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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

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IN RE:

Petition of SANLANDO UTILITIES
CORPORATION For a Limited
Proceeding to Implement Water
Conservation Plan in
Seminole County

Docket No.: 930256-WS
Filed August 31, 1994

MOTION TO DISMISS PETITION OF WEKIVA GOLF CLUB

COME NOW FLORIDA AUDUBON SOCIETY, and FRIENDS OF THE
WEKIVA RIVER, Intervenors in this proceeding to enter this Motion to Dismiss regarding
the "Motion for Leave to Intervene" filed by Wekiva Golf Club, Inc. As grounds for this
motion, Audubon and Friends state:

1. While the rule regarding intervention may, under some circumstances, allow
intervention up till 5 days prior to the Final Hearing (Rule 25-22.039), the entry of the
prospective intervenor at this stage in the proceeding is inappropriate, and would be contrary
to the terms of the Order Establishing Procedure in this case (Order No. PSC-94-0375-PCO-

WS). The time for the filing of Direct Testimony by parties, the staff, and all intervenors has
expired. Because the prospective intervenor would not be able to present direct testimony
(Intervenors take the case as they find it, Rule 25-22.039 F.A.C.) entry of the intervenor at
this stage in the proceeding would only complicate the proceeding without any hope of adding
to the probative value of any relevant testimony offered for consideration by the Commission.

It is implausible that the prospective intervenor has only just now become aware of the
proceeding. Further, because the time for filing direct testimony has passed, the prospective

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intervenor will not have the opportunity to present testimony to establish that its substantial interests are affected as alleged in its petition. With prehearing conferences scheduled for September 1 and 2, and the Final Hearing itself scheduled for September 26, the timing of the proceeding does not allow adequate time for discovery with regard to this intervenor. A postponement of the hearing date that might be occasioned by such discovery would have negative impacts on Sanlando, and Intervenors Audubon and Friends of the Wekiva.

2. Rule 25-22.039 requires that all petitions to intervene conform to Rule 25-22.036 (7)(a). The "Motion for Leave to Intervene" of Wekiva Golf Club fails to substantially conform to Rule 25-22.036 (7)(a), in that it fails to contain the following:

A statement of all known disputed issues of material fact, or if there are none, the petition must so indicate. (Rule 25-22.039 (7) (a) (3))

A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief. (Rule 25-22.039 (7) (a) (4))

A demand for relief. (Rule 25-22.039 (7) (a) (5))

Because the prospective intervenor Wekiva Golf Club has failed to incorporate these required elements in its "Motion for Leave to Intervene" (Petition to Intervene), it is impossible for the other parties in the proceeding to know the objectives of their alleged desire to protect their substantial interests, or what actions or outcomes would protect these alleged interests. For example, their petition does not disclose whether they propose to enter the proceeding to oppose or support Sanlando's request for a rate increase to implement a water conservation plan, or for some other undisclosed purpose.

3. Paragraphs 5 and 6 of Wekiva Golf Club's "Motion for Leave to Intervene"

provide a cryptic hint of what the prospective intervenor's position might be on various aspects of this proceeding, and also provide a further basis for objection to their intervention. In Paragraph 5, counsel for Wekiva Golf Club recites direct testimony of Tricia A. Madden which states:

...the parties most benefited by the project, the golf courses, pay virtually nothing for the construction project....there has been no evidence to reflect whether the golf courses will or must even accept the reused water at all.

In Paragraph 6, counsel for Wekiva Golf Club recites direct testimony of Kimberly H.

Dismukes which states:

...it would be imprudent for the Company to build these facilities unless it is assured that the golf courses will take the reclaimed water.

To the extent that Wekiva Golf Club posits its "substantial interests" on the possibility that it might be charged for reclaimed water, its "Motion for Leave to Intervene" here is at best premature. The Limited Proceeding and rates proposed by Sanlando expressly provide that any consideration of setting rates for reclaimed water will be reserved for a future proceeding. The PAA Order in this proceeding expressly provides that Sanlando "...shall file a proposed charge for reclaimed water to the golf courses prior to the completion of the effluent transmission system." For this reason, any determination of the substantial interests of Wekiva Golf Club as to future rates will be provided for in this future proceeding, and are irrelevant, and outside the scope of the instant proceeding.

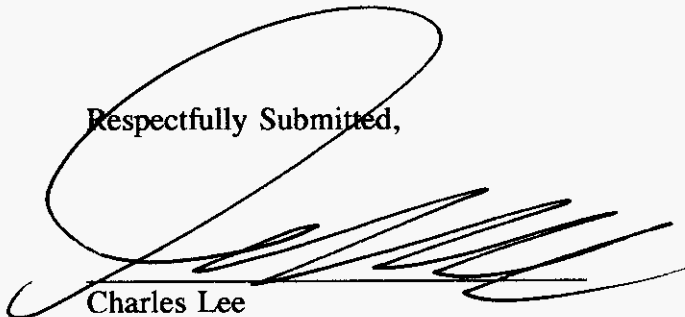
To the extent that Wekiva Golf Club bases its claim that its substantial interests will be determined in this proceeding, or affected in this proceeding upon issues surrounding the question of whether "...the golf courses will take the reclaimed water.", or "...whether the

golf courses will or must even accept the reused water at all.", this issue is also the subject of a different proceeding, has already been determined, and should not be subject to a collateral attack or a "second bite at the apple" by Wekiva Golf Club through intervention in this proceeding. Consumptive Use Permit No. 2-117-0220UV, issued by the St. Johns River Water Management District on May 7, 1991 contained conditions which deal with the "acceptance of reclaimed water" issue. The opportunity for Wekiva Golf Club to appeal or challenge this permit or its conditions has expired (no such challenge was filed). It is not proper or germane to this proceeding to allow Wekiva Golf Club to attempt to convert this rate case before the Public Service Commission into a challenge of the conditions of a water management district permit issued more than three years ago, which Wekiva Golf Club failed to challenge when a timely point of entry became available.

The possibility of future reclaimed water rates (a future rate case) and the issue of whether the golf course would have to "accept the water" are the only issues even alluded to by Wekiva Golf Club as material issues that would affect its substantial interests. As these issues are outside the scope of this proceeding, and are in fact addressed in other proceedings, and no further rationale is stated by Wekiva Golf Club as to how the instant case affects its substantial interests, it is obvious that the golf club is attempting to intervene in the wrong proceeding.

For these Reasons, the Florida Audubon Society and Friends of the Wekiva River enter this Motion to Dismiss Wekiva Golf Club's petition to intervene.

Respectfully Submitted,



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Representative of Florida
Audubon Society and Friends
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and fifteen (15) copies of the foregoing prehearing statement were filed with the Division of Records and Reporting, Florida Public Service Commission, and one (1) true and correct copy was forwarded by United States Mail this 31st day of August, 1994 to the following parties of record:

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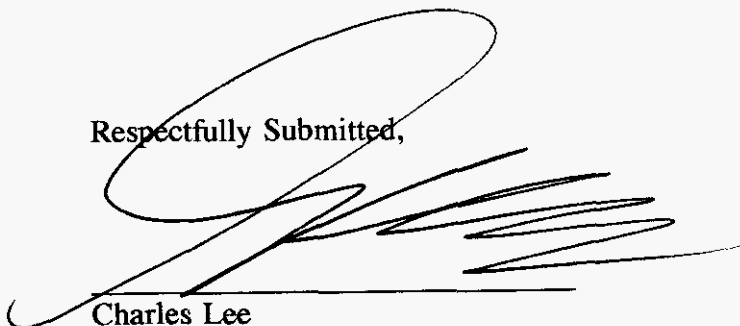
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