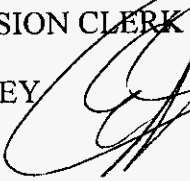


MEMORANDUM

FEBRUARY 26, 2010

RECEIVED-FPSC
10 FEB 26 PM 4:39
COMMISSION
CLERK

TO: ANN COLE, OFFICE OF COMMISSION CLERK
FROM: ERIK SAYLER, SENIOR ATTORNEY
RE: DOCKET NO. 080695-WU



Please place e-mail and the attached documents from the Utility into the docket file.

ELS/th
Attachment

DOCUMENT NUMBER-DATE
01324 FEB 26 2010
FPSC-COMMISSION CLERK

Erik Sayler

From: Marty Deterding [martyd@RSBattorneys.com]
Sent: Wednesday, January 06, 2010 2:08 PM
To: Bob Casey; Erik Sayler; Jennie Lingo; Paul Stallcup
Cc: Anthony Boehk; Bob Nixon; Shockey Gillet Jr
Subject: Peoples Water Service Company of Florida, Inc. - rate structure change
Attachments: PWSCoF-NWFWMD CUP.pdf, FPSC & WMD 1991 Agreement.pdf

Erik

For your information, attached is the Peoples Water Service Company of Florida, Inc's CUP with the requirements concerning requesting & implementation of a conservation rate structure on the last page. The requirements impose a January 2010 filing with the WMD showing we have requested such a structure and a Jan 2011 required implementation. If the Commission or staff can get them to revise this we are good with an across the board increase. Some repression still would need to be recognized even in that case but less than was envisioned with the change in structure.

Also attached is the 1991 agreement with the WMD and PSC where the agencies agreed to promote such structures.

Let me know what the Staff is working on so we do not have a misunderstanding, errors in assumptions or a big argument at the last minute.

When do you plan to issue a revised recommendation ? Jan 14 ?

F. Marshall Deterding, Esquire
 Rose, Sundstrom & Bentley, LLP
 2548 Blainstone Pines Drive
 Tallahassee, Florida 32301

(850) 877-6555 Phone

(850) 656-4029 Fax

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Thank you.

2/26/2010

DOCUMENT NUMBER DATE

01324 FEB 26 0

FPSC-COMMISSION CLERK

MEMORANDUM OF UNDERSTANDING
FLORIDA WATER MANAGEMENT DISTRICTS

RECEIVED

JUL 16 1991

AND

FLORIDA PUBLIC SERVICE COMMISSION

Fla. Public Service Commission
Division of Water and Sewer

This Memorandum of Understanding (MOU) entered into on June 27, 1991, between "the parties" the Northwest Florida Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, the St. Johns River Water Management District and the Suwannee River Water Management District (collectively, the Florida Water Management Districts (FWMDs)) and the Florida Public Service Commission (FPSC).

WITNESSETH THAT

WHEREAS, the FWMDs are agencies of the State of Florida, created by the Florida Legislature and given those powers and responsibilities enumerated in Chapter 373, Florida Statutes; and

WHEREAS, the FWMDs are empowered to enter into contracts with public agencies, private corporations or other persons, pursuant to Section 373.083 Florida Statutes; and

WHEREAS, the parties recognize that it is in the public interest that they engage in a joint goal to ensure the efficient and conservative utilization of water resources in Florida; and

WHEREAS, the parties recognize that a joint cooperative effort is necessary to implement an effective, state-wide water conservation policy;

DOCUMENT NUMBER-DATE

01324 FEB 26 91

FPSC-COMMISSION CLERK

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements hereinafter contained, it is agreed as follows:

1. The common objectives, as they relate to public water systems, are as follows:
 - A. To monitor water systems to assure that safe and reliable water supplies are being maintained in accordance with water use permitting criteria.
 - B. To identify possible water supply alternatives necessary to provide reliable future water supplies.
 - C. To foster conservation and the reduction of withdrawal demand of ground and surface water through, among other measures, employment of conservation promoting rate structures, through maximization of reuse of reclaimed water, and through consumer education programs.
 - D. To assure that system improvement projects necessary to meet water use goals and objectives are selected on the basis of priority and only after reasonable alternatives have been defined and feasibility analyses have been performed to arrive at a cost-effective, environmentally sound solution.
 - E. To effectively employ the technical expertise of

the FWMDs regarding water source development and water resource management and the FPSC expertise in the economic regulation of utilities for the promotion of efficient water consumption in the public interest.

F. To encourage use of reclaimed water and recharge to appropriate aquifers.

G. To cooperatively participate in review and implementation of alternative water source development and FPSC rate case procedures related thereto.

2. The parties agree that their staffs shall abide by the following principles:

A. To the extent their resources permit and to the extent such information is available, FWMDs shall be responsible for evaluating and monitoring water withdrawal rates and for identifying and requiring the various potential improvements necessary to provide proper resource management. The FWMDs will recommend preferred solutions in this regard. The FPSC shall be responsible for making recommendations on the economic, financial and rate making aspects associated with implementing the improvements identified by the FWMDs to provide efficient use of water resources. This may include, but not be limited to, expert witness

testimony.

- B. The staffs of the FWMDs and the FPSC shall endeavor to keep each other fully informed of their respective activities and to assist each agency in carrying out its responsibilities.
- C. The agencies shall exchange pertinent information available regarding water systems that are experiencing water availability problems. This information should include, but not be limited to:
 - 1. Communications with utilities
 - 2. Orders
 - 3. Decisions
 - 4. Regulations and Policies
 - 5. Proposed new water systems
 - 6. Permits
 - 7. Funding assistance
 - 8. Reports and/or investigations
- D. The FPSC will notify the applicable FWMDs of all pertinent requests for certificates, amendments, and rate increases from regulated water systems and shall routinely provide the FWMDs with schedules of FPSC or Division of Administrative Hearings (DOAH) hearings concerning water matters. The FWMDs will provide technical input to the FPSC as necessary and appropriate in the FPSC proceedings. This may include, but not be limited to, testimony from

expert witnesses.

E. Identified system improvements necessary to provide safe and reliable water supplies should consider, but not be limited to:

1. Protection of water sources
2. Short and long term benefits
3. Cost effectiveness
4. Cost to customers

F. The "parties shall endeavor to provide appropriate technical assistance in necessary enforcement actions taken against individual water systems for water conservation and reuse.

3. It is mutually understood that the intent of this MOU is to identify the separate and distinct responsibilities of the FWMDs and the FPSC. The following represents a general description of the roles and responsibilities of each of the respective agencies relating to water and sewer service providers. The "parties" agree to adopt and implement internal policies and procedures necessary to administer its respective duties. The parties recognize that the FPSC's jurisdiction is limited to investor-owned utilities and is effective in some of the counties in Florida. The PSC staff will offer assistance to the extent provided by law and agency workload. These policies and procedures shall be coordinated between the parties.

A. The FWMDs shall be responsible for the following:

1. Evaluation of public water supply needs to

determine reasonable demands and identify future deficiencies.

2. Identification of alternative water sources necessary to meet reasonable demands, including conservation, and recommendation of the preferred solutions.
3. Evaluation of water resource availability.
4. Participation at appropriate FPSC public meetings with customers and at evidentiary hearings where water use planning or permitting matters raised by the FWMDs or any other person are to be discussed.

B. The FPSC shall be responsible for:

1. Provision of feasibility analyses of the financial impacts, if any, of system improvement projects associated with water use planning or permitting requirements on both the customers and the water and wastewater companies.
2. Determination of the type of rate relief needed to recover costs necessary for system improvement projects associated with water use planning or permitting requirements.
3. Arrange for joint public meetings with customers to ensure that customers are made aware of the need for system improvement projects and the potential impacts the projects will have on service rates.
4. Promptly inform the FWMDs of the FPSC public

meetings with customers where water use planning or permitting criteria will be discussed so that the FWMDs may prepare for participation in the process.

5. Participate in appropriate FWMDs evidentiary proceedings where the economic impact of water source alternatives, permit conditions, and rate structure matters are discussed.

6. Provide assistance in review of water conservation rate structures.

4. The FWMDs and the FPSC will designate project managers for their respective agencies when water supply problems exist and an improvement project is deemed necessary by either the FWMDs or the FPSC. The project managers will be the principal contact persons for the "parties" on a particular project.

5. Whenever a potential conflict regarding a specific project is identified, the "parties" will examine the alternative solutions available and then meet to thoroughly discuss the issues involved and attempt to reach an agreement before announcing a position. If an agreement cannot be reached after due deliberations, separate positions may be advocated. Such disagreements, if any, will not obviate this MOU.

6. There should be a complete exchange of information between the FWMDs and the FPSC through the designated project managers. The "parties" shall set forth where and to whom material should be sent. Copies of pertinent correspondence between an agency and other parties concerning a water improvement project

shall be sent to the project manager of each party until project completion.

7. The designated representative of each FWMDs and the Director of the Water and Sewer Divison of the FPSC, with designated members of their staffs, shall meet as necessary, but at least semi-annually, to review progress of the water management programs in Florida and resolve any issues which have been identified by the staffs.

8. This MOU may be amended by mutual agreement of the FWMDs and the FPSC. Any party may terminate its participation in this Memorandum of Understanding by providing 180 days written notice to all other parties.

The parties or their duly authorized representatives hereby execute this agreement on the date first written above.

Approved:

Northwest Florida
Water Management District

By: Walter D. Doren
Executive Director

Date: 7/1/91

Approved:

South Florida
Water Management District

By: Timothy E. Powers
INTERIM Executive Director

Date: 7/6/91

Approved:

Southwest Florida
Water Management District

By: Frank G. Ashburn
Executive Director

Date: 7/2/91

Approved:

St. Johns River
Water Management District

By: Ray Oser
Executive Director

Date: 7/12/91

Approved:

Suwannee River
Water Management District

By: [Signature]
Executive Director

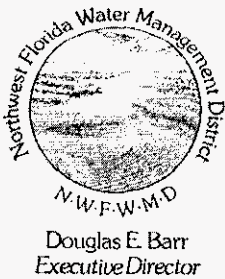
Date: 7/18/91

Approved:

Florida Public Service
Commission

By: David [Signature]
Executive Director

Date: June 27, 1991



Northwest Florida Water Management District

Division of Resource Regulation
152 Water Management Drive, Havana, Florida 32333-4711
(U.S. Highway 90, 10 miles west of Tallahassee)
(850) 539-5999 • (Fax) 539-2777

July 28, 2006

Peoples Water Service Company of Florida
905 Lownde Avenue
Pensacola, FL 32507

NOTICE OF AGENCY ACTION
Individual Water Use Permit No. 19830018
Consumptive Use Permit Application No. I06699

Dear Permittee:

Your Individual Water Use Permit was approved by the Governing Board of the Northwest Florida Water Management District at a public hearing on July 27, 2006. The permit issued is subject to the terms and conditions set forth in the enclosed permit document. As you are legally responsible for compliance with the conditions of the permit please read the document thoroughly. Pay close attention to any condition(s) of the permit which require the one-time or periodic submittal of information to the District. Non-compliance may require the District to initiate enforcement action, including the possible assessment of administrative fines. Please designate an individual as the contact person for compliance. This can be done by sending the person's name, address, phone number and email address in hard-copy to the above address or via email (compliance@nwfwmd.state.fl.us).

If the property where the withdrawal facility is located changes ownership, the permit must be transferred. A permit transfer request must be made on NWFWM Form A2-F (http://www.nwfwmd.state.fl.us/permits/forms/permit_transfer.pdf) and approved by the Executive Director. If the permit is not transferred you may remain responsible for compliance with the conditions of the permit.

If you have any questions concerning the permit document or if the District can be of any other service, please let us know.

Sincerely,

Angela Chelette, Chief
Bureau of Ground Water Regulation
Division of Resource Regulation

Enclosure

cc: Mark Cross

WAYNE BODIE
Chair
DeFuniak Springs

JOYCE ESTES
Vice Chair
Eastpoint

SHARON T. GASKIN
Secretary/Treasurer
Wewahitchka

PETER ANTONACCI
Tallahassee

STEPHANIE H. BLOYD
Panama City Beach

MICHAEL A. JOYNER
Tallahassee

PHILIP K. MCMILLAN
Blountstown

SHARON PINKERTON
Pensacola

GEORGE ROBERTS
Panama City

NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT
INDIVIDUAL WATER USE PERMIT
(NWFWM Form No. A2-E)

Permit granted to: Peoples Water Service Permit No.: 19830018 Renewal/Modification
Company of Florida, Inc. Date Permit Granted: July 27, 2006
905 Lownde Avenue Permit Expires On: August 1, 2011
Pensacola, Florida 32507 Source Classification: Sand-and-Gravel Aquifer
(Legal Name and Address) Use Classification: Public Supply
County: Escambia Area: B Location: Section _____ 1/4 Section _____
Application No.: I06699 Township 2 South Range 30 West

Terms and standard conditions of this Permit are as follows:

1. That all statements in the application and in supporting data are true and accurate and based upon the best information available, and that all conditions set forth herein will be complied with. If any of the statements in the application and in the supporting data are found to be untrue and inaccurate, or if the Permittee fails to comply with all of the conditions set forth herein, then this Permit shall be revoked as provided by Chapter 373.243, Florida Statutes.
2. This Permit is predicated upon the assertion by the Permittee that the use of water applied for and granted is and continues to be a reasonable and beneficial use as defined in Section 373.019(4), Florida Statutes, is and continues to be consistent with the public interest, and will not interfere with any legal use of water existing on the date this Permit is granted.
3. This Permit is conditioned on the Permittee having obtained or obtaining all other necessary permit(s) to construct, operate and certify withdrawal facilities and the operation of water system.
4. This Permit is issued to the Permittee contingent upon continued ownership, lease or other present control of property rights in underlying, overlying, or adjacent lands. This Permit may be assigned to a subsequent owner as provided by Chapter 40A-2.351, Florida Administrative Code, and the acceptance by the transferee of all terms and conditions of the Permit.

5. This Permit authorizes the Permittee to make a combined average annual withdrawal of **2,890,000** gallons of water per day, a maximum combined withdrawal of **4,820,000** gallons during a single day, and a combined monthly withdrawal of **100,000,000** gallons. Withdrawals for the individual facilities are authorized as shown in the table below in paragraph six. However, the total combined amount of water withdrawn by all facilities listed in paragraph six shall not exceed the amounts identified above.

6. Individual Withdrawal Facility Authorization

WITHDRAWAL POINT ID NO.	LOCATION SEC.TWN,RNG	GALLONS/DAY AVERAGE	GALLONS/DAY MAXIMUM
AAA6417 (PWS #3A)	Sec. 50, T2S, R30W		1,440,000
AAA6413 (PWS #4A)	Sec. 51, T2S, R30W		1,440,000
AAA6415 (PWS #5)	Sec. 37, T2S, R30W		1,440,000
AAA6416 (PWS #8)	Sec. 37, T2S, R30W		1,036,800
AAA6414 (PWS #9)	Sec. 50, T2S, R30W		1,440,000

7. The use of the permitted water withdrawal is restricted to the use classification set forth by the Permit. Any change in the use of said water shall require a modification of this Permit.
8. The District's staff, upon proper identification, will have permission to enter, inspect and observe permitted and related facilities in order to determine compliance with the approved plans, specifications and conditions of this Permit.
9. The District's staff, upon providing prior notice and proper identification, may request permission to collect water samples for analysis, measure static and/or pumping water levels and collect any other information deemed necessary to protect the water resources of the area.
10. The District reserves the right, at a future date, to require the Permittee to submit pumpage records for any or all withdrawal point(s) covered by this Permit.
11. Permittee shall mitigate any significant adverse impact caused by withdrawals permitted herein on the resource and legal water withdrawals and uses, and on adjacent land use, which existed at the time of permit application. The District reserves the right to curtail permitted withdrawal rates if the withdrawal causes significant adverse impact on the resource and legal uses of water, or adjacent land use, which existed at the time of permit application.
12. Permittee shall not cause significant saline water intrusion or increased chloride levels. The District reserves the right to curtail permitted withdrawal rates if withdrawals cause significant saline water intrusion or increased chloride levels.

13. The District, pursuant to Section 373.042, Florida Statutes, at a future date, may establish minimum and/or management water levels in the aquifer, aquifers, or surface water hydrologically associated with the permitted withdrawals; these water levels may require the Permittee to limit withdrawal from these water sources at times when water levels are below established levels.
14. Nothing in this Permit should be construed to limit the authority of the Northwest Florida Water Management District to declare water shortages and issue orders pursuant to Section 373.175, Florida Statutes, or to formulate and implement a plan during periods of water shortage pursuant to Section 373.246, Florida Statutes, or to declare Water Resource Caution Areas pursuant to Chapters 40A-2.801, and 62-40.41, Florida Administrative Code.
 - (a) In the event of a declared water shortage, water withdrawal reductions shall be made as ordered by the District.
 - (b) In the event of a declared water shortage or an area as a Water Resource Caution Area, the District may alter, modify or inactivate all or parts of this permit.
15. The Permittee shall properly plug and abandon any well determined unsuitable for its intended use, not properly operated and maintained, or removed from service. The well(s) shall be plugged and abandoned to District Standards in accordance with Section 40A-3.531, Florida Administrative Code.
16. Any Specific Permit Condition(s) enumerated in Attachment A are herein made a part of this Permit.



Authorized Signature
Northwest Florida Water Management District

ATTACHMENT A
Peoples Water Service Company of Florida, Inc.

Individual Water Use Permit No. 19830018
Individual Water Use Application No. I06699

1. The Permittee shall include the IWUP number and shall reference each well by its Florida Unique Identification Number (e.g., AAA###) on all submittals when corresponding with the District.
2. The Permittee shall report to the District the following information:
 - a. The data required on Water Use Summary Reporting Form NFWFMD A2-I for the preceding year. Information representing a given year shall be submitted by January 31 of the following year.
 - b. An accounting of the amount of water withdrawn from the wells and the actual amount of water accounted for through the billing system. An estimate of the unaccounted for water by suspected cause shall also be provided (e.g., leaks, line breaks, inaccurate meters, unmetered users, line flushing, etc.). Information representing a given year shall be submitted by January 31 of the following year.
 - c. Static water level data collected during the first two weeks of each month from all production wells. The Permittee shall use a District-approved method and shall not withdraw water from the wells for as long as possible (preferably 24 hours or more) prior to measuring the water level. All measurements shall be taken from the same measuring point. If the measuring point elevation is different from land surface, the Permittee shall provide the difference between these two elevations. All measurements shall reflect the depth to water from land surface elevation. Data representing the months of January through June of a given year shall be submitted by July 31 of the same year, and data representing the months of July through December of a given year shall be submitted by January 31 of the following year.
 - d. Analysis results of water quality samples collected during the first two weeks of January and July of each year from each production well. The water quality analyses shall test for the following chemical concentrations: chloride, sodium, and total dissolved solids. Prior to sampling, the Permittee shall purge at least three well volumes from each well and shall report, with each set of test results, the duration of purging, purge volume, and purge rates used. Data from the January sampling shall be submitted by February 28 and data from the July sampling shall be submitted by August 31 of each year.
 - e. The Permittee, by January 31 of each year, shall submit to the District a copy of its most current rate structure.

The Permittee, if preferred, may submit these reports electronically by e-mailing it to compliance@nwfwmf.state.fl.us.

3. The Permittee shall pursue the implementation of a rate structure that promotes water use efficiency and conservation while providing for a life-line initial rate and taking into consideration the water use characteristics of the service area. The Permittee, by January 31, 2010, shall submit to the District the conservation oriented rate structure being considered, a copy of the most current rate proposal and a schedule for rate proceedings with the Public Service Commission. The Permittee shall further provide analysis and projection of the amount of water projected to be conserved by the adoption of such a rate structure.
4. The Permittee, by January 31, 2011, shall fully implement a water conservation oriented rate structure and report the revised rate structure to the District.
5. The Permittee shall maintain water losses and unaccounted for supplies to less than ten percent of the water withdrawn (amount withdrawn verses amount delivered). This can be accomplished by identifying and implementing efficiency and water conservation measures, identifying leaks, identifying inaccurate flow meters, determining accurate per capita demand, quantifying water used for flushing and fire department training, and verifying treatment losses.
6. The Permittee, by December 31, 2010, shall submit a Water Resource Master Plan for meeting the needs of its service area through the year 2020. The plan shall provide for the projected needs of the service area, the protection of the resource, and the implementation of comprehensive water conservation and efficiency measures. The Plan shall specifically identify the anticipated impacts to the water resources and nearby legal users from any expanded use of the Sand-and-Gravel Aquifer and the steps to be undertaken to minimize the anticipated impacts.
7. The Permittee shall continue to consider the interconnection of its water system with that of the Escambia County Utility Authority (ECUA). The Permittee, at the time of permit renewal or modification, shall report its progress to effect such an interconnection.
8. The Permittee, by January 31, 2011, shall provide the District an inventory of facilities using more than 100,000 gallons per day of ground water for non-potable uses within their service area. The Permittee shall include a description of the type(s) of non-potable use and an estimate of the amount of water used at each facility.
9. The Permittee shall mitigate any unexpected impacts attributable to the Utility's withdrawals which interfere with any presently existing legal users of water. In the event of such an occurrence, the Utility shall provide a service connection to the impacted user or otherwise mitigate the impact.