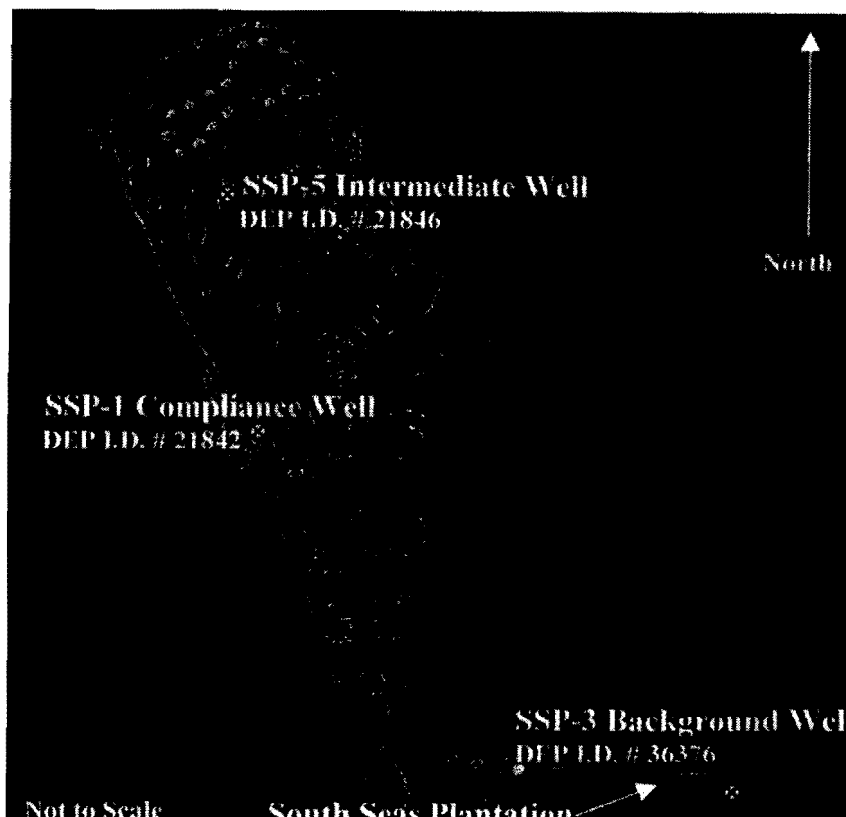
PERMIT NUMBER: FLA014686
PA FILE NUMBER: FLA014686-007-DW2P

7. In accordance with Part D of Form 62-620.910(10), water levels shall be recorded before evacuating wells for sample collection. Elevation references shall include the top of the well casing and land surface at each well site (NGVD allowable) at a precision of plus or minus 0.01 foot. *[62-610.463(3)(a),]*
8. Ground water monitoring wells shall be purged prior to sampling to obtain representative samples. *[62-601.700(5)]*
9. Analyses shall be conducted on unfiltered samples, unless filtered samples have been approved by the Department's South District Office as being more representative of ground water conditions. *[62-520.300(9)]*
10. Ground water monitoring parameters shall be analyzed in accordance with Chapter 62-601, F.A.C. *[62-620.610(18)]*
11. Ground water monitoring test results shall be submitted on Part D of Form 62-620.910(10). For reuse or land application projects, results shall be submitted with the DMR for each month listed in the following schedule. The submitted results shall be for each year during the period of operation allowed by this permit in accordance with Permit Condition I.B.9. *[62-522.600(10) and (11)(b)] [62-601.300(3), 62.601.700, and Figure 3 of 62-601] [62-620.610(18)]*

SAMPLE PERIOD	REPORT DUE DATE
January - March	April 28
April - June	July 28
July - September	October 28
October - December	January 28

12. If any monitoring well becomes damaged or cannot be sampled for some reason, the permittee shall notify the Department's South District Office immediately and a written report shall follow within seven days detailing the circumstances and remedial measures taken or proposed. Repair or replacement of monitoring wells shall be approved in advance by the Department's South District Office. *[62-522.600][62-4.070(3)]*
13. The Permittee shall provide verbal notice to the Department's South District Office as soon as practical after discovery of a sinkhole within an area for the management or application of wastewater, wastewater residuals (sludges), or reclaimed water. The Permittee shall immediately implement measures appropriate to control the entry of contaminants, and shall detail these measures to the Department's South District Office in a written report within 7 days of the sinkhole discovery. *[62-4.070(3)]*

14. The locations of the ground water monitoring wells identified in Permit Condition III.4. are depicted on the site map below:



IV. ADDITIONAL REUSE AND LAND APPLICATION REQUIREMENTS

Part III Public Access System(s) (R-001)

1. This reuse system includes the following major user (i.e., using 0.1 MGD or more of reclaimed water):

User Name	User Type	Capacity (MGD)	Acreage
South Seas Resort Golf Club	Golf Course Irrigation	0.264	32

[62-610.800(5)][62-620.630(10)(b)]

2. Cross-connections to the potable water system are prohibited. *[62-610.469(7)]*
3. A cross-connection control program shall be implemented and/or remain in effect within the areas where reclaimed water will be provided for use. *[62-610.469(7)]*

FACILITY: South Seas Resort WWTP
PERMITTEE: Aqua Utilities Florida, Inc.
6960 Professional Parkway East, Suite 40
Sarasota, FL 34240

PERMIT NUMBER: FLA014686
PA FILE NUMBER: FLA014686-007-DW2P

4. If a cross-connection between the potable and reclaimed water systems is discovered, the permittee shall:
 - a. Immediately discontinue potable water and/or reclaimed water service to the affected area.
 - b. If the potable water system is contaminated, clear the potable water lines.
 - c. Eliminate the cross-connection.
 - d. Test the affected area for other possible cross-connections.
 - e. Within 24 hours, notify the South District Office's domestic wastewater and drinking water programs, and the Lee County Health Department's drinking water program.
 - f. Within 5 days of discovery of a cross-connection, submit a written report to the Department detailing: a description of the cross-connection, how the cross-connection was discovered, the exact date and time of discovery, approximate time that the cross-connection existed, the location, the cause, steps taken to eliminate the cross-connection, whether reclaimed water was consumed, and reports of possible illness, whether the drinking water system was contaminated and the steps taken to clear the drinking water system, when the cross-connection was eliminated, plan of action for testing for other possible cross-connections in the area, and an evaluation of the cross-connection control and inspection program to ensure that future cross-connections do not occur. *[62-555.350(3) and 62-555.360][62-620.610(20)]*
5. Maximum obtainable separation of reclaimed water lines and potable water lines shall be provided and the minimum separation distances specified in Rule 62-610.469(7), F.A.C., shall be provided. Reuse facilities shall be color coded or marked. Underground piping which is not manufactured of metal or concrete shall be color coded using Pantone Purple 522C using light stable colorants. Underground metal and concrete pipe shall be color coded or marked using purple as the predominant color. *[62-610.469(7)]*
6. In constructing reclaimed water distribution piping, the permittee shall maintain a 75-foot setback distance from a reclaimed water transmission facility to public water supply wells. No setback distances are required to other potable water supply wells or to any nonpotable water supply wells. *[62-610.471(3)]*
7. A setback distance of 75 feet shall be maintained between the edge of the wetted area and potable water supply wells, unless the utility adopts and enforces an ordinance prohibiting potable water supply wells within the reuse service area. No setback distances are required to any nonpotable water supply well, to any surface water, to any developed areas, or to any private swimming pools, hot tubs, spas, saunas, picnic tables, barbecue pits, or barbecue grills. *[62-610.471(1), (2), (5), and (7)]*
8. Reclaimed water shall not be used to fill swimming pools, hot tubs, or wading pools. *[62-610.469(4)]*
9. Low trajectory nozzles, or other means to minimize aerosol formation shall be used within 100 feet from outdoor public eating, drinking, or bathing facilities. *[62-610.471(6)]*
10. A setback distance of 100 feet shall be maintained from indoor aesthetic features using reclaimed water to adjacent indoor public eating and drinking facilities. *[62-610.471(8)]*
11. The public shall be notified of the use of reclaimed water. This shall be accomplished by posting of advisory signs in areas where reuse is practiced, notes on scorecards, or other methods. *[62-610.468(2)]*
12. All new advisory signs and labels on vaults, service boxes, or compartments that house hose bibbs along with all labels on hose bibbs, valves, and outlets shall bear the words "do not drink" and "no beber" along with the equivalent standard international symbol. In addition to the words "do not drink" and "no beber," advisory signs posted at storage ponds and decorative water features shall also bear the words "do not swim" and "no nadar" along with the equivalent standard international symbols. Existing advisory signs and labels shall be retrofitted, modified, or replaced in order to comply with the revised wording requirements. For existing advisory signs and labels this retrofit, modification, or replacement

shall occur within 365 days after the date of this permit. For labels on existing vaults, service boxes, or compartments housing hose bibbs this retrofit, modification, or replacement shall occur within 730 days after the date of this permit. [62-610.468 & 62-610.469]

13. The permittee shall ensure that users of reclaimed water are informed about the origin, nature, and characteristics of reclaimed water; the manner in which reclaimed water can be safely used; and limitations on the use of reclaimed water. Notification is required at the time of initial connection to the reclaimed water distribution system and annually after the reuse system is placed into operation. A description of on-going public notification activities shall be included in the Annual Reuse Report. [62-610.468(6)]
14. Routine aquatic weed control and regular maintenance of storage pond embankments and access areas are required. [62-610.414 & 62-610.464]
15. Overflows from emergency discharge facilities on storage ponds shall be reported as an abnormal event to the Department's South District Office within 24 hours of an occurrence. The provisions of Rule 62-610.800(9), F.A.C., shall be met. [62-610.800(9)]
16. **This facility shall be equipped with automatic diversion valves and continuous monitoring devices for turbidity and chlorine residuals, as indicated in the permit application, to insure that the appropriate quality of reclaimed water is discharged into the reclaimed water storage tank during periods when the operator is not present. Should the automatic diversion valves or electronic monitoring devices fail, the reclaimed water shall be discharged to the reject storage tank until the deficiencies can be rectified.**

V. OPERATION AND MAINTENANCE REQUIREMENTS

1. During the period of operation authorized by this permit, the wastewater facilities shall be operated under the supervision of a(n) operator(s) certified in accordance with Chapter 62-602, F.A.C. In accordance with Chapter 62-699, F.A.C., this facility is a Category II, Class C facility and, at a minimum, operators with appropriate certification must be on the site as follows:

A Class C or higher operator 6 hours/day for 7 days/week. The lead operator must be a C, or higher.

[62-620.630(3)] [62-699.310] [62-610.462]
2. The lead operator shall be employed at the plant full time. "Full time" shall mean at least 4 days per week, working a minimum of 35 hours per week, including leave time. A certified operator shall be on-site and in charge of each required shift and for periods of required staffing time when the lead operator is not on-site. An operator meeting the lead operator classification level of the plant shall be available during all periods of plant operation. "Available" means able to be contacted as needed to initiate the appropriate action in a timely manner. [62-699.311(10), (5) and (1)]
3. An operator meeting the lead operator classification level of the plant shall be available during all periods of plant operation. "Available" means able to be contacted as needed to initiate the appropriate action in a timely manner. [62-699.311(1)]
4. The application to renew this permit shall include an updated capacity analysis report prepared in accordance with Rule 62-600.405, F.A.C. [62-600.405(5)]
5. The application to renew this permit shall include a detailed operation and maintenance performance report prepared in accordance with Rule 62-600.735, F.A.C. [62-600.735(1)]
6. The permittee shall maintain the following records and make them available for inspection on the site of the permitted facility:
 - a. Records of all compliance monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation and a copy of the laboratory certification showing

FACILITY: South Seas Resort WWTP
PERMITTEE: Aqua Utilities Florida, Inc.
6960 Professional Parkway East, Suite 40
Sarasota, FL 34240

PERMIT NUMBER: FLA014686
PA FILE NUMBER: FLA014686-007-DW2P

the certification number of the laboratory, for at least three years from the date the sample or measurement was taken;

- b. Copies of all reports required by the permit for at least three years from the date the report was prepared;
- c. Records of all data, including reports and documents, used to complete the application for the permit for at least three years from the date the application was filed;
- d. Monitoring information, including a copy of the laboratory certification showing the laboratory certification number, related to the residuals use and disposal activities for the time period set forth in Chapter 62-640, F.A.C., for at least three years from the date of sampling or measurement;
- e. A copy of the current permit;
- f. A copy of the current operation and maintenance manual as required by Chapter 62-600, F.A.C.;
- g. A copy of the facility record drawings;
- h. Copies of the licenses of the current certified operators; and
- i. Copies of the logs and schedules showing plant operations and equipment maintenance for three years from the date of the logs or schedules. The logs shall, at a minimum, include identification of the plant; the signature and certification number of the operator(s) and the signature of the person(s) making any entries; date and time in and out; specific operation and maintenance activities; tests performed and samples taken; and major repairs made. The logs shall be maintained on-site in a location accessible to 24-hour inspection, protected from weather damage, and current to the last operation and maintenance performed.

[62-620.350]

VI. SCHEDULES

Section VI is not applicable to this facility.

VII. INDUSTRIAL PRETREATMENT PROGRAM REQUIREMENTS

This facility is not required to have a pretreatment program at this time. *[62-625.500]*

VIII. OTHER SPECIFIC CONDITIONS

1. If the permittee wishes to continue operation of this wastewater facility after the expiration date of this permit, the permittee shall submit an application for renewal, using Department Forms 62-620.910(1) and (2), no later than one-hundred and eighty days (180) prior to the expiration date of this permit. *[62-620.410(5)]*
2. Florida water quality criteria and standards shall not be violated as a result of any discharge or land application of reclaimed water or residuals from this facility. *[62-610.850(1)(a) and (2)(a)][62-640.700(2)(b)]*
3. In the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health and safety, or odor, noise, aerosol drift, or lighting adversely affects neighboring developed areas at the levels prohibited by Rule 62-600.400(2)(a), F.A.C., corrective action (which may include additional maintenance or modifications of the permitted facilities) shall be taken by the permittee. Other corrective action may be required to ensure compliance with rules of the Department. Additionally, the treatment, management, use or land application of residuals shall not cause a violation of the odor prohibition in Rule 62-296.320(2), F.A.C. *[62-600.410(8) and 62-640.400(6)]*

FACILITY: South Seas Resort W W T P
PERMITTEE: Aqua Utilities Florida, Inc.
6960 Professional Parkway East, Suite 40
Sarasota, FL 34240

PERMIT NUMBER: FLA014686
PA FILE NUMBER: FLA014686-007-DW2P

4. The deliberate introduction of stormwater in any amount into collection/transmission systems designed solely for the introduction (and conveyance) of domestic/industrial wastewater; or the deliberate introduction of stormwater into collection/transmission systems designed for the introduction or conveyance of combinations of storm and domestic/industrial wastewater in amounts which may reduce the efficiency of pollutant removal by the treatment plant is prohibited, except as provided by Rule 62-610.472, F.A.C. *[62-604.130(3)]*
5. Collection/transmission system overflows shall be reported to the Department in accordance with Permit Condition IX. 20. *[62-604.550] [62-620.610(20)]*
6. The operating authority of a collection/transmission system and the permittee of a treatment plant are prohibited from accepting connections of wastewater discharges which have not received necessary pretreatment or which contain materials or pollutants (other than normal domestic wastewater constituents):
 - a. Which may cause fire or explosion hazards; or
 - b. Which may cause excessive corrosion or other deterioration of wastewater facilities due to chemical action or pH levels; or
 - c. Which are solid or viscous and obstruct flow or otherwise interfere with wastewater facility operations or treatment; or
 - d. Which result in treatment plant discharges having temperatures above 40°C.

[62-604.130(4)]

7. The treatment facility, storage ponds, rapid infiltration basins, and/or infiltration trenches shall be enclosed with a fence or otherwise provided with features to discourage the entry of animals and unauthorized persons. *[62-600.400(2)(b)]*
8. Screenings and grit removed from the wastewater facilities shall be collected in suitable containers and hauled to a Department approved Class I landfill or to a landfill approved by the Department for receipt/disposal of screenings and grit. *[62-701.300(1)(a)]*
9. The permittee shall provide adequate notice to the Department of the following:
 - a. Any new introduction of pollutants into the facility from an industrial discharger which would be subject to Chapter 403, F.S., and the requirements of Chapter 62-620, F.A.C. if it were directly discharging those pollutants; and
 - b. Any substantial change in the volume or character of pollutants being introduced into that facility by a source which was identified in the permit application and known to be discharging at the time the permit was issued.

Adequate notice shall include information on the quality and quantity of effluent introduced into the facility and any anticipated impact of the change on the quantity or quality of effluent or reclaimed water to be discharged from the facility.

[62-620.625(2)]

IX. GENERAL CONDITIONS

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit are binding and enforceable pursuant to Chapter 403, Florida Statutes. Any permit noncompliance constitutes a violation of Chapter 403, Florida Statutes, and is grounds for enforcement action, permit termination, permit revocation and reissuance, or permit revision. *[62-620.610(1)]*

FACILITY: South Seas Resort WWTP
PERMITTEE: Aqua Utilities Florida, Inc.
6960 Professional Parkway East, Suite 40
Sarasota, FL 34240

PERMIT NUMBER: FLA014686
PA FILE NUMBER: FLA014686-007-DW2P

2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviations from the approved drawings, exhibits, specifications or conditions of this permit constitutes grounds for revocation and enforcement action by the Department. *[62-620.610(2)]*
3. As provided in Subsection 403.087(6), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor authorize any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit or authorization that may be required for other aspects of the total project which are not addressed in this permit. *[62-620.610(3)]*
4. This permit conveys no title to land or water, does not constitute state recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title. *[62-620.610(4)]*
5. This permit does not relieve the permittee from liability and penalties for harm or injury to human health or welfare, animal or plant life, or property caused by the construction or operation of this permitted source; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department. The permittee shall take all reasonable steps to minimize or prevent any discharge, reuse of reclaimed water, or residuals use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. *[62-620.610(5)]*
6. If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee shall apply for and obtain a new permit. *[62-620.610(6)]*
7. The permittee shall at all times properly operate and maintain the facility and systems of treatment and control, and related appurtenances, that are installed and used by the permittee to achieve compliance with the conditions of this permit. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to maintain or achieve compliance with the conditions of the permit. *[62-620.610(7)]*
8. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. *[62-620.610(8)]*
9. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, including an authorized representative of the Department and authorized EPA personnel, when applicable, upon presentation of credentials or other documents as may be required by law, and at reasonable times, depending upon the nature of the concern being investigated, to:
 - a. Enter upon the permittee's premises where a regulated facility, system, or activity is located or conducted, or where records shall be kept under the conditions of this permit;
 - b. Have access to and copy any records that shall be kept under the conditions of this permit;
 - c. Inspect the facilities, equipment, practices, or operations regulated or required under this permit; and
 - d. Sample or monitor any substances or parameters at any location necessary to assure compliance with this permit or Department rules.*[62-620.610(9)]*
10. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or operation of this permitted source which are submitted to the Department may

FACILITY: South Seas Resort W W I P
PERMITTEE: Aqua Utilities Florida, Inc.
6960 Professional Parkway East, Suite 40
Sarasota, FL 34240

PERMIT NUMBER: FLA014686
PA FILE NUMBER: FLA014686-007-DW2P

be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except as such use is proscribed by Section 403.111, Florida Statutes, or Rule 62-620.302, Florida Administrative Code. Such evidence shall only be used to the extent that it is consistent with the Florida Rules of Civil Procedure and applicable evidentiary rules. *[62-620.610(10)]*

11. When requested by the Department, the permittee shall within a reasonable time provide any information required by law which is needed to determine whether there is cause for revising, revoking and reissuing, or terminating this permit, or to determine compliance with the permit. The permittee shall also provide to the Department upon request copies of records required by this permit to be kept. If the permittee becomes aware of relevant facts that were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be promptly submitted or corrections promptly reported to the Department. *[62-620.610(11)]*
12. Unless specifically stated otherwise in Department rules, the permittee, in accepting this permit, agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 62-302.500, F.A.C., shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard. *[62-620.610(12)]*
13. The permittee, in accepting this permit, agrees to pay the applicable regulatory program and surveillance fee in accordance with Rule 62-4.052, F.A.C. *[62-620.610(13)]*
14. This permit is transferable only upon Department approval in accordance with Rule 62-620.340, F.A.C. The permittee shall be liable for any noncompliance of the permitted activity until the transfer is approved by the Department. *[62-620.610(14)]*
15. The permittee shall give the Department written notice at least 60 days before inactivation or abandonment of a wastewater facility and shall specify what steps will be taken to safeguard public health and safety during and following inactivation or abandonment. *[62-620.610(15)]*
16. The permittee shall apply for a revision to the Department permit in accordance with Rules 62-620.300 and the Department of Environmental Protection Guide to Wastewater Permitting at least 90 days before construction of any planned substantial modifications to the permitted facility is to commence or with Rule 62-620.325(2) for minor modifications to the permitted facility. A revised permit shall be obtained before construction begins except as provided in Rule 62-620.300, F.A.C. *[62-620.610(16)]*
17. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. The permittee shall be responsible for any and all damages which may result from the changes and may be subject to enforcement action by the Department for penalties or revocation of this permit. The notice shall include the following information:
 - a. A description of the anticipated noncompliance;
 - b. The period of the anticipated noncompliance, including dates and times; and
 - c. Steps being taken to prevent future occurrence of the noncompliance.*[62-620.610(17)]*
18. Sampling and monitoring data shall be collected and analyzed in accordance with Rule 62-4.246, Chapters 62-160 and 62-601, F.A.C., and 40 CFR 136, as appropriate.
 - a. Monitoring results shall be reported at the intervals specified elsewhere in this permit and shall be reported on a Discharge Monitoring Report (DMR), DEP Form 62-620.910(10).

FACILITY: South Seas Resort WWTP
PERMITTEE: Aqua Utilities Florida, Inc.
6960 Professional Parkway East, Suite 40
Sarasota, FL 34240

PERMIT NUMBER: FLA014686
PA FILE NUMBER: FLA014686-007-DW2P

- b. If the permittee monitors any contaminant more frequently than required by the permit, using Department approved test procedures, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
- c. Calculations for all limitations which require averaging of measurements shall use an arithmetic mean unless otherwise specified in this permit.
- d. Any laboratory test required by this permit shall be performed by a laboratory that has been certified by the Department of Health (DOH) under Chapter 64E-1, F.A.C., where such certification is required by Rule 62-160.300, F.A.C. The laboratory must be certified for any specific method and analyte combination that is used to comply with this permit. For domestic wastewater facilities, the on-site test procedures specified in Rule 62-160.300(4), F.A.C., shall be performed by a laboratory certified test for those parameters or under the direction of an operator certified under Chapter 62-602, F.A.C.
- e. Field activities including on-site tests and sample collection, whether performed by a laboratory or a certified operator, must follow the applicable procedures described in DEP-SOP-001/01 (January 2002). Alternate field procedures and laboratory methods may be used where they have been approved according to the requirements of Rules 62-160.220, and 62-160.330, F.A.C.

{62-620.610(18)}

19. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule detailed elsewhere in this permit shall be submitted no later than 14 days following each schedule date. *{62-620.610(19)}*
20. The permittee shall report to the Department any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain: a description of the noncompliance and its cause; the period of noncompliance including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
 - a. The following shall be included as information which must be reported within 24 hours under this condition:
 1. Any unanticipated bypass which causes any reclaimed water or effluent to exceed any permit limitation or results in an unpermitted discharge,
 2. Any upset which causes any reclaimed water or the effluent to exceed any limitation in the permit,
 3. Violation of a maximum daily discharge limitation for any of the pollutants specifically listed in the permit for such notice, and
 4. Any unauthorized discharge to surface or ground waters.
 - b. Oral reports as required by this subsection shall be provided as follows:
 1. For unauthorized releases or spills of treated or untreated wastewater reported pursuant to subparagraph a.4 that are in excess of 1,000 gallons per incident, or where information indicates that public health or the environment will be endangered, oral reports shall be provided to the Department by calling the STATE WARNING POINT TOLL FREE NUMBER (800) 320-0519, as soon as practical, but no later than 24 hours from the time the permittee becomes aware of the discharge. The permittee, to the extent known, shall provide the following information to the State Warning Point:
 - a) Name, address, and telephone number of person reporting;

- b) Name, address, and telephone number of permittee or responsible person for the discharge;
 - c) Date and time of the discharge and status of discharge (ongoing or ceased);
 - d) Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater);
 - e) Estimated amount of the discharge;
 - f) Location or address of the discharge;
 - g) Source and cause of the discharge;
 - h) Whether the discharge was contained on-site, and cleanup actions taken to date;
 - i) Description of area affected by the discharge, including name of water body affected, if any; and
 - j) Other persons or agencies contacted.
2. Oral reports, not otherwise required to be provided pursuant to subparagraph b.1 above, shall be provided to the Department within 24 hours from the time the permittee becomes aware of the circumstances.
- c. If the oral report has been received within 24 hours, the noncompliance has been corrected, and the noncompliance did not endanger health or the environment, the Department shall waive the written report.

[62-620.610(20)]

21. The permittee shall report all instances of noncompliance not reported under Permit Conditions IX. 18. and 19. of this permit at the time monitoring reports are submitted. This report shall contain the same information required by Permit Condition IX. 20 of this permit. [62-620.610(21)]

22. Bypass Provisions.

- a. Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless the permittee affirmatively demonstrates that:
 - 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
 - 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - 3. The permittee submitted notices as required under Permit Condition IX. 22. b. of this permit.
- b. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least 10 days before the date of the bypass. The permittee shall submit notice of an unanticipated bypass within 24 hours of learning about the bypass as required in Permit Condition IX. 20. of this permit. A notice shall include a description of the bypass and its cause; the period of the bypass, including exact dates and times; if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.
- c. The Department shall approve an anticipated bypass, after considering its adverse effect, if the permittee demonstrates that it will meet the three conditions listed in Permit Condition IX. 22. a. 1. through 3. of this permit.

FACILITY: South Seas Resort WWTP
PERMITTEE: Aqua Utilities Florida, Inc.
6960 Professional Parkway East, Suite 40
Sarasota, FL 34240

PERMIT NUMBER: FLA014686
PA FILE NUMBER: FLA014686-007-DW2P

- d. A permittee may allow any bypass to occur which does not cause reclaimed water or effluent limitations to be exceeded if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Permit Condition IX. 22. a. through c. of this permit.

[62-620.610(22)]

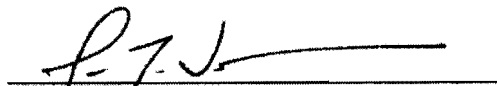
23. Upset Provisions

- a. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed contemporaneous operating logs, or other relevant evidence that:
1. An upset occurred and that the permittee can identify the cause(s) of the upset;
 2. The permitted facility was at the time being properly operated;
 3. The permittee submitted notice of the upset as required in Permit Condition IX. 20. of this permit; and
 4. The permittee complied with any remedial measures required under Permit Condition IX. 5. of this permit.
- b. In any enforcement proceeding, the burden of proof for establishing the occurrence of an upset rests with the permittee.
- c. Before an enforcement proceeding is instituted, no representation made during the Department review of a claim that noncompliance was caused by an upset is final agency action subject to judicial review.

[62-620.610(23)]

Executed in Ft. Myers, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL
PROTECTION



Jon M. Iglehart
Acting Director of
District Management

DATE: June 21, 2005

JMI/CVR/jli

EXHIBIT "B"

THIS SPACE RESERVED FOR RECORDER'S USE ONLY

EFFLUENT AND IRRIGATION AGREEMENT

THIS EFFLUENT AND IRRIGATION AGREEMENT (this "Agreement") is made this __ day of December, 2006, by and among AQUA UTILITIES FLORIDA, INC., a Florida corporation, ("Aqua"), and BRE/SOUTH SEAS RESORT OWNER L.L.C., a Delaware limited liability company ("SSIR"). Aqua and SSIR are referred to individually as a "Party" and collectively as the "Parties".

RECITALS:

- A. SSIR is the owner of certain real property located in Sections 15, 22, and 26, Township 45S, Range 21E, on Captiva Island, in Lee County, Florida legally described on Exhibit "A" (the "SSIR Property").
- B. SSIR is the owner of a privately owned 9-hole golf course (the "Golf Course") on a portion of the SSIR Property. The Golf Course will be, and other areas may be, irrigated by treated wastewater ("Effluent"). The SSIR Property is designated as the "Irrigation Area". SSIR may also use Effluent provided to it under this Agreement to irrigate property owned by others.
- C. Aqua is the owner and operator of a waste water treatment plant ("the WWTP") situated on certain real property adjacent to the SSIR Property and legally described on Exhibit "B" (the "Aqua Property"), and is permitted by and subject to regulation by the State of Florida Department of Environmental Protection ("FDEP"). The WWTP does not include the irrigation pump station or the irrigation lines that run on, over and under the surface of the SSIR Property ("the Irrigation System"), which Irrigation System is owned and operated by SSIR, but the maintenance and operation of that Irrigation System is subject to the permit for the WWTP issued by FDEP to Aqua.
- D. Aqua does not own the Irrigation System and will not operate it except in connection with the exercise of its Self Help Right (defined below) pursuant to Section 3 below.
- E. Aqua will provide Effluent to SSIR, and SSIR will irrigate portions of the Irrigation Area by spraying the Effluent on, over and across the Irrigation Area.

F. The Parties desire to provide covenants which will enable the continued use and operation of the WWTP, the Irrigation System and the Irrigation Area.

NOW, THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

1. Operation of the WWTP and Irrigation System.

- (a) Aqua shall maintain and operate the WWTP in compliance with all applicable regulations of FDEP and all applicable FDEP permits.
- (b) SSIR shall maintain and operate the Irrigation System in compliance with all applicable regulations of FDEP and all applicable FDEP permits.
- (c) Aqua shall cause all FDEP permits to remain in full force and effect, and Aqua shall notify SSIR of any permit requirements related to the operation of the Irrigation System. SSIR will ensure that its personnel comply with such permit requirements of which SSIR has been provided with prior written notice. Aqua shall not alter or amend any FDEP permits in such a manner as may adversely affect the Irrigation System or materially increase the amount of Effluent distributed to the Irrigation System without the prior written consent of SSIR, which consent shall not be unreasonably withheld or delayed.

2. Delivery; Acceptance; Use of Effluent.

- (a) The WWTP is permitted for a maximum capacity of 264,000 gallons per day on an annual average basis (the "Maximum Capacity"). Aqua shall provide, at its sole cost and expense, Effluent from the WWTP, not to exceed the Maximum Capacity and subject to any shortage of available Effluent (provided, Aqua shall not be required to utilize raw water or other water sources to supplement any such shortage), to SSIR.
- (b) SSIR and/or any subsequent owner of the Irrigation Area shall (i) subject to the capacity of the Irrigation System, accept, at its sole cost and expense, all Effluent from the WWTP, not to exceed the Maximum Capacity, and (ii) utilize such Effluent for irrigation purposes on the Irrigation Area, provided the amount and timing of such reuse shall always comply with all applicable FDEP permits.
- (c) To the full extent permitted by law, SSIR and/or any subsequent owner of the Irrigation Area each waive all claims against Aqua for damage to persons or property related to the volume of Effluent sprayed on the Irrigation Area, provided Aqua has complied with the terms and conditions of this Agreement and all FDEP permits.

3. **Self Help Rights.** In the event SSIR refuses to accept all Effluent (not to exceed the Maximum Capacity), or fails to maintain the Irrigation System in the condition required by FDEP, then after written notice from Aqua following any applicable cure period or pursuant to written notice from FDEP (including any applicable cure period) or pursuant to a court order, Aqua shall have the absolute right and the obligation (as may be required by FDEP regulations and permits) to operate, repair, maintain and replace the Irrigation System anywhere in the Irrigation Area in order to reuse Effluent ("**Self Help Right**") subject to the restrictions set forth herein. In connection with any exercise by Aqua of its Self Help Right and for no other purpose, SSIR hereby grants to Aqua a limited license to enter upon the SSIR Property solely for the purpose of, and only to the extent reasonably necessary to, exercise its Self Help Right. If Aqua exercises its Self Help Right hereunder, Aqua shall use reasonable care in maintaining the applicable Irrigation Area and shall restore the same to its prior condition upon completion of any such self-help actions. If SSIR or a subsequent owner of the Irrigation Area refuses to accept and reuse the Effluent or fails to maintain the Irrigation System as required above, after expiration of any applicable notice and cure periods, then such party shall reimburse Aqua for Aqua's reasonable, actual out-of-pocket costs in exercising its Self Help Right, including, without limitation, any resulting handling and disposal costs.

4. **Maintenance: Insurance.**

- (a) SSIR or any subsequent owner of the Irrigation Area agrees that the Irrigation System is owned by SSIR or such subsequent owner. SSIR or such subsequent owner shall operate, maintain, repair and replace (or cause to be operated, maintained, repaired and replaced) the Irrigation System at their sole cost and expense, and in good operating condition, in a manner that complies with all applicable laws, FDEP permits, and FDEP requirements of which they have written notice. Aqua has no obligation to maintain, repair and replace the Irrigation System but may do so if Aqua elects to exercise its Self Help Right pursuant to Section 3.
- (b) SSIR or any subsequent owner(s) of the Irrigation Area, at their sole cost and expense, shall have the right and privilege from time to time to alter, improve, enlarge, add to, reduce, decrease, change the nature and/or physical characteristics of or replace and/or relocate the Irrigation System in, upon, over, under, through, and across the Irrigation Area along with all rights and privileges necessary or convenient for the full benefit and the use thereof for purposes described in this Agreement; provided, however, any such changes to the Irrigation System shall not affect the obligations of SSIR or such subsequent owner(s) of the Irrigation Area under Section 2(b) of this Agreement to accept the Effluent, subject to the Maximum Capacity.
- (c) SSIR or any subsequent owner of the Irrigation Area shall maintain at all times that this Agreement is in effect, at their sole cost and expense,

all-risk insurance in amounts equal to the replacement cost of the Irrigation System.

- (d) Prior to Aqua's entry upon the SSIR Property for any reason, including, without limitation, for the purpose of exercising its Self Help Right, Aqua shall provide to SSIR a certificate of commercial general liability insurance in an amount not less than \$_____ per occurrence, naming SSIR as an additional insured thereunder.
5. **Covenants Run With Land.** All provisions of this Agreement, including the covenants, benefits and burdens, shall run with the Irrigation Area and the Aqua Property and are binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in or to any portion of, or interest or estate in, the Irrigation Area or the Irrigation System, or the Aqua Property, as applicable.
6. **Transfer.** Upon any transfer or conveyance of any portion of the Irrigation Area, the transferor shall be released from any obligations and liability under this Agreement relative to the real estate so transferred or conveyed, and shall not be liable for the actions or inactions of the subsequent owners and operators of the Irrigation Area so transferred or conveyed.
7. **Severability.** If any provision of this Agreement or the application of any provision to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement shall remain unaffected and shall be enforced to the fullest extent permitted by law. In addition, to the extent possible, any such term or provision shall be deemed modified so that the intention of the Parties is maintained to the extent permitted by applicable law.
8. **Binding Effect and Assignability.** The terms of this Agreement shall be binding on SSIR and Aqua and its successors and assigns. Neither Party shall assign, pledge or hypothecate its interests under this Agreement in whole or in part without the prior written consent of the other Party, which consent shall not be unreasonably delayed or withheld. The foregoing, however, shall in no way limit SSIR's right to sell, lease, transfer, assign, mortgage, pledge or otherwise hypothecate its interests in all or any portion of the real property comprising the SSIR Property without the consent of Aqua, including but not limited to: (i) selling the Golf Course, (ii) selling subdivided lots to individual homeowners, or (iii) transferring title in common areas to a homeowners' association.
9. **Contents of Agreement.** This Agreement sets forth all understandings of SSIR and Aqua with respect to the transactions contemplated hereby. This Agreement shall not be amended or modified except by a written instrument that is duly executed by each of SSIR and Aqua. All exhibits, if any, to this Agreement are expressly incorporated herein by this reference thereto. Any and all previous agreements and understandings between SSIR and Aqua regarding the subject matter hereof, whether written or oral, are superseded by this Agreement.

10. **No Easement by Implication: Prevention of Prescriptive Rights.** Neither the execution of this Agreement nor any agreement executed in connection herewith shall be deemed to grant any easement or to establish any easement by implication or prescription.
11. **Counterparts.** This Agreement may be executed simultaneously or in any number of counterparts, each of which shall be deemed an original as to the Party whose signature it bears, but all of which together shall constitute one and the same instrument.
12. **No Public Dedication.** Nothing herein shall be deemed to be a gift or dedication of any portion of the SSIR Property or the Irrigation Area to the general public, or for any public use or purpose whatsoever.
13. **Indemnification.** Aqua shall defend, indemnify and save and hold SSIR harmless from and against any and all liabilities, obligations, losses, damages, suits, actions, fines, penalties, claims, demands, costs and expenses of every kind or nature, including reasonable attorneys' fees and costs (including those incurred pre-trial, post-trial and on appeal), arising directly or indirectly from or out of the following, except to the extent resulting from the gross negligence or willful misconduct of SSIR or SSIR's agents: (i) SSIR's acceptance and use of Effluent provided by Aqua, which Effluent is in violation of or fails to comply with any applicable FDEP permits or any laws, ordinances, requirements, orders, directions, rules or regulations of FDEP or any governmental authority (including, but not limited to, any quality standards which may be established for the Effluent), and (ii) any accident, injury, or damage which shall happen at, in or upon the SSIR Property due to any act or omission of Aqua, its agents, licensees, or contractors in connection with such parties entry upon the SSIR Property for any reason, including, without limitation, for the purpose of exercising Aqua's Self Help Right.
14. **Remedies.** In the event one of the parties has a complaint that the other party is not in compliance with the terms of this Agreement, the complaining party shall provide written notice of such claim to the other party, along with a reasonable period to cure. If such claim is not resolved to the satisfaction of the complaining party, that party may elect (at its own risk and without any waivers attributable against the other party) to commence litigation for breach of contract within a court of competent jurisdiction, subject to the restriction that any and all complaints regarding service or rates shall be filed exclusively with the Florida Public Service Commission. Subject to the foregoing restriction, without limiting any of the remedies otherwise available at law or in equity to SSIR or Aqua as a result of the breach of this Agreement, the parties hereto agree that: (i) this Agreement shall be enforceable in any court of competent jurisdiction by the parties or any successor or assign of the parties; (ii) enforcement may be sought by an appropriate action at law or in equity to secure the performance of the covenants, agreements, conditions and obligations contained herein; (iii) no action taken by any party pursuant to the provisions of this Paragraph 14 or pursuant to

any other section of this Agreement shall constitute an election of remedies, and all remedies set forth in this Agreement, as well as any remedies at law or in equity, shall be cumulative and shall not exclude any other remedy; and (iv) all legal fees incurred by a party in enforcing remedies under this Paragraph 14 or in defending an enforcement action under this Paragraph 14 shall be paid by the non-prevailing party or as otherwise determined by a court of competent jurisdiction. **NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, NO PARTY SHALL BE LIABLE TO ANOTHER PARTY OR ANY OF ITS AFFILIATES, AGENTS, EMPLOYEES OR CONTRACTORS FOR SPECIAL, INDIRECT, EXEMPLARY, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES.**


15. **Term.** Unless agreed otherwise by the parties in writing, this Agreement shall remain in effect so long as all applicable FDEP permits which allow Aqua to operate the WTTP, including any modifications, renewals or extensions thereof, remain in full force and effect. Aqua shall deliver copies of all such FDEP permits and any modifications, renewals or extensions thereof to SSIR.
16. **Florida Law to Govern.** This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of Florida, without giving effect to any conflict of law provisions.
17. **Further Assurances.** Each party shall execute, acknowledge and deliver such other instruments and assurances as the other party hereto may reasonably require to effectuate the terms hereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

AQUA

AQUA UTILITIES FLORIDA, INC.,
a Florida corporation

By: 
Name: John M. Lihvarcik
Title: President & COO

SSIR

BRE/SOUTH SEAS RESORT OWNER L.L.C.,
a Delaware limited liability company

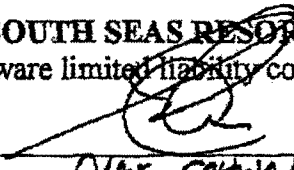
By: 
Name: CHARLES SCHWAB
Title: MANAGING DIRECTOR

EXHIBIT "C"

RATE SCHEDULE: SOUTH SEAS
REUSE SERVICE (RE)

AVAILABILITY: Available throughout the area served by the Company in the South Seas service area of Lee County.

APPLICABILITY: BRE/South Seas Resort Owner, L.L.C. a/k/a South Seas Island Resort ("SSIR")

LIMITATIONS: Subject to all of the Company's Rules and Regulations of this Tariff and General Rules and Regulations of the Commission.

BILLING PERIOD: Monthly

RATE: \$0.00

MINIMUM CHARGE: \$0.00

TERMS OF PAYMENT: Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. After five (5) working days' written notice is mailed to the Customer separate and apart from any other bill, service may then be discontinued.

TYPE OF FILING: Tariff Filing

EFFECTIVE DATE:

Jack Lihvarcik

Chief Operating
Officer