

Marguerite McLean

100065-50

From: Wilson-Kevin [Wilson-Kevin@MonroeCounty-FL.Gov]
Sent: Wednesday, September 22, 2010 2:59 PM
To: Filings@psc.state.fl.us
Cc: Hutton-Suzanne; Reynolds-Jim; Murphy-Sylvia; Hanson-Donna
Subject: Monroe County Objection to Application by Venture Out to operate a utility
Attachments: 2010-09-22 PSC filing.pdf

Please see attached from Monroe County Mayor Murphy
kevinw

Kevin G. Wilson, P.E.
 Monroe County Engineering & Project Management Dept
 Murray E. Nelson Government & Cultural Center
 102050 Overseas Highway, Room 214
 Key Largo, FL 33037
 (305) 453-8797 phone
 (305) 797-1547 cell
 (305) 453-8798 fax-Key Largo
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wilson-kevin@monroecounty-fl.gov

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Please note: Florida has a very broad public records law. Most written communications to or from the County regarding County business are public record, available to the public and media upon request. Your e-mail communication may be subject to public disclosure.

DOCUMENT NUMBER DATE

07948 SEP 22 2010

FPSC-COMMUNICATIONS

9/22/2010



BOARD OF COUNTY COMMISSIONERS
 Mayor Sylvia J. Murphy, District 5
 Mayor Pro Tem Heather Carruthers, District 3
 Kim Wigington, District 1
 George Neugent, District 2
 Mario Di Gennaro, District 4

Mayor Sylvia J Murphy
 Nelson Govt. & Cultural Ctr., Ste. 234
 102050 Overseas Highway
 Key Largo, FL 33037
 Phone 305-453-8787
 Cell 305-797-0088
 Email: boccdis5@monroecounty-fl.gov



September 20, 2010

Office of Commission Clerk
 Florida Public Service Commission
 2540 Shumard Oak Boulevard
 Tallahassee, FL 32399-0850

via Facsimile: 1-800-511-0809
 and Certified Mail

RE: VENTURE OUT AT CUDJOE CAY, INC.
 Application to Operate Wastewater Utility

Dear Public Service Commissioners:

The Board of County Commissioners of Monroe County, Florida, has received notice of an application of VENTURE OUT AT CUDJOE CAY, INC. to operate a wastewater utility. This matter was considered by the Board at a public meeting on September 15, 2010, and, by majority vote of the Board, it has been approved for the mayor to send this letter of objection due to the comprehensive state legislation governing the provision of wastewater treatment in the Florida Keys.

Monroe County objects to the application of VENTURE OUT AT CUDJOE CAY, INC. to operate a wastewater utility that provides service to an area of Monroe County as specified in the Legal Notice attached hereto as Exhibit 1. The basis for the objection is that operation of a new wastewater utility is not consistent with existing law governing wastewater in the Florida Keys. More specifically, it is not consistent with the following:

- a) Chapter 2010-205, Laws of Florida, more particularly sections 38 and 39 thereof, codified at FS 403.086(10);
- b) Monroe County Sanitary Master Wastewater Plan, dated June 2000, as designated in section 38 of Ch. 2010-205;
- c) Chapter 99-395, Laws of Florida, section (4), as provided in §403.086(10)(l), as set forth in Ch. 2010-205, Laws of Florida, section 38;
- d) Chapter 98-519, Laws of Florida, section 6, revising Chapter 76-441, Laws of Florida, by adding subsection (9)(p) to section 9 thereof, as subsequently amended by Chapter 2002-337, Laws of Florida.
- e) Section 381.0065, Florida Statutes;
- e) Florida Administrative Code 28-20.110;
- f) Monroe County Ordinance No.4-2000.

The state has established that the Florida Keys Aqueduct Authority (Authority) shall have "exclusive jurisdiction over the administration, maintenance, development, and provision of wastewater system services in Monroe County, with the exception of the City of Key West, the City of Key Colony Beach,

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 FPSC - COMMISSION CLERK

the City of Layton, and Islamorada, Village of Islands, unless such incorporated areas shall choose to grant the Authority such jurisdiction, and the Authority's wastewater system authorized hereunder shall be the exclusive provider of wastewater system services..." Ch. 76-441, Laws of Florida, as amended by Ch. 98-519, Laws of Florida. Further amendment extracted the Key Largo area for which the state created an independent special district. Ch. 2002-337, Laws of Florida.

The state, through the above-referenced session laws and administrative rule, requires the County to comply with the 2000 Monroe County Sanitary Master Wastewater Plan, which identifies the area for which Venture Out is requesting authority to operate a wastewater utility as being within a central wastewater system to be operated by the Florida Keys Aqueduct Authority. Monroe County is obligated under the various laws to assist, primarily through funding, the Authority in constructing the treatment plants and installing collection systems. Furthermore, the state requires onsite treatment and disposal systems (OSTDS) to be connected to a central system within 365 days of availability, FS 381.065, and the County is authorized to require connection within 30 days of availability, for *both* OSTDS and package treatment plants, the latter of which Venture Out at Cudjoe Cay, Inc. currently has permitted by DEP. Ch. 99-395, Laws of Florida, section 4, and section 403.086(10)(l), F.S. More particularly, section (4) of Ch. 99-395, Laws of Florida, reads:

"Notwithstanding any provision of chapter 380, part I, to the contrary, a local government within the Florida Keys area of critical state concern may enact an ordinance that:

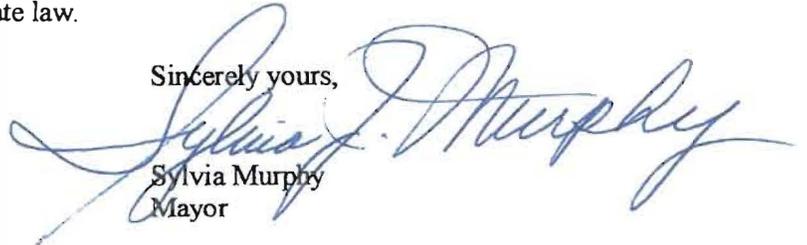
- (1) Requires connection to a central sewerage system within 30 days of notice of availability of services; and
- (2) Provides a definition of onsite sewage treatment and disposal systems that does not exclude package sewage treatment facilities if such facilities are in full compliance with all regulatory requirements and treat sewage to advanced wastewater treatment standards or utilize effluent reuse as their primary method of effluent disposal."

Accordingly, under the existing laws of the State of Florida, the area proposed by VENTURE OUT AT CUDJOE CAY, INC. to operate a wastewater utility and provide service is required to be included in a government central wastewater system, to which the subdivision will be required by existing laws to connect.

Language in § 403.086(10)(g), FS, makes it clear the state intends for existing treatment plants that are in the county-wide Wastewater Master Plan for central sewer to connect to a public utility where it provides that: "Wastewater operating permits issued pursuant to this chapter and in effect for these facilities as of June 30, 2010, are extended until December 31, 2015, or until the facility is connected to a *local government central wastewater system* [emphasis added]...."

Unless and until such time as the state enacts laws to change the existing mandates, the establishment of a new wastewater utility would be contrary to state law.

Sincerely yours,



Sylvia Murphy
Mayor

cc:
Venture Out at Cudjoe Cay, Inc.
701 Spanish Main Drive
Cudjoe Key, FL 33042 via certified mail

Monroe County Commissioners
Jim Reynolds, FKAA

RECEIVED

AUG 31 2010

APPLICATION FOR ORIGINAL CERTIFICATE OF EXECUTIVE DEPARTMENT
FOR A WASTEWATER UTILITY IN EXISTENCE AND CHARGING RATES

LEGAL NOTICE

Notice is hereby given on August 27th, 2010, pursuant to Section 367.045, Florida Statutes, of the application of VENTURE OUT AT CUDJOE CAY, INC. to operate a wastewater utility that provides service to the following described territory in MONROE County, Florida as follows:

COMMENCING at the NW corner of Section 34, Township 66 South, Range 28 East as shown on page 2 of 2 of Plat Book 5, Page 107 of Public records of Monroe County, Florida;
Thence South and along the west line of the said section 34 for a distance of 1200.0' feet to a point;
Thence East for a distance of 25' feet to a point, said point being the SW corner of Lot 19, Block 8 of said Cudjoe Ocean Shores and the POINT OF BEGINNING;
thence East for a distance 50' feet to a point;
thence South for a distance 25' feet to a point;
thence East for a distance of 749.34' feet to a point;
thence South 00 degrees 11 minutes 28 seconds West for a distance of 400.84 feet to a point;
thence South 09 degrees 05 minutes 25 seconds East for a distance of 708.90 feet to a point;
thence South 04 degrees 17 minutes 21 seconds West for a distance of 401.12 feet to a point;
thence South 06 degrees 05 minutes 19 seconds West for a distance of 1206.81 feet to a point;
thence South 16 degrees 26 minutes 10 seconds West for a distance of 625.56 feet to a point;
thence South 52 degrees 19 minutes 33 seconds West for a distance of 726.47 feet to a point;
thence North for a distance of 3769.83' feet back to the POINT OF BEGINNING,
containing 63.87 acres, more or less.

Any objection to the said application must be made in writing and filed with the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within thirty (30) days from the date of this notice. At the same time, a copy of said objection should be mailed to the applicant whose address is set forth below. The objection must state the grounds for the objection with particularity.

VENTURE OUT AT CUDJOE CAY, INC.
701 Spanish Main Drive
Cudjoe Key, FL. 33042

DOCUMENT NUMBER 081

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Office of Clerk; FL Public Service Comm
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or PO Box No. 2540 SHUMARD OAK BLVD
City, State ZIP+4
TALLAHASSEE, FL 32399-0850

PS Form 3800, August 2009

See Reverse for Instructions

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Sent to
VENTURE OUT AT CUDJOE CAY, INC.
 Street, Apt. No.
 or PO Box No. **701 SPANISH MAN DRIVE**
 City, State, ZIP+4®
Cudjoe Key, FL 33042