

8. **OLD BUSINESS**

a. Water Quality Issues

2. Staff Reports

- i. Status of beach closings due to Enterococcus Bacteria and subsequent steps

4. August 2007 DEP Sanibel Bayous Consent Agreement

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TO: Kirk S. White FAX: (850) 245-2301

FROM: Kenneth J. Plante CLIENT MATTER: _____

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COMMENTS

Sanibel Bayous – Consent Final Judgment

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL
CIRCUIT IN AND FOR LEE COUNTY, FLORIDA

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

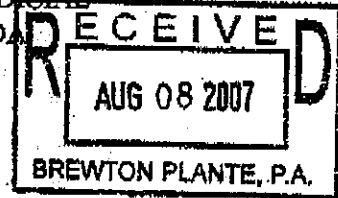
Plaintiff,

vs.

Case No.: 06-CA-000651

SANIBEL BAYOUS UTILITY CORPORATION,

Defendant.



CONSENT FINAL JUDGMENT

THIS MATTER having come before this Court pursuant to a Stipulation for Settlement and Joint Motion for Entry of Consent Final Judgment filed by the parties and the parties having resolved this matter in accordance with the provisions of the Stipulation, it is

ORDERED AND ADJUDGED that the terms of the Stipulation entered into between the parties ~~dated this~~ ^{FILED THE} 25 day of July, 2007, are hereby adopted and incorporated as though fully set forth herein and, accordingly, it is

FURTHER ORDERED AND ADJUDGED that the parties shall comply with and be bound by the terms of the Stipulation and this Court shall retain jurisdiction to enforce this Judgment by contempt proceedings or other appropriate sanctions.

DONE AND ORDERED in Chambers, Ft. Myers, Lee County, Florida on this 2 day of August, 2007.

A. Kirk Corbin

~~R. Thomas Corbin~~
~~Circuit Court Judge~~

8/3/07
[Signature]

cc: Kirk S. White, Esq.
Kenneth J. Plante, Esq.

for

Margaret O. Steinbeck
Circuit Court Judge

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL
CIRCUIT IN AND FOR LEE COUNTY, FLORIDA

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Plaintiff,

vs.

Case No.: 06-CA-000651

SANIBEL BAYOUS UTILITY CORPORATION

Defendant.

**STIPULATION FOR SETTLEMENT AND
JOINT MOTION FOR ENTRY OF CONSENT FINAL JUDGMENT**

The parties, the State of Florida Department of Environmental Protection ("Department") and Sanibel Bayous Utility Corporation ("Sanibel"), in order to resolve the matters at issue in the above-captioned matter without the necessity of further litigation, hereby enter into this Stipulation for Settlement ("Stipulation") and Joint Motion for Entry of Consent Final Judgment.

The named parties hereby stipulate and agree to the following:

1. This Consent Final Judgment shall constitute the complete settlement by the parties for all issues raised in this litigation.

2. The parties have negotiated in good faith and agreed to a just, fair, and reasonable settlement of the claims in this action. The parties agree that a Consent Final Judgment should be entered and jointly move this Court for entry of a Consent Final Judgment adopting and incorporating the terms of this Stipulation.

WHEREFORE, it is hereby stipulated and agreed to between the Department and Sanibel that:

A. Judgment is entered in favor of Plaintiff, State of Florida Department of Environmental Protection (3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000) and against Sanibel Bayous Utility Corporation (13591 McGregor Boulevard, Suite 21, Fort Myers, Florida 33919) in the total amount of \$6500.00 for which let execution issue. Payment is due and payable to the Department 30 days after the date of this judgment. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of Environmental Protection" and shall include thereon the OGC NO.: 02-2035 and the notation "Ecosystem Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, 2295 Victoria Ave., P.O. Box 2549, Fort Myers, FL 33902-2549.

B. Within 60 days after the date of this judgment, Sanibel shall construct and install a recording flow meter at the Wastewater Treatment Plant (WWTP) located at 5325 Sanibel-Captiva Road, Sanibel, FL 33957. The flow meter shall at all times provide for an accurate accounting of all wastewater flows to the WWTP. The flow meter shall replace the use of the existing elapsed time meters at the master wastewater pump station. Within 5 business days of completion of the installation of the flow meter, Sanibel shall submit to the Department an Engineer's Certification of Completion.

C. Within 180 days of the date of this judgment, Sanibel shall complete construction of a surge facility with a minimum capacity of 20,000 gallons at the WWTP. The surge facility shall receive flows from the master wastewater pump station and be provided with pumps and a flow splitter to regulate flow to the WWTP. Overflow provisions from the surge facility to the WWTP shall be provided. Sanibel shall provide

an Engineer's Certification of Completion to the Department within 5 business days after completion of the surge facility.

D. Within 180 days of the date of this judgment, the existing concrete deck of the WWTP shall be repaired to remove all deteriorated concrete and exposed reinforced steel. Sanibel shall provide an Engineer's Certification of Completion to the Department within 5 business days after completion of the repairs referenced herein.

E. An updated Operation and Maintenance Performance Report and an updated Capacity Analysis Report (the "Reports") shall be submitted to the Department 6 months prior to the expiration of the initial 3 year Operating Permit for the WWTP. The Reports shall meet the requirements of Chapter 62-600.405, Florida Administrative Code. The Operating Permit shall be extended by the Department for an additional 2 years, if the WWTP is operating in compliance with the provisions and requirements set forth in the Florida Administrative Code (FAC).

F. Within 20 days of the date of this judgment, the Department shall issue a Notice of Permit Issuance to Sanibel Bayous Utilities for three years to operate the WWTP. If Sanibel WWTP is unable to comply with the terms and conditions of the permit and the applicable FAC Rules within 30 days after the construction of the surge facility, or 210 days from the issuance date of the permit, whichever occurs first, Sanibel must apply for an operating permit at least 180 days prior to the expiration of the initial permit with the applicable permit fees. If Sanibel WWTP is compliant with the terms and conditions of the initial permit and the applicable FAC Rules, the permit will be extended by the Department for an additional two years. The issuance of the initial permit shall supersede the permit denials regarding PA File No. FLA014576-005-DW3P/NR and

FLA014576-004-DW3P (collectively "Permit Denials") and shall constitute a withdrawal by Sanibel of any and all Petitions for Formal Administrative Hearing Requests related to said Permit Denials.

The following discharge limitations, and other requirements shall be met beginning with the issuance of the permit and lasting until 180 days from the date of issuance of the permit:

Discharge Monitoring and Reporting Requirements

<u>Parameter</u>	<u>Annual Avg.</u>	<u>Monthly Avg.</u>	<u>Weekly Avg.</u>	<u>Daily Max.</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Total Suspended Solids (TSS)	25 mg/L	38 mg/L	56 mg/L	75 mg/L	Every Two Weeks	Grab

Tests conducted pursuant to this monitoring program shall conform to 62-601 Florida Administrative Code.

These interim limits do not act as State of Florida Department of Environmental Protection Wastewater Permit effluent limitations, nor do they authorize or otherwise justify violation of the Florida Air and Water Pollution Control Act ("Act"), Part I, Chapter 403, Florida Statutes, during the pendency of this Consent Final Judgment.

G. The terms and conditions of this judgment shall be incorporated into the Permit Conditions and be enforceable as such.


H. The parties shall bear their own costs, expenses, and attorney's fees.

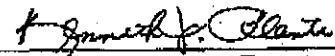
I. This Court shall retain jurisdiction over this matter to enforce the terms and conditions of this Stipulation and any order adopting said Stipulation until completion of all terms contained herein.

J. The undersigned, duly authorized to sign and thereby bind the respective parties, consents to the Court's entry of this Consent Final Judgment incorporating the terms of this Stipulation without further notice.

FOR THE PLAINTIFF:

FOR THE DEFENDANT:


Kirk S. White
Assistant General Counsel
3900 Commonwealth Blvd., MS 35
Tallahassee, FL 32399-3000
Florida Bar No.: 0073113


Kenneth J. Plante, Esquire
Florida Bar No. 444790
225 South Adams Street
Suite 250
Tallahassee, FL 32301
Attorney for Sanibel Bayous
Utility Corporation

Date: 7/23/07

Date: 27 June 07