

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-**

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**DATE:** June 20, 2014  
**TO:** Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk  
**FROM:** Sonica C. Bruce, Economic Analyst, Division of Economics *SB*  
**RE:** Docket No. 130178-SU - Application for staff-assisted rate case in Polk County by Crooked Lake Sewerage Company.

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The attached documents were sent to the Division of Economics. Please place them in the docket file reference above.

RECEIVED-PPSC  
14 JUN 20 PM 3:38  
COMMISSION  
CLERK

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
IN AND FOR POLK COUNTY, FLORIDA

FILED - CIVIL  
POLK COUNTY CLERK  
CIRCUIT COURT CIVIL  
2008 JUL 14 A 10:53

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

Plaintiff,

vs.

CASE No.: 2006 CA-2084

CROOKED LAKE PARK SEWERAGE  
COMPANY,

Defendant.

FINAL JUDGMENT

THIS CAUSE came before the Court on the Plaintiff's (State of Florida Department of Environmental Protection's) Motion for Entry of Final Judgment Assessing Civil Penalties, Costs, and Injunctive Relief Against Defendant (Crooked Lake Park Sewerage Company). Having heard testimony and been otherwise advised of its premises, this Court finds:

1. Plaintiff State of Florida Department of Environmental Protection ("Department") is the administrative agency of the State of Florida, created by Section 20.255, Florida Statutes, which is authorized to enforce the environmental laws of the State of Florida, including Chapter 403, Florida Statutes, and the rules promulgated thereunder in Title 62 Florida Administrative Code. The Department is headquartered at 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and its Southwest District Office is located at 13051 North Telecom Parkway, Temple Terrace, Florida, 33637.

2. Defendant Crooked Lake Park Sewerage Company ("Defendant") is a Florida corporation who owns and operates a wastewater treatment plant that treats the sewage collected in the Crooked Lake Park Subdivision, Caloosa Lake Village Subdivision, and College Park

A TRUE COPY  
CERTIFICATION ON LAST PAGE  
RICHARD M. WEISS, CLERK OF COURTS

DEPT. ENVIRONMENTAL PROTECTION  
3900 COMMONWEALTH BLVD.  
TALLAHASSEE, FL 32399-3000

Mobile Home Park in Lake Wales, Florida. Defendant's principal address is: 227 Caloosa Lake Circle North, Lake Wales, Florida 33859.

3. On May 30, 2006, the Department filed a Complaint and Petition to Enforce ("Complaint and Petition") with this Court, which was served on Defendant on June 6, 2006. Count I was a petition to enforce a Consent Order executed on January 16, 2004. The remaining counts (i.e., counts II-VI) addressed additional violations of various environmental rules and statutes that Defendant committed after the Consent Order was executed.

4. Following the October 8, 2007 hearing, this Court entered an Order Granting Plaintiff's Motion for Summary Judgment, which adjudicated Defendant's liability as to all counts in the Department's Complaint and Petition.

5. To date, Defendant has failed to comply with the Consent Order executed on January 16, 2004 ("Consent Order") and redress the additional violations alleged in the Department's Complaint and Petition.

6. Section 403.141(1), Florida Statutes, allows the Court to impose civil penalties of not more than \$10,000.00 per day per violation. The Court's imposition of civil penalties shall "be of such amount as to ensure immediate and continued compliance" with Florida's environmental laws. *See* § 403.161(6), Fla. Stat.

7. Section 403.131, Florida Statutes, authorizes the Court to impose injunctive relief to enforce compliance with "any rule, regulation, permit certification, or order."

8. Because Defendant willfully violated Florida's environmental laws, the award of both civil penalties and injunctive relief is justified in this case.

IT IS ADJUDGED that:

A. As a result of Defendant's failure to comply with the Consent Order as alleged in

Count I of the Department's Complaint and Petition, Defendant must do the following:

1. Within 90 days of the effective date of this Final Judgment, Defendant shall submit a complete permit application ("CT Application") with appropriate processing fees to construct a sanitary collection/transmission system to divert flow from Defendant's wastewater treatment facility located at 227 Caloosa Lake Circle North, Lake Wales, Polk County, Florida, Parcel ID No.: 27303500000011050 ("Facility") to the City of Lake Wales's Sam P. Robinson Water Reclamation Facility. The CT Application shall be prepared and sealed by a professional engineer registered in the State of Florida. Within 30 days of a written request from the Department for additional information to complete the CT Application, Defendant shall submit the requested information to the Department. Within 120 days of permit issuance, Defendant shall commence construction of the sanitary collection/transmission system pursuant to the conditions of the permit ("CT Permit"). On or before April 27, 2009, Defendant shall complete the construction of the sanitary collection/transmission line and shall submit to the Department a notification of completion of construction for the sanitary collection/transmission system signed and sealed by a professional engineer registered in the State of Florida. Within five days of receipt of written approval by the Department, Defendant shall place the sanitary collection/transmission line into service.

2. During the interim period prior to taking the Facility off-line, Defendant shall maintain both percolation ponds by continuing to haul sewage or effluent in order to maintain at least one foot of freeboard in both percolation ponds. Defendant shall continue to make necessary infiltration and inflow repairs to the sewage collection/transmission system to lessen the effluent discharge from its percolation ponds.

3. At least 60 days prior to taking the Facility off-line, Defendant shall submit an Abandonment Plan to the Department, which describes how Defendant will abandon the Facility. Proper abandonment includes, as appropriate, pumping the Facility dry, disinfecting the Facility's components, disconnecting the force mains, disconnecting the electrical systems, ensuring that water does not collect in the Facility, removing the Facility, removing the drain plugs or installing permanent drains which will ensure that water does not collect in the Facility, and removing and properly disposing of any accumulated sludge and debris in the disposal system and scarifying the bottoms. Once the Abandonment Plan is approved by the Department, Defendant shall implement the Abandonment Plan. The Abandonment Plan shall be completed no later than 90 days after the Facility is taken off-line, or no later than 90 days after the Department approves the Abandonment Plan, whichever is later.

4. In any event, by August 25, 2009, the Facility shall be off-line or in complete compliance with all Department rules and regulations that are the subject of this Final Judgment.

5. In the event subsections A1. through A4. of this Final Judgment are not complied with, the Defendant shall pay the Department stipulated penalties in the amount of \$200.00 for each and every day Defendant failed to comply with the Consent Order, for a total of \$309,200.00 for which let execution issue.

B. As a result of the additional violations alleged in Counts II-VI in the Complaint and Petition to Enforce, judgment is entered in favor of Plaintiff State of Florida Department of Environmental Protection (3900 Commonwealth Blvd., Tallahassee, FL 32399) and against Defendant Crooked Lake Park Sewerage Company (227 Caloosa Lake Circle North, Lake

Wales, Florida 33859) in the amount of \$128,300.00 for which let execution issue. The \$128,300.00 consists of \$126,300.00 in civil penalties and \$2,000.00 in investigative costs. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of Environmental Protection" and shall include the notations "Ecosystem Management and Restoration Trust Fund" and "OGC # 03-1878" thereon. Payment shall be sent to the State of Florida Department of Environmental Protection, Southwest District, 13051 North Telecom Parkway, Temple Terrace, Florida, 33637. If Defendant complies with subsections A1. through A4. of this Final Judgment, the civil penalty of \$126,300.00 will be suspended.

C. Petitioning for relief under the federal bankruptcy code or the transfer of the Property by any means or for any reason shall not affect or be construed to affect Defendant's obligations under this Final Judgment.

D. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Final Judgment have not been fully satisfied, Defendant shall, at least 30 days prior to the sale or conveyance of the Property or Facility: (1) notify the Department of such sale or conveyance, (2) provide the name and address of the purchaser, or operator, or person(s) in control of the Facility, and (3) provide a copy of this Final Judgment to the new owner. The sale or conveyance of the Facility, or the Property upon which the Facility is located shall not relieve Respondent of the obligations imposed in this Final Judgment.

E. The Department is hereby granted site access to the property located at 227 Caloosa Lake Circle North, Lake Wales, Polk County, Florida (Parcel ID No.: 27303500000011050) for the purpose of allowing the Department or its agents to verify compliance with the terms of this Final Judgment.

F. It is further ordered and adjudged that the judgment debtor, Crooked Lake Park Sewerage Company, 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 attorney within 45 days from the date of this Final Judgment, unless the Final Judgment is satisfied or post-judgment discovery is stayed. A copy of form 1.977 is attached hereto as Attachment 1. Upon serving the completed forms, the Defendant shall file with the clerk of court a notice of compliance with the order to complete form 1.977, and serve a copy of the notice of compliance on the Department's attorney.

G. Jurisdiction of this case is retained to enter further orders that are proper to compel the judgment debtor, Crooked Lake Park Sewerage Company, to complete form 1.977, including all required attachments, and serve it on the Department's attorney.

H. Additionally, this Court shall retain jurisdiction to enforce this Final Judgment by contempt or other appropriate sanctions.

ORDERED at chambers in Bartow, Polk County, Florida, this 9 day of July 2008.

  
CIRCUIT JUDGE

cc: Chadwick R. Stevens, Esq.  
James C. McClendon, II, Esq.

A TRUE COPY  
CERTIFICATION ON LAST PAGE  
EDWARD W. KEISS, CLERK OF COURTS

IN THE CIRCUIT COURT OF THE NINETEENTH CIRCUIT  
IN AND FOR POLK COUNTY, FLORIDA

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

Plaintiff,

vs.

CASE No.: 2006 CA-2084

CROOKED LAKE PARK SEWERAGE  
COMPANY,

Defendant.

\_\_\_\_\_ /

FACT INFORMATION SHEET OF DEFENDANT  
CROOKED LAKE PARK SEWERAGE COMPANY

Name of entity:

\_\_\_\_\_

Name and title of person filling out this form:

\_\_\_\_\_

Telephone number:

\_\_\_\_\_

Place of business:

\_\_\_\_\_

Mailing address (if different):

\_\_\_\_\_

Gross/taxable income reported for federal income tax purposes last three years:

\$ \_\_\_\_\_ / \$ \_\_\_\_\_

\$ \_\_\_\_\_ / \$ \_\_\_\_\_

\$ \_\_\_\_\_ / \$ \_\_\_\_\_

ATTACHMENT 1

1

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RICHARD M. WEISS, CLERK OF COURTS

Taxpayer identification number:

\_\_\_\_\_

Is this entity an S corporation for federal income tax purposes? \_\_\_ Yes \_\_\_ No

Average number of employees per month \_\_\_\_\_

Name of each shareholder, member, or partner owning 5% or more of the entity's common stock, preferred stock, or other equity interest:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Names of officers, directors, members, or partners:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Checking account at: \_\_\_\_\_

Account # \_\_\_\_\_

Savings account at: \_\_\_\_\_

Account # \_\_\_\_\_

Checking account at: \_\_\_\_\_

Account # \_\_\_\_\_

ATTACHMENT 1

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Savings account at: \_\_\_\_\_

Account # \_\_\_\_\_

Does the entity own any vehicles? \_\_\_\_ Yes \_\_\_\_ No

For each vehicle please state:

Year/Make/Model: \_\_\_\_\_ Color: \_\_\_\_\_

Vehicle ID No: \_\_\_\_\_ Tag No: \_\_\_\_\_ Mileage: \_\_\_\_\_

Names on Title: \_\_\_\_\_ Present Value: \$ \_\_\_\_\_

Loan Owed to:

\_\_\_\_\_

Balance on Loan: \$ \_\_\_\_\_

Monthly Payment: \$ \_\_\_\_\_

Does the entity own any vehicles? \_\_\_\_ Yes \_\_\_\_ No

For each vehicle please state:

Year/Make/Model: \_\_\_\_\_ Color: \_\_\_\_\_

Vehicle ID No: \_\_\_\_\_ Tag No: \_\_\_\_\_ Mileage: \_\_\_\_\_

Names on Title: \_\_\_\_\_ Present Value: \$ \_\_\_\_\_

Loan Owed to:

\_\_\_\_\_

Balance on Loan: \$ \_\_\_\_\_

Monthly Payment: \$ \_\_\_\_\_

Does the entity own any real property? \_\_\_\_ Yes \_\_\_\_ No

If yes, please state the address(es):

\_\_\_\_\_

\_\_\_\_\_

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Please check if the entity owns the following:

- Boat
- Camper
- Stocks/bonds
- Other real property
- Other personal property

Please attach copies of the following:

1. Copies of state and federal income tax returns for the past 3 years.
2. All bank, savings and loan, and other account books and statements for accounts in institutions in which the entity had any legal or equitable interest for the past 3 years.
3. All canceled checks for the 12 months immediately preceding the service date of this Fact Information Sheet for accounts in which the entity held any legal or equitable interest.
4. All deeds, leases, mortgages, or other written instruments evidencing any interest in or ownership of real property at any time within the 12 months immediately preceding the date this lawsuit was filed.
5. Bills of sale or other written evidence of the gift, sale, purchase, or other transfer of any personal or real property to or from the entity within the 12 months immediately preceding the date this lawsuit was filed.
6. Motor vehicle or vessel documents, including titles and registrations relating to any motor vehicles or vessels owned by the entity alone or with others.

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 RICHARD M. WEISS, CLERK OF COURTS

ATTACHMENT 1

7. Financial statements as to the entity's assets, liabilities, and owner's equity prepared within the 12 months immediately preceding the service date of this Fact Information Sheet.

8. Minutes of all meetings of the entity's members, partners, shareholders, or board of directors held within 2 years of the service date of this Fact Information Sheet.

9. Resolutions of the entity's members, partners, shareholders, or board of directors passed within 2 years of the service date of this Fact Information Sheet.

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UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.

\_\_\_\_\_  
(signature)

Judgment Debtor's Designated Representative/Title: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me on \_\_\_\_\_,  
by \_\_\_\_\_, who is personally known to me or has  
produced \_\_\_\_\_ as identification and who  
(circle one) did / did not take an oath.

WITNESS my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_,  
2008.

\_\_\_\_\_  
Notary Public  
State of Florida

My Commission expires: \_\_\_\_\_

ATTACHMENT 1

5

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CERTIFICATION ON LAST PAGE  
RICHARD M. WEISS CLERK OF COURTS

THE JUDGMENT DEBTOR SHALL FILE WITH THE CLERK OF THE COURT A NOTICE OF COMPLIANCE AFTER THE ORIGINAL FACT INFORMATION SHEET, TOGETHER WITH ALL ATTACHMENTS, HAS BEEN DELIVERED TO THE JUDGMENT CREDITOR'S ATTORNEY, OR TO THE JUDGMENT CREDITOR IF THE JUDGMENT CREDITOR IS NOT REPRESENTED BY AN ATTORNEY.



STATE OF FLORIDA, COUNTY OF POLK  
This is to certify that the foregoing is a true and correct copy of the document now of record in this office. Witness my hand and Official Seal on 8/26/08  
 This copy has no redactions.  
 This copy has been redacted pursuant to law  
RICHARD M. WEISS, CLERK-CIRCUIT COURT  
BY Paula Craig D.C.

ATTACHMENT 1

6

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

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,

Plaintiff,

CASE NO. 06 CA 2084

v.

CROOKED LAKE PARK SEWERAGE COMPANY

Defendant.

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**SETTLEMENT AGREEMENT**

Plaintiff, STATE OF FLORIDA, DEPARTMENT OF ENVIRONMENTAL PROTECTION ("Department"), and CROOKED LAKE PARK SEWERAGE COMPANY ("Defendant" or "Defendant Company") agree to the following terms to settle the above styled case, including without limitation, with respect to civil penalties and costs owed to the Department pursuant to a judgment entered on July 9, 2008:

1. A Final Judgment was entered in favor of the Department on July 9, 2008 by the court (the "Judgment"). A certified copy of the Judgment was recorded in Official Records Book 7706, Page 9, Public Records of Polk County, Florida. The Judgment awarded \$128,300.00 in civil penalties and costs to the Department. Interest has accrued at the rate set by statute.
2. Additional civil penalties (in the amount of \$309,200.00) were conditionally assessed by the Judgment if the corrective actions (in the form of injunctive relief) were not completed on time by the Defendant. The corrective actions contained in the Judgment were not completed on time, however, the Department never sought a further order from the court to adjudicate the

additional civil penalty amount of \$309,200.00. This amount is hereafter referred to as the Conditional Civil Penalties.

3. Subsequent to a contempt proceeding initiated by the Department, equity ownership and control of the Defendant changed to a new party or parties. Under new management, the Defendant Company undertook compliance with Department Rules and the terms of the Judgment. Also, the Defendant Company is undertaking further compliance improvements which necessitate financing. The Judgment represents a possible impediment to further compliance with environmental health and regulations under the new management of the Defendant Company.
4. In recognition of the factors listed in paragraph 3 above, the Department agrees to release Defendant from all further civil penalties, costs, and accrued interest currently awarded exchange for \$50,000.00 from the Defendant, prior to the filing of Notice of Satisfaction of the Final Judgment by the Department. Following execution of this agreement, the Defendant shall pay to the Department \$50,000.00 within 30 days of the date that this agreement is signed by the Department. The company check, money order, or official bank check shall be made payable to the "Department of Environmental Protection" and shall include thereon the OGC number assigned to this case (03-1878) and the notation "Ecosystem Management and Restoration Trust Fund". The payment shall be sent to The Florida Department of Environmental Protection at 13051 N Telecom Parkway, Temple Terrace, FL 33637.
5. Both Department and Defendant shall each bear their own costs and attorney fees for any expenditures incurred in reaching this agreement.

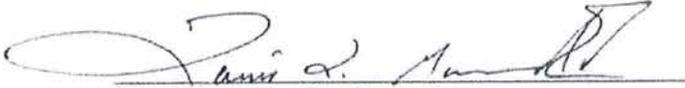
6. Within 15 days of confirming the settlement of the instrument of payment from the Defendant to the Department, the Department shall file a Notice of Satisfaction of Judgment and a Notice of Withdrawal of the pending Motion For Contempt (with prejudice). These notices will completely release the Defendant from all current and future claims of civil penalties, Conditional Civil Penalties, costs, accrued interest, attorney fees, or other monetary claims arising from the Judgment and the above-styled case. The Department will provide the Defendant with an original executed Notice of Satisfaction upon filing the document in the public records of Polk County.

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Signatures indicating agreement of the parties:

Louis F. Garrard, V

\_\_\_\_\_  
(Printed) For the Defendant



\_\_\_\_\_  
(signature) For the Defendant

Date: 5/12/14

President

\_\_\_\_\_  
Title of Officer Signing for the Defendant

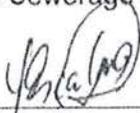
Notarization of signature:

STATE OF FLORIDA  
COUNTY OF POLK

Sworn to or affirmed and subscribed before me this 12<sup>th</sup> day of

May, 2014, by Louis F. Garrard, V, as President of Crooked

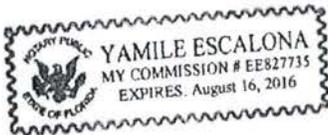
Lake Park Sewerage Company.



Notary Public State of Florida  
Printed name: Yamile Escalona

Personally Known  OR Produced Identification \_\_\_\_\_

Type of Identification  
Produced \_\_\_\_\_



Mary E. Yeargan

Mary Yeargan  
Southwest District Director  
For the Department

Date: 5/27/14