

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 13, 2014
TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Kelley F. Corbari, Attorney, Office of the General Counsel: RAS Section *KFC*
RE: Docket No. 120172-WS – Application for staff-assisted rate case in Highlands County by Country Club Utilities, Inc.

Attached please find a copy a Consent Judgment entered into by Country Club Utilities, Inc. and the State of Florida, Department of Environmental Protection, effective February 20, 2014. Please file the attached documents in the docket file, Docket 120172-WS, as the document concerns Country Club Utilities, Inc., which is currently involved in a Staff Assisted Rate Case proceeding.

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to contact me.

KFC

cc: Division of Accounting and Finance (Maurey)

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14 MAR 13 PM 3:46
COMMISSION
CLERK

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR HIGHLANDS COUNTY, FLORIDA

STATE OF FLORIDA, DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Plaintiff,

v.

CASE NO. 12-924 GCS

COUNTRY CLUB UTILITIES, INC.,
a Florida corporation,

Defendant.

2014 FEB 21 PM 1:50
ROBERT W. SEYMOUR
CLERK
HIGHLANDS COUNTY, FL

FILED

CONSENT JUDGMENT

The Parties to this action, Plaintiff State of Florida Department of Environmental Protection ("Department") and Defendant Country Club Utilities, Inc. (referred to as "Defendant Country Club" or "Defendant"), agree and consent to the entry of this Consent Final Judgment, and the Court, having reviewed the pleadings and the record, and being otherwise duly informed, does hereby

ORDER AND ADJUDGE, as follows:

JURISDICTION, PARTIES, and FACTS

1. This Court has jurisdiction over the subject matter and over the parties hereto.
2. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce Chapter 373, Part IV, and Chapter 403, Florida Statutes (F.S.), and the rules promulgated and authorized thereunder, Title 62, Florida Administrative Code (F.A.C.).

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The Department has jurisdiction over the matters addressed in this Consent Final Judgment.

3. Defendant Country Club Utilities, Inc. ("Defendant") is a corporation that owns and operates a wastewater treatment plant and collection system (the "Wastewater Facility"), located at 2599 Cheyenne Road, Sebring, Florida 33875, and a drinking water system (the "Drinking Water System") located at 3015 Haw Branch Road, Sebring, Florida 33875, in Highlands County. Defendant is a supplier of water.

4. The effective date of this Consent Final Judgment (referred to as this "Order") is the date on which it is signed by the Court.

5. The Court enters judgment in favor of Plaintiff and against Defendant regarding the facts alleged in the Plaintiff's Complaint on or about September 28, 2012.

CORRECTIVE ACTIONS

6. Defendant Country Club, Inc. shall complete the following corrective actions within the timeframes stated below:

- a. Regarding the Wastewater Facility, at least two working pumps must be properly installed and operational in each lift-station by May 15, 2014. Multiple pumps are required, and each pump has an individual intake. Where only two units are specified, they are of the same size. Specified units must have capacity such that, with any unit out of service, the remaining units will have capacity to handle the design peak hourly

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flow, in accordance with the *Recommended Standards for Wastewater Facilities* (1997) as adopted by rule 62-604.300(5)(c), Fla. Admin. Code.

b. By May 15, 2014 Defendant shall repair or replace and then calibrate wastewater treatment plant flow meter in accordance with Rule 62-600.410(6), Fla. Admin. Code and 62-601.200(17), Fla. Admin. Code .

c. By May 15, 2014 Defendant shall repair or replace and then level clarifier weir in accordance with Department Rules.

d. By May 15, 2014 Defendant shall submit proof to the Department that the percolating ponds of the Waste Water Facility are 100% on property owned or controlled by Country Club Utilities, Inc., or provide written approval from the other applicable land owner authorizing Country Club Utilities, Inc. to have a portion of its percolating pond on the other land owner's property.

e. By May 15, 2014 Defendant shall repair or replace leaking air lines to diffusers in the Wastewater Facility, in accordance with Rule 62-600.410 (6).

f. Regarding the wastewater treatment plant, by May 15, 2014 Defendant shall repair or replace the chlorine contact chamber baffles, or the chlorine contact chamber, to achieve a minimum fifteen minute contact time at the peak hourly flow, in accordance with Rules 62-600.410(6) and 62-600.440 (4) (b), Fla. Admin. Code.

g. By May 15, 2014 Defendant shall clean vegetation and solids from percolation ponds and berms, in accordance with Rule 62-610.523(6).

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h. By May 15, 2014 Defendant shall repair or replace or air diffusers in the Wastewater Facility so that they function as intended, in accordance with Rule 62-600.410 (6). Regarding the wastewater treatment plant, By May 15, 2014 Defendant shall take action to improve mixing of the water in the aeration basins so that dead spots (areas with little or no mixing) are eliminated.

i. Regarding the wastewater treatment plant, by September 15, 2014 Defendant shall install a compliant flow equalization tank (surge tank) in accordance with sound engineering practices and applicable current codes of practice of nationally recognized associations such as ASME, ASTM, ANSI, STI and UL and as authorized by Department permit revision number FLA014351-007-DW3 issued 12/13/2011. At the same time as installation of the surge tank, Defendant shall install splitter box with bar screen pursuant to Country Club Utilities' Engineer's determination as necessary correct action for the treatment plant to reliably function as intended and authorized by Department permit revision number FLA014351-007-DW3 issued 12/13/2011. Rule 62-600.410(8), F.A.C. Submit a completed Notification of Completion of Construction to the Department for the installation of the surge tank and splitter box.

j. Regarding the payment of operating license, pursuant Count VII of the Complaint, Defendant Country Club owes the Department \$2450.00 in license fees for fiscal years 2010-2011, 2011-2012, and 2012-2013.

COSTS, CIVIL PENALTIES, AND OTHER TERMS

7. No modifications of the terms of this Consent Final Judgment shall be effective until reduced to writing, executed by the Department and the Defendant, and approved by the Court.

8. Plaintiff, the State of Florida, Department of Environmental Protection shall recover from Defendant Country Club Utilities, Inc. the sum of \$20,000.00 in civil penalties, \$2,450.00 for drinking water annual operating fees, and \$2,500.00 in costs for a total amount of \$24,950.00, for which let execution issue 90 days after the effective date of this Consent Final Judgment. Interest shall accrue at the statutory rate on any unpaid amount beginning 360 days after the date of this Consent Final Judgment. Payment shall be made by cashier's check or money order.

9. For \$20,000.00 of the civil penalties the instrument shall be made payable to the "Department of Environmental Protection" and shall include thereon the OGC number assigned to this Consent Final Judgment, which is 11-0915, and the notation "Ecosystem Management and Restoration Trust Fund". For the \$2,500.00 in costs, the instrument shall be made payable to the "Department of Environmental Protection" and shall include thereon the OGC number assigned to this Consent Final Judgment, which is 11-0915, and the notation "Department Costs". For the \$2,450.00 in license operating fees, the instrument shall be made payable to the "Department of Environmental Protection" and shall include the water system ID number as a notation. All payments shall be sent to the Florida Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549.

10. The civil penalties awarded to the Plaintiff shall be reduced by the following percentages according to the following table:

- (a) by 80 % if the Defendant completes corrective actions listed in subparagraph 6 (a) through subparagraph 6 (h) of this order by May 15, 2014 and completes the corrective action listed in subparagraph 6 (i) by September 15, 2014.
- (b) by 60 % if the Defendant completes the corrective actions listed in subparagraph 6 (a) through subparagraph 6 (h) of this order by May 15, 2014 and completes the corrective action listed in subparagraph 6 (i) by October 15, 2014.
- (c) by 40 % if the Defendant completes the corrective actions listed in subparagraph 6 (a) through subparagraph 6 (h) of this order by May 15, 2014 and completes the corrective action listed in subparagraph 6 (i) by November 15, 2014.
- (d) by 20 % if the Defendant completes the corrective actions listed in subparagraph 6 (a) through subparagraph 6 (h) of this order by May 15, 2014 and completes the corrective action listed in subparagraph 6 (i) by December 15, 2014.
- (e) by 20 % if the Defendant completes the corrective actions listed in subparagraph 6 (a) through subparagraph 6 (h) of this order by May 15, 2014, and if ownership of the wastewater and drinking water facilities are legally transferred to the City of Sebring.

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(f) The percentage reductions listed in this paragraph shall apply from the total amount of civil penalties awarded. The percentage reduction in paragraph (e) is combinable with a reduction under (a) through (d). These percentage reductions shall not create any right of the Defendant to a refund of monetary amounts already due and paid to the Plaintiff pursuant to this judgment. Should the Defendant pay civil penalties before receiving a percentage reduction that exceed the remaining amount, the Plaintiff shall not owe any debt or refund to the Defendant. Any interest accrued due to a portion of the civil penalty that is reduced shall also be satisfied, but the remaining interest and civil penalty amounts shall still be owed to the Plaintiff. The percentage reductions do not apply to the costs or annual operating license fees owed pursuant to this judgment.

11. The Department shall also be entitled to the payment of reasonable attorney's fees incurred by the Department to enforce any provision of this Consent Final Judgment, or reimbursement for court costs, document costs, court reporter costs, travel costs, and transcript costs, provided that the Department prevails on such motion.

12. The provisions of this Consent Final Judgment shall apply to and be binding upon the parties, their agents, successors, and assigns.

13. It is further ordered and adjudged that Defendant Country Club Utilities, Inc. shall complete under oath Florida Rule of Civil Procedure Form 1.977 (Fact Information Sheet), including all required attachments, and serve it on the Department's Office of General Counsel, within 300 days from the date of the Consent Final

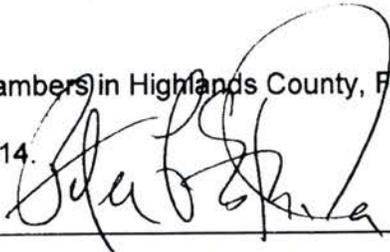
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Judgment, unless all requirements of this judgment have been satisfied in a timely fashion. Failure to complete Form 1.977 as ordered may be considered contempt of court. Defendant Country Club Utilities, Inc. is required to file a notice of compliance with the clerk of court and serve a copy of the notice on the Department. The Department may conduct discovery in aid of execution or to investigate the Defendant's ability to comply with this judgment. Such discovery may include depositions, requests for production of documents, interrogatories, and any other discovery mechanism allowed by the rules of civil procedure. Such discovery shall be directed towards obtaining information regarding Defendant Country Club Utility's ability to pay for compliance with this order or to aid in execution of this judgment. The parties may submit joint and individual motions for extensions of time for the corrective action described in paragraph 6 (i), if all available financial information indicates the need for an extension of time based on a financial inability to comply with the court's existing deadline.

14. This Court shall retain jurisdiction to enforce this Consent Final Judgment and to modify this judgment if the parties agree to a written modification.

DONE AND ORDERED in Chambers in Highlands County, Florida this 20 day
of February, 2014.



Circuit Judge

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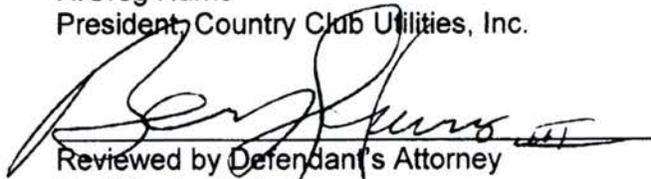
CONSENT AND MOTION TO ENTER THIS FINAL JUDGMENT

WE DO HEREBY AGREE AND CONSENT TO THE COURT'S ENTRY OF THIS
CONSENT FINAL JUDGMENT WITHOUT FURTHER HEARING IN FULL
SATISFACTION OF THE CLAIMS ARISING OUT OF THE COMPLAINT IN THIS CASE
BETWEEN THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND THE DEFENDANT COUNTRY CLUB UTILITIES, INC.
THEREFORE, PLAINTIFF AND DEFENDANT JOINTLY MOVE THAT THE COURT
ENTER THIS CONSENT FINAL JUDGMENT.



R. Greg Harris
President, Country Club Utilities, Inc.

Date: 2-3-14



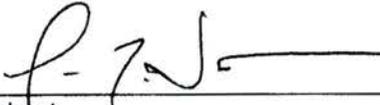
Reviewed by Defendant's Attorney
Bert Harris, III Esq.

Date: 2-3-14



Reviewed by Department Attorney
Matthew Smith-Kennedy

Date: 2-3-14



Jon Iglehart
South District Director, For the Department

Date: 2/3/14

