

Diamond Williams

100439-WS

From: Lisa Cline [LCline@deanmead.com] on behalf of Lee Chotas [EChotas@deanmead.com]
Sent: Friday, February 18, 2011 9:44 AM
To: Filings@psc.state.fl.us
Cc: Ann Cole; Marguerite McLean
Subject: DOCKET 100439-WS
Attachments: LETTER TO ANN COLE 2-16 (O0581991).PDF

Please place the attached letter on Docket No. 100439-WS. Please let us know if you need any further information.

	<p>Elias N. Chotas Board Certified Real Estate Lawyer 407-428-5132 EChotas@deanmead.com</p>
<p>Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A. 800 North Magnolia Avenue, Suite 1500 Orlando, Florida 32803 407-841-1200 · Fax 407-423-1831 www.deanmead.com</p>	
<p>Orlando Fort Pierce Viera Gainesville</p>	

PRIVILEGED INFORMATION DISCLAIMER: This email is intended solely for the use of the individual to whom it is addressed and may contain information that is privileged, confidential or otherwise exempt from disclosure under applicable law. If the reader of this email is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please delete this email, destroy any hard copies thereof, and notify us immediately by telephone. Thank you.

REGULATORY DISCLAIMER: As required by United States Treasury Regulations, please be aware that this communication is not intended or written by the sender to be used, and it cannot be used, by any recipient for the purpose of (1) avoiding penalties that may be imposed on the recipient under United States Federal Tax Laws, or (2) promoting, marketing or recommending to another party any plan or arrangement addressed herein.

Think Green! Please consider our environment before printing this e-mail.

DOCUMENT NUMBER-DATE
01103 FEB 18 =
FPSC-COMMISSION CLERK

2/18/2011



Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A.

800 North Magnolia Avenue, Suite 1500
P.O. Box 2346 (ZIP 32802-2346)
Orlando, Florida 32803

407-841-1200
407-423-1831 Fax
www.deanmead.com

Attorneys and Counselors at Law

Orlando
Fort Pierce
Viera
Gainesville

ELIAS N. CHOTAS
407-428-5132
echotas@deanmead.com

February 16, 2011

BY U.S. MAIL & E-MAIL

acole@psc.state.fl.us

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

Re: Docket No. 100439-WS / Application for Approval of Revised Service
Availability Policy and Charges by Rainbow Springs Utilities, L.C. / Information
Requested by Staff on Conference Call of January 31, 2011

Dear Ms. Cole:

The purpose of this letter is to re-send my letter to your office of even date in which the enclosure was inadvertently omitted. We apologize for the oversight.

Sincerely,

Elias N. Chotas

Elias N. Chotas

ENC:lc

Enclosure

cc: F. Marshall Deterding, Esq.
Rose, Sundstrom & Bentley (via e-mail w/encl.)

DOCUMENT NUMBER-DATE

01103 FEB 18 =

FPSC-COMMISSION CLERK



Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A.
800 North Magnolia Avenue, Suite 1500
P.O. Box 2346 (ZIP 32802-2346)
Orlando, Florida 32803

407-841-1200
407-423-1831 Fax
www.deanmead.com

Attorneys and Counselors at Law
Orlando
Fort Pierce
Viera
Gainesville

ELIAS N. CHOTAS
407-428-5132
echotas@deanmead.com

February 16, 2011

BY U.S. MAIL & E-MAIL

acole@psc.state.fl.us

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

Re: Docket No. 100439-WS / Application for Approval of Revised Service
Availability Policy and Charges by Rainbow Springs Utilities, L.C. / Information
Requested by Staff on Conference Call of January 31, 2011

Dear Ms. Cole:

Pursuant to the request of Staff at the conference call on January 31, 2011, this firm, as counsel for Intervenor, CCW of Marion County, LLC ("CCW"), conferred by telephone with Marty Deterding of Rose, Sundstrom & Bentley representing Rainbow Springs Utilities, L.C. (the "Utility"). On behalf of CCW of Marion County, LLC, we reiterated our offer to sell the approximately 24-acre parcel of land to the Utility for \$10,000.00 an acre which offer was declined. It was determined by the Utility that it would not be a wise expenditure even as a gift for such land to be acquired for a sprayfield that would have limited utility to handle only 200 ERU of capacity.

CCW also furnished to Mr. Deterding a letter notice (copy enclosed) that it does not anticipate any use for its acreage parcels for any water or sewer services at least for the next 12 years. This advice directly contradicts advice previously delivered to Mr. Deterding by Rainbow Springs Limited ("RSL"), the prior owner. Further, we questioned the requirement for water and sewer services arising from either Juliette Falls (the Vikings, LLC, Development Agreement) or property sold by RSL to Rainbow IV Partners, RLLP, and Rainbow IV Investments, RLLP, including Tracts F and H, and the commercial properties along U.S. Hwy. 41.

DOCUMENT NUMBER-DATE

01103 FEB 18 =

A Member of ALFA International - The Global Legal Network

FPSC-COMMISSION CLERK

Ms. Ann Cole
Office of Commission Clerk
February 16, 2011
Page 2

We concur with the decision of the Utility not to consider demand more than 8 years in the future as speculative. The current absorption rate indicates no additional facilities will be required within 8 years. When and if additional capacity needs to be planned for, it is respectfully suggested that lower cost alternatives (even including reuse) could be designed and implemented utilizing the existing golf courses in the vicinity rather than speculative future golf courses that may never be developed in this market.

Sincerely,

Elias N. Chotas

Elias N. Chotas

ENC:lc

Enclosure

cc: F. Marshall Deterding, Esq.
Rose, Sundstrom & Bentley (via e-mail w/encl.)



Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A.
800 North Magnolia Avenue, Suite 1500
P.O. Box 2346 (ZIP 32802-2346)
Orlando, Florida 32803

407-841-1200
407-423-1831 Fax
www.deanmead.com

Attorneys and Counselors at Law
Orlando
Fort Pierce
Viera
Gainesville
ELIAS N. CHOTAS
407-428-5132
echotas@deanmead.com

February 16, 2011

VIA E-MAIL martyd@rsbattorneys.com

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

Re: Rainbow Springs Utilities, L.C. / Your File No. 29030.01

Dear Mr Deterding:

Rainbow Springs Utilities was notified by letter dated May 7, 2010, that properties encumbered by the Covenant and Agreement to Provide Utility Service between Rainbow Springs Utilities, L.C. and Rainbow Springs Limited had been conveyed by Rainbow Springs Limited to CCW of Marion County, LLC. A copy of the notice of such transfer during May of 2010 is enclosed, which notice was one of the closing documents at the time of the closing.

Please be advised that that the absorption of CCW of Marion County, LLC's lots is extremely slow (there were no sales of new homes by CCW of Marion County, LLC during calendar year 2010 and no construction occurred on its lots). Even anticipating a resurgence of sales, the market indicates that there would be no need for additional lots to be platted before 2025 at the earliest. Therefore, the projected lots to be developed on Tracts 11 and 12 (14 lots), Tract A (100 lots), Tract E (50 lots), Rainbow's End Golf Club Redevelopment (99 lots), and Tract 8 (12 lots), will not occur during any reasonable planning horizon in excess of 10 years. Indeed, to our knowledge, only one additional unit within the service territory of Rainbow Springs Utilities came on line during calendar year 2010. Accordingly, we would respectfully request that you delete line items 12, 14, 15, 16 and 20 from Schedule 15 indicating a schedule of future ERC connections. (Line item no. 20 designated RBS 99 lots was a projection that the 9-hole golf course called Rainbow's End was converted to residential use. This course has been sold and the new owners have no plans to convert its use.)

Further, we would urge that you conform Schedule 15 to reality by deleting all of the 2010 anticipated 143 single family connections save one and dramatically reduce the projected absorption of the remaining connections which we currently anticipate will not occur until after

F Marshall Deterding, Esq.
February 16, 2011
Page 2

2020. If there are ten closings per year in all of the platted lots of CCW properties, we would consider it a successful year. Tracts F and H, west of U.S. Hwy 41 identified on lines 17 and 18 and upon whose golf course you anticipate disposing of wastewater effluent, are currently being marketed in bulk. It is anticipated that the governmental entitlements will expire without utilization. At the time of the hearing, we anticipate that witnesses from Juliette Falls will opine as to a reduced absorption rate. Please reconsider the proposed method of capacity expansion so that it addresses realistic demand over a reasonable timeline and at a reasonable cost.

Sincerely,

Elias N. Chotas

Elias N. Chotas

ENC:lc
Enclosure

NOTICE

Rainbow Springs Utilities, L.C
c/o Chase Ventures, Inc.
One Commercial Plaza
Hartford, Connecticut 06103
Attn: Cheryl Chase Freedman

Re: Covenant and Agreement to Provide Utility Services between Rainbow Springs Utilities, L.C. (the "Utility"), in favor of Rainbow Springs Limited (the "Owner") and Ranger (the "Lender") dated November 22, 1995 (the "Agreement")

Dear Ms. Freedman:

Please note that we have transferred the property described in Exhibit "A", attached hereto, to CCW OF MARION COUNTY, LLC, a Florida limited liability company, as of May 7, 2010. We have assigned the Agreement to CCW OF MARION COUNTY, LLC Effective immediately, the address for all future notices to "Owner" is as follows:

CCW of Marion County, LLC
Attn: Thomas J Cleary
P.O. Box 560462
Orlando, Florida 32856
Telephone: (407) 418-2470
Telecopy: (407) 418-2490

Sincerely,

RAINBOW SPRINGS LIMITED, a Florida limited partnership

By: RAINBOW FLORIDA, LLC, a Florida limited liability company, as its sole general partner

By: 
Thomas A. Clarke, Vice President

EXHIBIT "A"

Lots 7, 8 and 16, Block 128, Rainbow Springs, according to the plat thereof recorded in Plat Book P, pages 10 through 29, public records of Marion County, Florida.

ALSO

Lots 30, 31 and 32, Block 99, Rainbow Springs First Replat, according to the plat thereof recorded in Plat Book R, pages 41 through 45, public records of Marion County, Florida.

ALSO

Lots 88, 89, 90 and 93, Block 134, Lot 3, Block 139; Lot 1, Block 143; and Tracts D and E, Rainbow Springs Fourth Replat, according to the plat thereof recorded in Plat Book S, pages 54 through 74, public records of Marion County, Florida.

ALSO

Lot 6, Block 158, Lots 14, 16 and 20, Block 162; Lots 24 and 25, Block 166; Lots 2, 6, 39, 50, 57, 61, 68, 69, 70, 73, 75, 76, 91, 126, 137 and 138, Block 167; Lot 25, Block 168, Lot 5, block 174, Lots 15 and 27, Block 175, Lot 1, Block 177; Lots 13, 17 and 18, Block 178; Lots 8, 9, 11, 13 and 16, Block 179; Lots 4, 8 and 15, Block 181, and Lot 25, Block 184, Rainbow Springs Fifth Replat, according to the plat thereof recorded in Plat Book T, pages 46 through 59, public records of Marion County, Florida.

ALSO

Lots 10 and 11, Block K, Rainbow Springs Country Club Estates, according to the plat thereof recorded in Plat Book S, pages 106 through 116, public records of Marion County, Florida.

ALSO

Lots 1 and 3, St. Andrews, according to the plat thereof recorded in Plat Book 10, pages 11, 12 and 13, public records of Marion County, Florida.

ALSO

Lots 2, 3, 4, 5, 7, 8, 11, 13, 18, 19, 22, 23, 24, 27, 31, 47, 70, 79, 83 and 84, Grand Park, according to the plat thereof recorded in Plat Book 7, pages 96 through 101, public records of Marion County, Florida.

ALSO

Lots 1, 3, 4, 6, 8, 9, 10, 11, 13, 17, 18, 19, 20, 21, 22, 23, 25, 26, 28, 30, 31, 41, 43, 47, 48, 49, 50, 51, 52, 53, 54, 56, 57, 58, 59, 60, 61, 62, 63, 66, 68, 69, 70, 72, 73, 74, 75, 76, 78, 79, 83, 84, 85, 87, 88, 89, 90, 92, 93, 94, 95, 96, 97, 99, 100, 102, 103, 104, 105, 106, 107, 109, 110, 111, 112, 115, 116, 117, 118, 119, 120, 121, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 149, 150, 151, 152, 153, 154, 155, 157, 158, 159, 160, 161, 162, 163, 165, 166, 167, 168, 169, 170, 172, 173, 174, 175, 176 and 177, Grand Park North, according to the plat thereof recorded in Plat Book 9, pages 71 through 78, public records of Marion County, Florida.

ALSO

Lot 34, Fairway Estates, according to the plat thereof recorded in Plat Book 3, pages 129 and 130, public records of Marion County, Florida.

ALSO

TRACT FD-1 ("SPRAYFIELD EXPANSION PARCEL"):

A parcel of land being a portion of Tract "E" of Rainbow Springs, as recorded in Plat Book "P", Pages 10 through 29, of the Public Records of Marion County, Florida, lying in Section 24, Township 16 South, Range 18 East, and being more particularly described as follows:

Beginning at the Northwest corner of Parcel 1 of the lands described in Official Records Book 2135, Page 1662, of said Public Records (hereinafter referred to as Deed); thence South $01^{\circ}11'15''$ West (South $00^{\circ}51'13''$ West, per Deed), along the West line of said Parcel, 1791.10 feet (1788.88 feet, per Deed), to the Southwest corner of said parcel and the Southerly line of Tract "E" of aforementioned Rainbow Springs (hereinafter referred to as Plat); thence North $89^{\circ}00'06''$ West (North $89^{\circ}08'47''$ West, per plat), along said Southerly line, 502.04 feet (506.48 feet remainder dimension per plat), to a corner of said Tract "E"; thence North $01^{\circ}07'45''$ West (North $01^{\circ}19'10''$ West, per plat), along a Westerly line of said Tract "E", 662.69 feet (663.24 feet, per plat), to a corner of said Tract "E"; thence North $88^{\circ}56'27''$ West (North $89^{\circ}10'14''$ West, per plat), along a Southerly line of said Tract "E", 100.00 feet; thence North $01^{\circ}11'15''$ East, parallel with the aforementioned West line of Parcel 1, 1092.56 feet; thence North $26^{\circ}14'07''$ East 77.73 feet, to a point on the Northerly line of Tract "E" and the Southerly line of Tract "A" of Rainbow Springs Fifth Replat, as recorded in Plat Book "T", Pages 46 through 59, of said public records, said point lying South $85^{\circ}43'28''$ East (South $85^{\circ}56'12''$ East, per plat), 229.95 feet, of the Southwest corner of said Tract "A"; thence South $85^{\circ}43'28''$ East (South $85^{\circ}56'12''$ East, per plats), along said Northerly and Southerly line, 596.78 feet, to the Point of Beginning.

ALSO:

TRACT FD-2 ("TRACT A"):

Tract "A" of Rainbow Springs Fifth Replat, as recorded in Plat Book "T", Pages 46 through 59, of the Public Records of Marion County, Florida:

ALSO:

TRACT FD-3 ("TRACT 11"):

Tract 11 and a parcel of land being a portion of Tract "8" of Rainbow Springs Country Club Estates, as recorded in Plat Book "S", Pages 106 through 116, of the Public Records of Marion County, Florida, said parcel lying in Section 12, Township 16 South, Range 18 East, and being more particularly described as follows:

Beginning at the Southwest corner of said Tract "11"; thence South $84^{\circ}14'49''$ East, along the Southerly line of said Tract "11", 755.32 feet, to the Southernmost corner of said Tract; thence North $88^{\circ}29'09''$ West, 749.58 feet, to a point that lies 55.95 feet South of the aforementioned Southwest corner of Tract "11" (as measured along the Southerly projection of the West line of said Tract "11"); thence North $79^{\circ}56'03''$ West, 306.91 feet, to a North line of said Tract "8" and the South line of the drainage retention area immediately West of aforementioned Tract "11"; thence North $89^{\circ}34'03''$ East, along said North tract line and South drainage retention area line, 300.00 feet, to the Point of Beginning.

ALSO:

TRACT FD-4 ("TRACT 12"):

Tract 12 of Rainbow Springs Country Club Estates, as recorded in Plat Book "S", Pages 106 through 116, of the Public Records of Marion County, Florida:

ALSO:

TRACT FD-5 ("CLUB POINTE"):

A parcel of land being a portion of Tract "8" of Rainbow Springs Country Club Estates, as recorded in Plat Book "S", Pages 106 through 116, of the Public Records of Marion County, Florida, said parcel lying in Section 12, Township 16 South, Range 18 East, and being more particularly described as follows:

Commencing at the intersection of the Southerly right-of-way line of S.W. 189th Court Road (50 feet wide and formerly known as County Road No. 320) with the West boundary line of the Northwest 1/4 of the Southeast 1/4 of the Southeast 1/4 of said Section 12, said intersection being the corner of said Tract "8" identified as the point of

tangency of right-of-way curve 59 as specifically shown on Sheet 8 of said Plat of Rainbow Springs Country Club Estates (said Sheet recorded in Plat Book "S", at Page 113, of said Public Records); thence South 89°22'32" East, along said Southerly right-of-way line and a Northerly line of said Tract "8", 215.82 feet, to the Point of Beginning; thence continue South 89°22'32" East, along said Southerly right-of-way and Northerly tract line, 423.37 feet, to a corner of said Tract "8" and the Northwest corner of Parcel No. 2 as described in the Order of Taking in Case No. 70-486 as recorded in Civil Records Book "13", at Page 98, of said public records and a non-tangent intersection with the Easterly line of said Tract "8" and the Westerly line of said Parcel No. 2, said Easterly tract line and Westerly parcel line being a circular curve, concave Southwesterly and having a radius of 1760.10 feet; thence Southeasterly, along said Easterly tract line and Westerly parcel line, 433.53 feet, through a central angle of 14°06'46" and a chord bearing and distance of South 12°49'25" East, 432.44 feet, to the point of tangency thereof; thence continue along said Easterly tract line and Westerly parcel line, South 05°46'02" East, 335.45 feet, to a corner of said Tract "8"; thence departing said Easterly tract line and Westerly parcel line, North 87°03'07" West, 358.55 feet, to the centerline of Parcel 4 - Easement for Waste Water Force Main & Lift Station as described in Exhibit A of the Special Warranty Deed recorded in Official Records Book 2135, at Page 1662, of the said public records; thence North 16°20'42" West, along said centerline, 34.55 feet; thence continue along said centerline, North 19°32'07" West, 398.60 feet; thence continue along said centerline, North 11°44'59" West, 259.29 feet; thence departing said centerline, North 00°37'28" East, 78.92 feet, to the Point of Beginning.