

**Lee County Board Of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20050269-UTL

**1. Action Requested/Purpose:**

Authorize the Chairman, on behalf of the BOCC, to sign a State Revolving Fund (SRF) loan application, and the attendant Resolution designating an authorized person, for a construction loan for the North Lee County Water Treatment Plant. This is required for the submittal of the loan application.

**2. What Action Accomplishes:** This action initiates the process to secure a low interest loan, currently 2.7%, to fund the construction of the North Lee County Water Treatment Plant (Project).

**3. Departmental Category:** 10

*A10A*

**4. Meeting Date:**

*03-22-2005*

**5. Agenda:**

- Consent
- Administrative
- Appeals
- Public
- Walk-On

**6. Requirement/Purpose (specify)**

- Statute
- Ordinance
- Admin. Code
- Other  Loan App

**7. Request Initiated**

**Commissioner**  
**Department** Public Works  
**Division** Utilities *3/17/05*  
**By:** Rick Diaz, P.E., Director

**8. Background:**

On October 6<sup>th</sup> 2004, the Florida Department of Environmental Protection (FDEP) held a public hearing to consider the recommendation of the Administrator of the Drinking Water Funding Section for the adoption of the Fiscal Year 2005 Drinking Water State Revolving Fund Priority List for drinking water facilities loans and grants. At that hearing the North Lee County Water Treatment Plant project was approved for first segment funding in the amount of \$3,375,000 for 2005. The Project will continue to be granted segment financing on a yearly basis, at whatever level the segment cap is set for a given year, until the total cost of the project is covered. The term of the loan will be 20 years with the first semi-annual payment due in 2008.

The submittal of the accompanying loan application is the first step towards finalizing a loan agreement for the first segment and securing disbursement of funds to Lec County for the Project.

Once the loan application is reviewed and accepted, FDEP will prepare a loan agreement in the amount of the first segment, \$ 3,375,000 to be executed by Lee County after which disbursement of the loan proceeds can be requested.

In future years, amendments to the loan will be executed based on the then applicable segment amount, interest rate, and remaining term.

Attachment: SRF Loan Application w/12 Attachments w/4 signature areas (Page 6 of 10; Attachments 1, 2, 8)  
(1 Original, 2 Copies for signatures)

**9. Review for Scheduling**

Department Director	Purchasing or Contracts	Human Res.	Other	County Attorney	Budget Services				County Manager / P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>J. Lavender</i> Date: <i>3-8-05</i>	N/A Date:	N/A	<i>J. Laracuente</i> Date: <i>3/4/05</i>	S. Coovert Date:	<i>P.M.</i> <i>2/1/05</i>	<i>OS</i> <i>3/4/05</i>	<i>3/10/05</i>	<i>3/10/05</i>	<i>J. Lavender</i> Date: <i>3-8-05</i>

**10. Commission Action**

Approved     
  Deferred     
  Denied     
  Other

**Rec. by CoAtty**  
 Date: *3/8/05*  
 Time: *(1:15)*  
 Forwarded To: *3/17/05*

RECEIVED BY  
 COUNTY ADMIN: *PM*  
*3/9/05*  
 COUNTY ADMIN  
 FORWARDED TO: *PM*  
*3/17/05*

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

**STATE REVOLVING FUND  
DRINKING WATER FACILITIES**

**LOAN APPLICATION**



Florida Department of Environmental Protection  
Bureau of Water Facilities Funding  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

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## LOAN APPLICATION

(1) **SUBMITTAL.** Submit the application and attachments to the Department of Environmental Protection, MS 3505, Bureau of Water Facilities Funding, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

### (2) COMPLETING THE APPLICATION.

(a) This application consists of four parts: (I) ADMINISTRATIVE INFORMATION; (II) PROJECT INFORMATION; (III) FINANCIAL INFORMATION; and (IV) APPLICANT RESOLUTION, ASSURANCES, AND CERTIFICATION.

(b) All information provided on this application must be typed. Monetary amounts may be rounded to the nearest \$1,000.

(c) Attachments to be submitted are denoted with *italic print*. They are to be listed on Page 10.

### (3) ASSISTANCE.

Bureau of Water Facilities Funding staff are available to provide assistance. Please call (850) 488-8163 or SUNCOM 278-8163.

## PART I - ADMINISTRATIVE INFORMATION

(1) PROJECT SPONSOR APPLYING FOR LOAN. Lee County

Federal Employer Identification Number. 59-6000702

(2) AUTHORIZED REPRESENTATIVE. [Person formally authorized by the project sponsor to sign or attest to loan documents, including this application. If more than one, attach the information (*Attachment # 1*).

Name Douglas R. St. Cerny Telephone 239 335-2227

Title Chairman, Lee County Board of County Commissioners

Mailing Address Box 398, Fort Myers, Florida 33902-0398

(3) PRIMARY CONTACT PERSON. (Person to answer questions about this application.)

Name Juan B. Laracuenta, P.E. Telephone 239 479-8178

Title Senior Engineer Fax # 239 479-8176

Employer Lee County Utilities

Mailing Address 1500 Monroe Street - 3rd Floor

Fort Myers, Florida 33901

(4) ADDITIONAL PERSON(S) TO RECEIVE COPY OF DEPARTMENT CORRESPONDENCE. (If more than one, attach the information (*Attachment #*)).

Name Ivan Velez, P.E. Telephone 239 479-8166

Title Deputy Director Employer Lee County Utilities

Mailing Address 1500 Monroe Street - 3rd Floor

Fort Myers, Florida 33901

(5) PROJECT NUMBER (identified on the Department's priority list). DW 36100 010

(6) LOAN AGREEMENT DATE. When do you expect to sign the Loan Agreement? April 1, 2005  
(Allow time for Department preparation of agreement, applicant review, and local commission meeting if applicable.)

(7) PREAWARD COMPLIANCE. Has an *EPA Preaward Compliance Review Report* been submitted for this project? \_\_\_ Yes. X No. If "yes", identify the date submitted to the Department \_\_\_\_\_. If not, please complete and attach the EPA form. (*Attachment # 2*)

(8) FEDERAL EQUIVALENCY REQUIREMENTS. As a result of the federal funding of the State Revolving Fund Program for Drinking Water Facilities, there are federal requirements that must be met to enable financial assistance for any project. These requirements are identified under PART IV of this application.

**PART II - PROJECT INFORMATION. Complete SUBPART A or SUBPART B as appropriate.**

**SUBPART (A): PRECONSTRUCTION LOAN INFORMATION. N/A**

(1) PRECONSTRUCTION ACTIVITIES. Attach a brief description of the scope of planning and design activities to be financed by this loan.

(2) PRECONSTRUCTION LOAN SCHEDULE.

(a) Provide proposed completion dates for the items below. (Please call Department staff to discuss time frames needed to complete required tasks.)

Water facilities plan adoption by the Project Sponsor. \_\_\_\_\_

Engineering design. \_\_\_\_\_

Certification of site availability (for construction and operation). \_\_\_\_\_

(b) Do you anticipate that a contractual agreement with another party will be necessary to implement the project? \_\_\_ Yes. \_\_\_ No. If "yes", list entities to be involved.

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

(3) PRECONSTRUCTION LOAN PROJECT COSTS. Is the cost information submitted for the priority list current? \_\_\_ Yes. \_\_\_ No. If "no", please explain and submit revised cost information (*Attachment #*\_\_\_\_\_) using the appropriate page of the Request for Inclusion on the Priority List for Drinking Water Facilities Form 62-552.900(1), F.A.C. Note that the disburseable amount (including the repayment reserve) will be limited to the priority list amount. Preconstruction loans are not available to finance the non-grant share of SRF preconstruction grants.

**SUBPART B: CONSTRUCTION LOAN INFORMATION.**

(1) CONSTRUCTION ACTIVITIES

(a) Attach a brief description of construction activities to be financed by this loan. Include a list of the construction contracts (by title) corresponding to the plans and specifications accepted by the Department

(*Attachment # 3*). Also provide a proposed "start date" and "completion date" for each contract.

(b) Attach a copy of the Department letter(s) accepting the plans and specifications and all addenda

(*Attachment # 4*).

(c) Does this project involve a contractual service agreement with other entities? \_\_\_ Yes. X No. If

"yes", attach a copy of the Department letter accepting the agreement. (*Attachment #*\_\_\_\_\_) Is the

agreement, as accepted by the Department, fully executed and enforceable? \_\_\_ Yes. \_\_\_ No. If

"no", please explain (*Attachment #*\_\_\_\_\_).

(d) Has the Department accepted a clear site title certification for the project?  Yes.  No. If "yes", provide evidence of such certification or its acceptance. (Attachment # 5) If "no", explain.

(Attachment #     )

(e) Attach evidence that either a permit from the Department is not required to authorize project construction or that such authorization has been issued by the Department. (Attachment # 6)

**(2) CONSTRUCTION LOAN PROJECT COSTS.**

Is the cost information submitted for the priority list current?  Yes.  No. If "no", please explain and submit revised cost information (Attachment #     ) using the appropriate page of the Request for Inclusion on the Priority List for Drinking Water Facilities Form 62-552.900(1), F.A.C. Note that the disbursable amount (including the repayment reserve) will be limited to the priority list amount.

**PART III - FINANCIAL INFORMATION**

(1) PRINCIPAL AMOUNT OF THE LOAN. The requested amount of the loan, including capitalized interest (which is not disbursed), is \$ 24,000,000. The estimate of the capitalized interest is \$ To Be Determined. Note that the disbursable amount will be limited to the priority list amount and must be consistent with the information provided under PART II of this application. Also note that the capitalized interest is an inexact estimate, and it is subject to adjustment by the Department to reflect disbursement timing.

**(2) LOAN TERMS AND REPAYMENT.**

(a) If a construction loan involves a financially disadvantaged community, loans are amortized over 30 years, or less, with interest and principal paid semiannually. If a construction loan is not for a project to serve such a community, loans are amortized over 20 years, or less, with interest and principal paid semiannually. Preconstruction loans are amortized over not more than 10 years, with interest and principal paid semiannually. Do you want to repay the loan in less than the maximum amortization period?

Yes.  No. If "yes", identify the number of years     .

(b) Due to limitations on availability of State Revolving Fund revenues, a large (generally in excess of \$8 million unless the loan is to be made from the reserve for small communities in which case the amount generally would be in excess of \$1.5 million) loan amount may be provided in increments pursuant to the initial loan agreement and subsequent amendments as well Chapter 62-552, F.A.C. Each increment shall have a separate interest rate as established in the agreement or amendment providing that increment. If in doubt about whether the funding will be segmented, this matter should be discussed with Department staff.

(c) List all revenues that are to be pledged for repayment of this loan. (Note: Typically, water system or water and sewer system revenues are pledged, and the net revenues available for loan repayment must equal at least 1.15 times the annual debt service unless special reserves are locally funded. Rule 62-552.430, F.A.C., addresses pledged revenues and coverage requirements.

**Water and Sewer Revenues.**

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(3) LOAN REPAYMENT RESERVE. The Applicant will be required to maintain a Loan Repayment Reserve Account to provide an interim remedy for any deficiency in pledged revenues. This reserve shall be no less than 0.03 times the total loan amount less the portion of the loan for capitalized interest and loan repayment reserve. Loan proceeds will be provided to establish the minimum (0.03) reserve.

(4) ADDITIONAL LOAN SECURITIZATION. If the project sponsor does not meet the requirements of Rule 62-552.430(4), F.A.C., for pledged revenue, loan repayment responsibility, default remedies, and debt service

history, indicate which of the following securitization provisions the project sponsor is prepared to negotiate (describe each in *Attachment #*   N/A  ):

- (a) Additional escrowed loan repayment reserve. No \_\_\_\_\_ Yes \_\_\_\_\_
- (b) Letter of credit. No \_\_\_\_\_ Yes \_\_\_\_\_
- (c) Lien on tangible assets. No \_\_\_\_\_ Yes \_\_\_\_\_
- (d) Personal or corporate obligation. No \_\_\_\_\_ Yes \_\_\_\_\_
- (e) Other equivalent securitization. No \_\_\_\_\_ Yes \_\_\_\_\_

**(5) INFORMATION ON LIENS.**

(a) Describe all debt obligations having a prior or parity lien on the revenues pledged for this Loan (*Attachment #*   7  ); see the following example:

City Name, Florida, Water and Sewer System Revenue Bonds, Series 1996, issued in the amount of \$10,000,000, pursuant to Ordinance No. 93-104, as amended and supplemented by Ordinance No. 96-156.

(b) Using the *Schedule of Prior and Parity Liens* (page   ), provide debt service information on each prior and parity obligation. For the listed obligations, provide a copy of the ordinance(s), resolution(s), official statement(s), or pages thereof, setting forth the definitions, use of proceeds, debt service schedule, pledged revenues, rate covenants, provisions for issuing additional debt, provisions for bond insurance, and debt rating (*Attachment #*   7  ).

**(6) ACTUAL AND PROJECTED REVENUES.**

(a) Complete the *Schedule of Actual Revenues and Debt Coverage for Rate-Based System Pledged Revenues* (page   ) for the past two fiscal years. Additional information may be required if deemed necessary by the Department to evaluate credit-worthiness of the applicant.

(b) Complete the *Schedule of Projected Revenues and Debt Coverage for Rate-Based System Pledged Revenue* (page   ), demonstrating the availability of pledged revenues for loan repayment. All projects expected to be implemented in the next five years are to be reflected into the need for projected revenues.

**(7) LEGAL OPINION ON THE AVAILABILITY OF PLEDGED REVENUES.** All sources must be supported by a written legal opinion (*Attachment #*   8  ) addressing the:

- (a) Availability of the revenues to repay the loan;
- (b) Right to increase rates at which revenues shall be collected to repay the loan; and
- (c) Subordination of the pledge if pledged revenues are subject to a prior or parity lien.

**(8) RESOLUTION ESTABLISHING PLEDGED REVENUES.** Provide a certified resolution or other documentation (*Attachment #*   1  ) of the formal action taken by the applicant that establishes the pledged revenues.

**PART IV - APPLICANT RESOLUTION, ASSURANCES, AND CERTIFICATION**

**(1) RESOLUTION.** Provide a certified resolution or other documentation (*Attachment #*   1  ) of the formal action taken by Applicant that:

- (a) Authorizes this application; and
- (b) Designates the Authorized Representative(s) to file the application, provide assurances, execute the loan agreement, and represent the Applicant in carrying out responsibilities (including that of requesting loan disbursements) under the loan agreement.

(2) **ASSURANCES AND CERTIFICATION.** The Applicant agrees to comply with the laws, rules, regulations, policies and conditions relating to the loan for this project. Specifically, the Applicant certifies that it has complied, as appropriate, and will comply with the following requirements in undertaking the project:

- (a) Complete all facilities recommended in the approved facilities plan.
- (b) The Archaeological and Historic Preservation Act of 1974, PL 93-291, and the National Historic Preservation Act of 1966, PL 89-665, as amended, regarding identification and protection of historic properties.
- (c) The Clean Air Act, 42 U.S.C. 7506(c), which requires conformance with State Air Quality Implementation Plans.
- (d) The Coastal Zone Management Act of 1972, PL 92-583, as amended, which requires assurance of project consistency with the approved State management program developed under this Act.
- (e) The Endangered Species Act, 16 U.S.C. 1531, et seq., which requires that projects avoid disrupting threatened or endangered species and their habitats.
- (f) Executive Order 11593, Protection and Enhancement of the Cultural Environment, regarding preservation, restoration and maintenance of the historic and cultural environment.
- (g) Executive Order 11988, Floodplain Management, related to avoiding, to the extent possible, adverse impacts associated with floodplain occupancy, modification and development whenever there is a practicable alternative.
- (h) Executive Order 11990, Protection of Wetlands, related to avoiding, to the extent possible, adverse impacts associated with the destruction or modification of wetlands and avoiding support of construction in wetlands.
- (i) The Fish and Wildlife Coordination Act, PL 85-624, as amended, which requires that actions to control natural streams or other water bodies be undertaken to protect fish and wildlife resources and their habitats.
- (j) The Wild and Scenic Rivers Act, PL 90-542, as amended, related to protecting components or potential components of the national wild and scenic rivers system.
- (k) The federal statutes relating to nondiscrimination, including: The Civil rights Act of 1964, PL 88-352, which prohibits discrimination on the basis of race, color or national origin; the Age Discrimination Act, PL 94-135, which prohibits discrimination on the basis of age; Section 13 of the Federal Water Pollution Control Act, PL 92-500, which prohibits sex discrimination; the Rehabilitation Act of 1973, PL 93-112, as amended, which prohibits discrimination on the basis of handicaps.
- (l) Executive Order 11246, Equal Employment Opportunity, which provides for equal opportunity for all qualified persons.
- (m) Executive Orders 11625 and 12138, Women's and Minority Business Enterprise, which require that small, minority, and women's business and labor surplus areas are used when possible as sources of supplies, equipment, construction, and services.
- (n) The Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754, as amended, which requires that projects be reviewed in accordance with state clearinghouse procedures.
- (o) The Amended Safe Drinking Water Act, PL 104-182, which sets forth requirements for public water systems.
- (p) The Coastal Barrier Resources Act, 16 U.S.C. 3501 et seq., regarding protection and conservation of the coastal barrier resources.
- (q) The Farmland Protection Policy Act, 7 U.S.C. 4201 et seq., regarding protection of agricultural lands from irreversible loss.
- (r) The Uniform Relocation and Real Property Acquisition Policies Act of 1970, PL 91-646, which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally assisted programs.



(s) Section 306 of the Clean Air Act, Section 508 of the Clean Water Act and Executive Order 11738, which prohibit manufacturers, firms, or other enterprises on the EPA's list of Violating Facilities from participating in the Project.

(t) Executive Order 12549, Debarment and Suspension, which prohibits any award to a party which is debarred or suspended or is otherwise excluded from, or ineligible for, participation in federal assistance programs.

(u) Minority and Women's Business Enterprise participation in project work using numerical goals, established by the U.S. Environmental Protection Agency, and to be set forth in the specifications for construction and materials contracts.

I, the undersigned Authorized Representative of the Applicant, hereby certify that all information contained herein and in the attached is true, correct, and complete to the best of my knowledge and belief. I further certify that I have been duly authorized to file the application and to provide these assurances.

Authorized Representative \_\_\_\_\_ **Douglas R. St. Cerny**  
(signature) (name typed)

Signed this \_\_\_\_\_ Day of \_\_\_\_\_, 20 \_\_\_\_\_

Attachments

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## SCHEDULE OF PRIOR AND PARITY LIENS

List annual debt service beginning two years before the anticipated loan agreement date and continuing at least fifteen fiscal years. Use additional pages as necessary.

	#1	#2	#3	#4	#5	
<b>Identify Each Obligation</b>	Revenue Bonds Series 2003A & 2003B	Lee County 1991 SRF loan Number CS12039331	Revenue Bonds, Series 1993	Revenue Bonds, Series 1999A	Lee County SRF loan Number CS12039202P	

Notes: (Debt coverage and annual debt service schedule for obligations #2 through #5 are currently on file with FDEP)

Coverage	1.2	1.2	1.2	1.2	1.15	

Insured?	Yes	No	Yes	Yes	No	

Fiscal Year	Annual Debt Service (Principal Plus Interest)					Total Debt Service	Total Debt Service Incl. Coverage
	#1	#2	#3	#4	*** #5		
2001	\$	\$	\$	\$	\$ 0	\$	\$
2002	\$0	\$720,926	\$2,823,351	\$8,541,125	\$ 0	\$12,085,402	\$14,502,482
2003	\$745,068	\$720,926	\$2,807,664	\$8,538,440	\$ 0	\$12,812,098	\$15,374,518
2004	\$2,947,525	\$720,926	\$2,796,544	\$8,541,460	\$ 0	\$15,006,455	\$18,007,746
2005	\$2,947,525	\$720,926	\$2,775,794	\$8,539,735	\$ 0	\$14,983,980	\$17,980,776
2006	\$2,947,525	\$720,926	\$2,770,044	\$8,540,425	\$ 0	\$14,978,920	\$17,974,704
2007	\$4,792,525	\$720,926	\$	\$8,539,275	\$ 0	\$14,052,726	\$16,863,271
2008	\$4,790,625	\$720,926	\$	\$8,540,875	\$ 0	\$14,052,426	\$16,862,911
2009	\$4,795,675	\$720,926	\$	\$8,539,595	\$2,912,287	\$16,968,483	\$20,362,179
2010	\$4,794,475	\$720,926	\$	\$8,539,985	\$2,912,287	\$16,967,673	\$20,361,207
2011	\$4,795,300	\$720,926	\$	\$8,539,695	\$2,912,287	\$16,968,208	\$20,361,849
2012	\$4,797,081	\$720,926	\$	\$8,537,870	\$2,912,287	\$16,968,164	\$20,361,797
2013	\$4,974,531	\$	\$	\$8,537,250	\$2,912,287	\$16,424,068	\$19,708,881
2014	\$4,979,500	\$	\$	\$8,537,000	\$2,912,287	\$16,428,787	\$19,714,544
2015	\$4,796,750	\$	\$	\$8,537,250	\$2,912,287	\$16,246,287	\$19,495,544
2016	\$4,795,500	\$	\$	\$8,537,988	\$2,912,287	\$16,245,775	\$19,494,930
2017	\$4,793,500	\$	\$	\$8,539,225	\$2,912,287	\$16,245,012	\$19,494,014
2018	\$4,795,500	\$	\$	\$8,540,488	\$2,912,287	\$16,248,275	\$19,497,930
2019	\$4,791,000	\$	\$	\$8,541,300	\$ 0	\$13,332,300	\$15,998,760
2020	\$4,795,000	\$	\$	\$8,536,188	\$ 0	\$13,331,188	\$15,997,426
2021	\$4,791,750	\$	\$	\$8,539,913	\$ 0	\$13,331,663	\$15,997,996
2022	\$4,796,250	\$	\$	\$8,536,525	\$ 0	\$13,332,775	\$15,999,330
2023	\$4,792,750	\$	\$	\$8,540,788	\$ 0	\$13,333,538	\$16,000,246
2024	\$4,796,250	\$	\$	\$8,536,750	\$ 0	\$13,333,000	\$15,999,600
2025	\$4,796,000	\$	\$	\$8,538,250	\$ 0	\$13,334,250	\$16,001,100
2026	\$4,796,750	\$	\$	\$8,538,750	\$ 0	\$13,335,500	\$16,002,600
2027	\$4,798,000	\$	\$	\$8,537,500	\$ 0	\$13,335,500	\$16,002,600
2028	\$4,454,250	\$	\$	\$8,538,750	\$ 0	\$12,993,000	\$15,591,600
2029	\$4,457,250	\$	\$	\$8,536,500	\$ 0	\$12,993,750	\$15,592,500

\*\*\* A CW pre-construction loan that will roll over into a construction loan in the fall of 2005; payment schedule shown presumes a \$25,000,000 @ 3% construction loan will be granted in 2005 with repayment starting in 2009)

**SCHEDULE OF ACTUAL REVENUES AND DEBT COVERAGE  
FOR RATE-BASED SYSTEM PLEDGED REVENUE**

(Provide information for the two fiscal years preceding the anticipated date of the SRF loan agreement.)

	FY 2002	FY 2003	FY2004
<b>(a) Operating Revenues:</b>			
<b>Water Service</b>	\$23,798,912	\$26,218,404	\$31,330,015
<b>Other (Sewer Service)</b>	\$21,681,245	\$25,601,031	\$29,844,910
<b>(b) Interest Income</b>	\$2,226,000	\$1,534,000	\$1,164,000
<b>(c) Other Income or Revenue (Identify)</b>	\$0	\$0	
<b>(Non Operating Income     (see Attachment 9)</b>	\$295,978	\$178,361	\$1,603,092
<b>Other Miscellaneous Income</b>			\$95,382
<b>(d) Total Revenues</b>	<u>\$48,002,135</u>	<u>\$53,531,796</u>	<u>\$64,037,399</u>
<b>(e) Operating Expenses (excluding interest on debt, depreciation, and other non- cash items)</b>	\$22,348,000	\$27,545,000	\$35,938,967
<b>(f) Net Revenues (f = d - e)</b>	<u>\$25,654,135</u>	<u>\$25,986,796</u>	<u>\$28,098,432</u>
<b>(g) Debt Service (including required coverage; should reflect last column of preceding page)</b>	\$14,502,482	\$15,374,518	\$18,007,746

(h) Attach audited annual financial report(s), or pages thereof, and any other documentation necessary to support the above information. Include any notes or comments from the audit reports regarding compliance with covenants of debt obligations having a prior or parity lien on the revenues pledged for repayment of the SRF loan. (Attachment # 10)

(i) Attach worksheets reconciling this page with the appropriate financial statements (for example, backing out depreciation and interest payments from operating expenses). (Attachment # 11)

(j) If the net revenues were not sufficient to satisfy the debt service and coverage requirement, please explain what corrective action was taken. (Attachment # N/A)

**SCHEDULE OF PROJECTED REVENUES AND DEBT COVERAGE  
FOR RATE-BASED SYSTEM PLEDGED REVENUE**

(Begin with the fiscal year preceding first anticipated semiannual loan payment.)

	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
	(Projected at an estimated growth of 3% using 2004 as a base)				
(a) Water Operating Revenue	\$34,235,153	\$35,262,208	\$36,320,074	\$37,409,676	\$38,531,967
(b) Other Operating Revenue (Sewer)	\$32,612,339	\$33,590,709	\$34,598,430	\$35,636,383	\$36,705,475
(c) Interest Income	\$1,271,934	\$1,310,092	\$1,349,395	\$1,389,877	\$1,431,573
(d) Other Income or Revenue (Identify)	\$0	\$0	\$0	\$0	\$0
Non Operating Income (see attachment 9))	\$1,751,742	\$1,804,294	\$1,858,423	\$1,914,176	\$1,971,601
Other Miscellaneous Income	\$104,226	\$107,353	\$110,574	\$113,891	\$117,308
<b>(e) Total Revenues</b>	<b>\$69,975,395</b>	<b>\$72,074,657</b>	<b>\$74,236,896</b>	<b>\$76,464,003</b>	<b>\$78,757,923</b>
<b>(f) Operating Expenses (excluding interest on debt, depreciation, and other non- cash items)</b>	<b>\$39,271,480</b>	<b>\$40,449,624</b>	<b>\$41,663,113</b>	<b>\$42,913,006</b>	<b>\$44,200,396</b>
<b>(g) Net Revenues (g = e - f)</b>	<b>\$30,703,915</b>	<b>\$31,625,033</b>	<b>\$32,573,784</b>	<b>\$33,550,997</b>	<b>\$34,557,527</b>
<b>(h) Revenue (including coverage pledged to debt service, excluding SRF loans)</b>	<b>\$15,998,160</b>	<b>\$15,997,800</b>	<b>\$16,002,324</b>	<b>\$16,001,352</b>	<b>\$16,001,994</b>
<b>(i) Revenue (including coverage pledged to outstanding SRF loans)</b>	<b>\$865,111</b>	<b>\$865,111</b>	<b>\$4,359,855</b>	<b>\$4,359,855</b>	<b>\$4,359,855</b>
<b>(j) Revenue available for this SRF loan (j=g-h-i)</b>	<b>\$13,840,644</b>	<b>\$14,762,122</b>	<b>\$12,211,604</b>	<b>\$13,189,790</b>	<b>\$14,195,678</b>

(k) Identify the source of the above information and explain methods used to develop the projections (*Attachment # 12*). Include an explanation of any revenue and expense growth or other adjustments; for example, any rate increases, service growth, inflation adjustments, expense adjustments reflecting the cost of operating additional facilities, or other considerations.

(m) Are the above projections consistent with the capital improvements financing information in the accepted water facilities plan?  Yes  No. If not, explain on *Attachment #* \_\_\_\_\_.

### LIST OF ATTACHMENTS

Please list all attachments that you are including with this application form.

Attachment	Number
Resolution of Board of County Commissioners	1
EPA Pre-award Compliance Report	2
Construction activities	3
FDEP acceptance of plans and specifications	4
Site Certification	5
Permits	6
Information on liens	7
Legal opinion on availability of pledged revenues	8
Listing of non-operating revenues	9
Recap page from audited Comprehensive Annual Financial Report	10
Financial schedule backing out depreciation and interest payments from operating expenses.	11
Schedule of actual Revenues and debt coverage for rate-based System pledged revenues	12

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

RESOLUTION NO. \_\_\_\_\_

RE: RELATING TO THE STATE REVOLVING FUND PROGRAM; MAKING FINDINGS; AUTHORIZING THE LOAN APPLICATION; AUTHORIZING THE LOAN AGREEMENT; ESTABLISHING PLEDGED REVENUES; DESIGNATING AUTHORIZED REPRESENTATIVES; PROVIDING ASSURANCES AND CERTIFICATIONS; PROVIDING FOR CONFLICTS, SERVERABILITY AND EFFECTIVE DATE.

**WHEREAS**, Florida Statutes provide for financial assistance to local government agencies to finance the construction of drinking water facilities; and

**WHEREAS**, Florida Administrative Code rules require authorization to apply for financial assistance, to establish pledged revenues, to designate an authorized representative; to provide assurances of compliance with program requirements; and to enter into an agreement; and

**WHEREAS**, the State Revolving Fund priority list designates Project Number DW3610010 as eligible for available funding; and

**WHEREAS**, Project Sponsor, Florida, intends to enter into an agreement with the Department of Environmental Protection under the State Revolving fund for project financing.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, AS FOLLOWS:**

SECTION I. The foregoing findings are incorporated herein by reference and made part hereof.

SECTION II. Lee County, Florida is authorized to apply for financial assistance to finance the project.

SECTION III. The revenues pledged for the repayment of the loan are net revenues of the Lee County Utilities System [after payment of debt service on list outstanding bond debt by series].

SECTION IV. The Chairman of the Board of County Commissioners is hereby designated as the authorized representative to provide the assurances and commitments required by the application.

SECTION V. The Chairman of the Board of County Commissioners is hereby designated as he authorized representative to execute the loan application and execute the loan agreement which will become a binding obligation in accordance with its terms when signed by both parties. The Chairman of the Board of County Commissioners is authorized to represent Lee County in carrying out the County’s responsibilities under the loan agreement. The Chairman of the Board of County Commissioners is authorized to delegate responsibility to appropriate County Staff to carry out technical, financial, and administrative activities associated with the agreement.

SECTION VI. The legal authority for borrowing moneys to construct this Project is Florida Statutes.

SECTION VII. Conflicts. All Resolutions or part of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION VIII. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other Section or part of this Resolution.

SECTION IX. Effective Date. This resolution shall become effective immediately upon its adoption.

**PASSED AND DULY ADOPTED** by the Board of County Commissioners of Lee County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

**BOARD OF COUNTY COMMISSIONERS OF  
LEE COUNTY, FLORIDA**

**BY:** \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_, Clerk of the  
**Circuit Court and ex-officio Clerk  
of the Board of County Commissioners  
of Lee County, Florida**

**BY:** \_\_\_\_\_  
**Deputy Clerk**

**Loan Application for Florida SRF Project –DW36100 010**


**ATTACHMENT 2**

**Part 1 – Administrative Information**

**(7) Preaward compliance**

**EPA Preaward Compliance Report for this project is included herewith following this page.**



 <b>EPA</b>	<b>United States Environmental Protection Agency</b> <b>Washington, DC 20460</b> <b>Preaward Compliance Review Report for</b> <b>All Applicants Requesting Federal Financial Assistance</b>	<b>Form Approved</b> <b>OMB No. 2090-0014</b>
Note: Read instructions on reverse side before completing form.		
I. A. Applicant (Name, City, State) <b>Lee County</b>	B. Recipient (Name, City, State) <b>Lee County</b>	C. EPA Request No.
II. Brief description of proposed project, program or activity. <b>Construction of the North Lee county Water Treatment Plant; a 5MGD R/O facility with basic infrastructure for future expansion to 10MGD.</b>		
III. Are any civil rights lawsuits or complaints pending against applicant and/or recipient? If "Yes", list those complaints and the disposition of each complaint. <span style="float: right;"><input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</span>		
IV. Have any civil rights compliance reviews of the applicant and/or recipient been conducted by any Federal agency during the two years prior to this application for activities which would receive EPA assistance? If "Yes", list those compliance reviews and status of each review. <span style="float: right;"><input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</span>		
V. Is any other Federal financial assistance being applied for or is any other Federal financial assistance being applied to any portion of this project, program or activity? If "Yes", list the other Federal Agency(s), describe the associated work and the dollar amount of assistance. <span style="float: right;"><input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</span>		
VI. If entire community under the applicant's jurisdiction is not served the existing facilities/services or will not be served under the proposed plan, give reasons why. <b>N/A, all residents within service area are being and will be served.</b>		
VII. Population Characteristics		Number of People
1. A. Population of Entire Service Area		<b>195,926</b>
B. Minority Population of Entire Service Area		<b>35,267</b>
2. A. Population Currently Being Served		<b>195,926</b>
B. Minority Population Currently Being Served		<b>35,267</b>
3. A. Population to be Served by Project, Program or Activity		<b>41,552</b>
B. Minority Population to be Served by Project, Program or Activity		<b>7,480</b>
4. A. Population to Remain Without Service		<b>N/A</b>
B. Minority Population to Remain Without Service		<b>N/A</b>
VIII. Will all new facilities or alterations to existing facilities financed by these funds be designed and constructed to be readily accessible to and usable by handicapped persons? If "No", explain how a regulatory exception (40 CFR 7.70) applies. <span style="float: right;"><input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No</span>		
IX. Give the schedule for future projects, programs or activities (or of future plans) by which service will be provided to all beneficiaries within applicant's jurisdiction. If there is no schedule, explain why. <b>The North Lee County WT plant will be expanded to 10MGD when warranted by demand. The schedule for such expansion cannot be determined at this time.</b>		
X. I certify that the statements I have made on this form and all attachments thereto are true, accurate and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law.		
A. Signature of Authorized Official	B. Title of Authorized Official <b>Douglas R. St. Cerny - Chairman, Lee County Board of County Commissioners</b>	C. Date
<b>For the U.S. Environmental Protection Agency</b>		
<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	Authorized EPA Official	Date

## General

Recipients of Federal financial assistance from the U.S. Environmental Protection Agency must comply with the following statutes.

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Act goes on to explain that the title shall not be construed to authorize action with respect to any employment practice of any employer, employment agency, or labor organization (except where the primary objective of the Federal financial assistance is to provide employment).

Section 13 of the 1972 Amendments to the Federal Water Pollution Control Act provides that no person in the United States shall on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the Federal Water Pollution Control Act, as amended. Employment discrimination on the basis of sex is prohibited in all such programs or activities.

Section 504 of The Rehabilitation Act of 1973 provides that no otherwise qualified handicapped individual shall solely be reason of handicap be excluded from participation in, be denied the benefit of or be subjected to discrimination under any program or activity receiving Federal finance assistance. Employment discrimination on the basis of handicap is prohibited in all such programs or activities.

The Age Discrimination Act of 1975 provides that no person on the basis of age shall be excluded from participation under any program or activity receiving Federal financial assistance. Employment discrimination is not covered. Age discrimination in employment is prohibited by the Age Discrimination in Employment Act administered by the Equal Employment Opportunity Commission.

Title IX of the Education Amendments of 1972 provides that no person on the basis of sex shall be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Employment discrimination on the basis of sex is prohibited in all such education programs or activities. Note: an education program or activity is not limited to only those conducted by a formal institution.

The information on this form is required to enable the U.S. Environmental Protection Agency to determine whether applicants and prospective recipients are developing projects, programs and activities on a nondiscriminatory basis as required by the above statutes.

Submit this form with the original and required copies of applications, requests for extensions, requests for increase of funds, etc. Updates of information are all that are required after the initial application submission.

If any item is not relevant to the project for which assistance is requested, write "NA" for "Not Applicable."

In the event applicant is uncertain about how to answer certain questions, EPA program officials should be contacted for clarification.

IB. "Recipient" means any entity, other than applicant which will actually receive EPA assistance

IC. Self-explanatory.

II. Self-explanatory.

III. "Civil rights lawsuits" means any lawsuit or complaint alleging discrimination on the basis of race, color, national origin, sex, age or handicap pending against the applicant and/or entity which actually benefits from the grant. For example, if a city is the named applicant but the grant will actually benefit the Department of Sewage, civil rights lawsuits involving both the city and the Department of Sewage should be listed.

IV. "Civil rights compliance review" means any review assessing the applicant's and/or recipient's compliance with laws prohibiting discrimination on the basis of race, color, national origin, sex, age or handicap. If any part of the review covered the entity which will actually benefit from the grant, it should be listed.

V. Self-explanatory.

VI. The word "community" refers to the area under the applicant's and/or recipient's jurisdiction. The "community" might be a university or laboratory campus, or a community within a large city. If there is a significant disparity between minority and nonminority populations to receive service, not otherwise satisfactorily explained, the Regional office may require a map which indicates the minority and nonminority population served by this project, program or activity.

VII. This information is required so that reviewers may determine if a disparity in the proposed provision of services will exist in the event the application is approved for funding. Give population of recipient's jurisdiction, broken out by categories as specified.

In the event the applicant cannot provide the requested information because the funds will be distributed over a wide demographic area which is yet to be determined, an explanation may be provided on a separate sheet. For example, a State applying for a capitalization grant under the State Revolving Fund program may not know which cities and counties will apply for, and receive, SRF loans.

VIII. Self-explanatory.

IX. "Jurisdiction" means the geographical area over which applicant has the authority to provide service.

X. Self-explanatory.

### "Burden Disclosure Statement"

EPA estimates public reporting burden for the preparation of this form to average 30 minutes per response. This estimate includes the time for reviewing instructions, gathering and maintaining the data needed and completing and reviewing the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to Chief Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

## ITEMS

IA. "Applicant" means any entity that files an application or unsolicited proposal or otherwise requests EPA assistance.

**Part II Subpart B**

**(1) (a) -Construction Activities**

**Construction of the North Lee County Water Treatment Plant; a 5 MGD R/O with basic infrastructure for future expansion to 10 MGD. Construction started 9/2003 and is scheduled to be completed 8/2005 .**

**Project is being constructed via Construction Management and is broken down into the following sub-contracts.**

<b>Parties to Contract</b>		<b>Scope</b>	<b>Start Date</b>	<b>Completion Date</b>
Lee County Utilities	KBR	Construction Management	9/2003	8/2005
KBR	Westra Construction Corp	Sitework/Concrete	9/2003	8/2005
KBR	Westra Construction Corp	Off Site Water Lines	12/2003	8/2005
KBR	Diversified Drilling Corp	Wellheads & Submersible Pumps	1/2004	8/2005
KBR	The Crom Corp	Pre-stressed Concrete Tanks	11/2003	8/2005
KBR	Westra Construction Corp	R.O. Equipment	11/2003	8/2005
KBR	Cogburn Bros. Electric, Inc.	Electrical & Instrumentation	11/2003	8/2005
KBR	Westra Construction Corp	Site Mechanical, Degasifier and Air Quality Control	12/2003	8/2005
KBR	Dooley Mack Constructors, Inc.	General Works – Doors, Windows, Finishes, ..etc.	7/2004	8/2005
KBR	B & I Contractors, Inc.	HVAC	8/2004	8/2005
KBR	Florida Service Painting	Painting	10/2004	8/2005

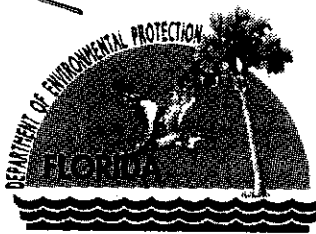
**Loan Application for Florida SRF Project –DW36100 010**

**ATTACHMENT 4**

**Part II Subpart B**

**(1) (b) –Acceptance of plans and specifications by DEP**

**See copy of 2-page letter from DEP following this page.**



Jeb Bush  
Governor

# Department of Environmental Protection

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David B. Struhs  
Secretary

*Struhs*  
4/21/03

April 15, 2003

Mr. Rick Diaz, P.E.  
Utilities Director  
Lee County  
Post Office Box 398  
Ft. Myers, Florida 33902

Re: DW3610 010 - Lee County  
Treatment

Dear Mr. Diaz:

The plans and specifications for the North Lee County Water Treatment Plant contracts have been reviewed for conformance with the requirements set forth in Chapter 62-552, Florida Administrative Code. We have also reviewed the letter provided by Kellogg Brown & Root, the Construction Manager for the project, which acknowledges the need to include the Supplemental Conditions for Construction Procurement in the construction contracts associated with this project. These plans and specifications are conditionally accepted, effective April 15, 2003, provided the individual contractors provide written acknowledgement to the Department of these Supplemental Conditions and their requirements as part of their construction agreements with Lee County.

Our review of your plans and specifications was performed only to verify conformance with the administrative requirements of the Drinking Water State Revolving Fund loan program. We did not review the technical aspects of your plans and specifications in order to avoid duplicating the review performed, or that may be performed, by the permitting agency or agencies. Accordingly, our review does not substitute for any required permitting review(s). Please note that it is not possible to execute a loan agreement with the Department for the work at issue until you have obtained the notice of intent to issue permit.

An authorization to incur construction costs prior to executing a loan agreement has been issued for your project. There are a number of loan program requirements (refer to our October 25, 2002 letter to you detailing these requirements) that you must satisfy to ensure continued allowability of the project costs for financing/ refinancing. Our acceptance of your plans and specifications represents one of the requirements that you have satisfied with respect to the above referenced contracts. You are advised to review

"More Protection, Less Process"

**APR 18 2003**

Printed on recycled paper.

Mr. Rick Diaz  
April 15, 2003  
Page Two

the status of your efforts to satisfy the remainder of these requirements before you proceed with procurement actions related to the accepted plans and specifications.

When you proceed with procurement and after bid opening and evaluation, please submit the bidding information to the Bureau for review. Do not award any contract until the Bureau concurs with your award recommendations. Note that improper or unauthorized procurement may result in the disqualification of contract costs for funding.

If it is necessary to make changes to the accepted plans and specifications prior to bid opening, the changes are to be made by addendum. Changes made after bid opening are to be accomplished by change order. All addenda and change orders must be submitted to this Bureau for review.

If you have any questions or need further information, please call the Bureau's Project Manager, Al Bishop at 850/245-8393.

Sincerely,



Don W. Berryhill, P.E., Chief  
Bureau of Water Facilities Funding

DWB/ab

**Part II Subpart B**

**(1) (d) – Site Certification**

**A site certification was previously submitted to FDEP in 2002 and again in 2003. See copies of transmittal letter and the site certification form following this page.**



**LEE COUNTY**  
SOUTHWEST FLORIDA

1/28/2003  
FILE IN  
NLCWTP FOLDER

**BOARD OF COUNTY COMMISSIONERS**

(239) 479-8181

Writer's Direct Dial Number: \_\_\_\_\_

Bob Janes  
District One

**VIA OVERNIGHT MAIL**

Douglas R. St. Cerny  
District Two

**Mr. Don W. Berryhill, P.E.**  
Chief, Bureau of Water Facilities Funding  
Florida Department of Environmental Protection  
MS 3505  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Ray Judah  
District Three

Andrew W. Coy  
District Four

John E. Albion  
District Five

Donald D. Stilwell  
County Manager

**SUBJECT: Lee County Water Treatment DW3610 010**  
**Transmittal of the Plans and Specifications for the North Lee County**  
**Water Treatment Plant, copies of permits and the site certification.**

James G. Yaeger  
County Attorney

Diana M. Parker  
County Hearing  
Examiner

Dear Mr. Berryhill:

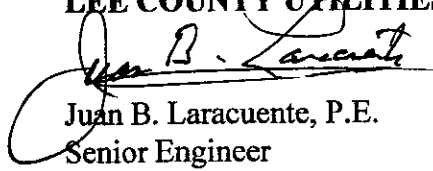
Herewith we respectfully submit the plans and specifications for our North Lee County water treatment plant for your review and comment. I also include copies of the permits and the site certification. I believe the original site certification has already been submitted and is in you files.

I would appreciate your department's guidance on the next steps in the process.

Thank you for your help in this matter.

Cordially,

**LEE COUNTY UTILITIES**



Juan B. Laracuate, P.E.  
Senior Engineer

/jbl  
Enclosures

cc: File/Scan Copy  
Rick Diaz, PE  
Ivan Velez, PE

S:\UTILSV B LUS R FNEW SRF-JBL DOCUMENTS\NLCWT PLANS & SPECS TRANSMITTAL.DOC



**AUTHORIZED REPRESENTATIVE'S SITE CERTIFICATION**  
(Equivalency Projects)

Project Number DW DW120

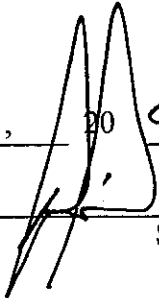
Project Description: New R.O. WTP in North Lee County

I do hereby certify as to the following:

1. Lee County Utilitics has acquired all real property or real property rights that are, or will be, required for the construction (erection, extension, modification, addition), operation and maintenance of the Project described above.
2. All real property and real property rights required for the entire Project were acquired in accordance with the State and local requirements and with Title 49 Part 24 of the Code of Federal Regulations.

Dated this 24<sup>th</sup> Day of July, 20 02

Rick Diaz  
Authorized Representative

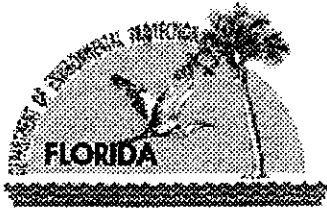
  
Signature

Director of Utilities  
Title

**Part II Subpart B**

**(1) (e) – Permits**

Florida Department of Environmental Protection and Florida Department of Health permits have been issued. See copies following this page.



Jeb Bush  
Governor

# Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

## BY ELECTRONIC MAIL:

In the Matter of an  
Application for Permit by:

Rick Diaz, P.E., Director of Utilities  
Lee County Utilities Division  
1500 Monroe Street  
Fort Myers, FL 33901-0000  
[Diazr@leegov.com](mailto:Diazr@leegov.com)

Lee County – UIC/IW  
FDEP File No. 193717-002-UC  
North Lee County WTP  
Reverse Osmosis IW-1  
Class I Injection Well

## NOTICE OF PERMIT ISSUANCE

Enclosed is Permit Number 193717-002-UC to construct a Class I Injection Well (IW-1) system, issued pursuant to Section(s) 403.087, Florida Statutes.

Any party to this Order (permit) has the right to seek judicial review of the permit pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Notice is filed with the Clerk of the Department.

Executed in Fort Myers, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

Richard W. Cantrell  
Director of  
District Management



# Department of Environmental Protection

COPY

Jeb Bush  
Governor

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

May 3, 2002

Mr. Thomas J. Sievers, P.G.  
Montgomery Watson Harza  
The Times Building  
1000 North Ashley Drive, Suite 400  
Tampa, FL 33602

Re: Lee County - IW/DEW  
North Lee County Water Treatment Plant  
**Generic Permit No: FLG911449**  
Discharge to Drainage swale  
Application Number: FLG911449-001-1WF  
Permit Expires: May 2, 2007

Dear Mr. Sievers:

In response to your request for coverage under the Generic Permit for the Discharge of Produced Ground Water from any Non-Contaminated Site Activity, dated March 5, 2002, the Department of Environmental Protection hereby grants your request effective on the date of this letter.

Enclosed is a copy of the final permit and a copy of 62-621, Florida Administrative Code (F.A.C.). You should become familiar with the permit and any reporting requirements for which you may be responsible.

**If you have any questions or comments, please contact Louis LeMaire at (941) 332-6975 extension 117. Your cooperation is appreciated.**

Sincerely,

Abdul B. Ahmadi, Ph.D., P.E.  
Water Facilities Administrator

ABA/LPL/jli  
Enclosures

cc: Phil D'Amo, MWH  
Keith Kleinmann, FDEP

RECEIVED  
MAY 03 2002

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MWH - TAMPA

DEP 2000  
62-621  
GENERIC PERMITS

CHAPTER 62-621  
GENERIC PERMITS

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DEP 2000  
62-621

## GENERIC PERMITS

**62-621.100 Scope/Applicability.**

This Chapter sets forth the procedures to obtain generic permits authorized under Section 403.0885, Florida Statutes, and Chapter 62-620, Florida Administrative Code (F.A.C.). For the purpose of this Chapter "Generic Permit" means a general permit issued under the authority of Section 403.0885, F.S. As an alternative to individual permits, the Department may promulgate by rule a generic permit to regulate a category of wastewater facilities or activities. The Department shall issue a generic permit to regulate such a category of wastewater facilities or activities only if they all: involve the same or substantially similar types of operations, discharge the same types of wastes or engage in the same types of residuals or industrial sludge use or disposal practices; require the same effluent limitations, operating conditions, or standards for residuals or industrial sludge use or disposal; require the same or similar monitoring; and the permit is approved by the EPA pursuant to Rule 62-620.710(3), F.A.C.

(1) The generic permits issued under this Chapter are subject to the procedural requirements of Chapter 62-620, F.A.C., unless otherwise specified.

(2) For wastewater facilities covered under the Federal NPDES "General Permit for Dewatering and Petroleum Fuel Contaminated Ground/Storm Waters in the State of Florida", the Department shall, after receiving authorization to administer the NPDES program, notify users that their coverage has been transferred to the State permit by issuing a letter to the permittee.

(3) For activities covered under the existing Federal NPDES "General Permit for Storm Water Discharges from Construction Activities," the Department shall, after receiving authorization to administer this component of the NPDES program, notify users that they must apply for coverage under the State Generic Permit for Stormwater Discharge from Construction Activities that Disturb Five or More Acres of Land in accordance with Rule 62-621.300(4), F.A.C. Application for coverage under the State Generic permit shall be made within 30 days of the permittee's receipt of notification.

(4) For facilities or activities covered under the existing Federal NPDES "Storm Water Multi-Sector General Permit for Industrial Activities," the Department shall, after receiving authorization to administer this component of the NPDES program, notify users that they must apply for coverage under the State Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity in accordance with Rule 62-621.300(5), F.A.C. Application for coverage under the State generic permit shall be made within 30 days of the permittee's receipt of notification.

Specific Authority 403.087, 403.088, 403.0885, 403.08851 FS  
Law Implemented 403.061, 403.087, 403.088, 403.0885, 403.08851 FS  
History - New 8-22-95, Amended 12-24-96, 5-1-97, 10-22-00

**62-621.105 Applicability. (Repealed)**

Specific Authority 403.061, 403.087, 403.088, 403.0885, 403.08851 FS.  
Law Implemented 403.061, 403.087, 403.088, 403.0885, 403.08851 FS.

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History - New 8-22-95, Repealed 12-24-96.

**62-621.200 Definitions. (Repealed)**

Specific Authority 403.061, 403.087, 403.088, 403.0885, 403.08851 FS.  
Law Implemented: 403.061, 403.087, 403.088, 403.0885, 403.08851 FS.  
History - New 8-2-95, Repealed 12-24-96.

**62-621.250 General Conditions.**

Notwithstanding Rule 62-620.610, F.A.C., and unless stated otherwise in this Chapter, the following conditions apply to all permits listed in this Chapter:

(1) The terms, conditions, requirements, limitations and restrictions set forth in this permit are binding and enforceable pursuant to Chapter 403, Florida Statutes. Any permit non-compliance constitutes a violation of Chapter 403, Florida Statutes, and is grounds for enforcement action, permit termination, or permit revocation and reissuance, or a combination of the three.

(2) As provided in subsection 403.087(6), F.S., the issuance of coverage under this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor authorize any infringement of federal, state, or local laws or regulations. Coverage under this permit is not a waiver or approval of any other Department permit or authorization that may be required for other aspects of the total project which are not addressed in this permit.

(3) Coverage issued under this permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Board of Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

(4) Coverage under this permit does not relieve the permittee from liability and penalties for harm or injury to human health or welfare, animal or plant life, or property caused by the construction or operation of this permitted source; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department. The permittee shall take all reasonable steps to minimize or prevent any discharge, reuse of reclaimed water, or residuals use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(5) The permittee shall at all times properly operate and maintain the facility and system of treatment and control, and related appurtenances, that are installed and used by the permittee to achieve compliance with the conditions of this permit. This

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provision includes the operation of backup or auxiliary facilities or similar systems when necessary to maintain or achieve compliance with the conditions of the permit.

(6) This permit may be modified, revoked and reissued, or terminated for cause as defined in Rules 62-620.325(2) and 62-620.345(1), F.A.C. The filing of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(7) The permittee, by accepting coverage under this permit, specifically agrees to allow authorized Department personnel, including an authorized representative of the Department and authorized EPA personnel, when applicable, upon presentation of credentials or other documents as may be required by law, and at reasonable times, depending upon the nature of the concern being investigated, to:

(a) Enter upon the permittee's premises where a regulated facility, system, or activity is located or conducted, or where records shall be kept under the conditions of this permit;

(b) Have access to and copy any records that shall be kept under the conditions of this permit;

(c) Inspect the facilities, equipment, practices, or operations regulated or required under this permit; and

(d) Sample or monitor any substances or parameters at any location necessary to assure compliance with this permit or Department rules.

(8) In accepting coverage under this permit, the permittee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except as such use is proscribed by section 403.111, Florida Statutes, or Rule 62-620.302, Florida Administrative Code. Such evidence shall only be used to the extent that it is consistent with the Florida Rules of Civil Procedure and applicable evidentiary rules.

(9) When requested by the Department, the permittee shall provide any information required by law which is needed to determine whether there is cause for revising, revoking and reissuing, or terminating coverage under this permit, or to determine compliance with the permit. The permittee shall also provide to the Department upon request copies of records required by this permit to be kept if the permittee becomes aware of relevant facts that were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be submitted or corrections reported to the Department within 10 days of discovery.

(10) The permittee, in accepting coverage under this permit, agrees to pay the applicable regulatory program and surveillance fee in accordance with Rule 62-4.052, F.A.C.

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(11) Coverage under this permit is transferable only in accordance with Rule 62-620.340, F.A.C. The permittee shall be liable for any noncompliance of the permittee actively until the transfer is approved by the Department.

(12) The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. The permittee shall be responsible for any and all damages which may result from the changes and may be subject to enforcement action by the Department for penalties or revocation of this permit. The notice shall include the following information:

(a) A description of the anticipated noncompliance;

(b) The period of the anticipated noncompliance, including dates and times; and,

(c) Steps being taken to prevent future occurrence of the noncompliance.

(13) Sampling and monitoring data shall be collected and analyzed in accordance with Rule 62-4.246, F.A.C., Chapter 62-160, F.A.C., and 40 CFR 136, which is hereby incorporated by reference, as appropriate.

(a) Monitoring results shall be reported at the intervals specified elsewhere in this permit and shall be reported on a Discharge Monitoring Report (DMR), DEP Form 62-620.910(10).

(b) If the permittee monitors any contaminant more frequently than required by the permit, using Department-approved test procedures, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

(c) Calculations for all limitations which require averaging of measurements shall use an arithmetic mean unless otherwise specified in this permit.

(d) Under Chapter 62-160, F.A.C., sample collection shall be performed by following the protocols outlined in "DER Standard Operating Procedures for Laboratory Operations and Sample Collection Activities" (DER-0A-00192). Alternatively, sample collection may be performed by an organization which has an approved Comprehensive Quality Assurance Plan (CompQAP) approved pursuant to Chapter 62-160, F.A.C., on file with the Department. This CompQAP shall be approved for collection of samples from the required matrices and for the required tests.

(14) The permittee shall report to the Department any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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- (a) The following shall be included as information which must be reported within 24 hours under this condition:
- Any unanticipated bypass which causes any reclaimed water or the effluent to exceed any permit limitation or results in an unpermitted discharge.
  - Any upset which causes any reclaimed water or the effluent to exceed any limitation in the permit.
  - Violation of a maximum daily discharge limitation for any of the pollutants specifically listed in the permit for such notice, and
  - Any unauthorized discharge to surface or ground waters
- (b) If the onset report has been received within 24 hours, the noncompliance has been corrected, and the noncompliance did not endanger health or the environment, the Department shall waive the written report.
- (15) The permittee shall report all instances of noncompliance not reported under condition (12) of this permit at the time monitoring reports are submitted. This report shall contain the same information required by condition (14) of this permit
- (16) Bypass Provisions.
- (a) Bypass is prohibited, and the permittee is subject to enforcement action for bypass, unless the permittee affirmatively demonstrates that:
- Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
  - There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if back-up equipment should have been installed in accordance with generally accepted engineering principles to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- 3 The permittee submitted notices as required under condition (16)(b) of this permit
- (b) If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least 10 days before the date of the bypass. The permittee shall submit notice of an unanticipated bypass within 24 hours of learning about the bypass as required in condition (14) of this permit. A notice shall include a description of the bypass and its cause, the period of the bypass, including exact dates and times, if the bypass has not been corrected, the anticipated time it is expected to continue, and the steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.
- (c) The Department shall approve an anticipated bypass, after considering its adverse effect, if the permittee demonstrates that it will meet the conditions listed in condition (16)(e)1, through 3, of this permit.
- (d) A permittee may allow any bypass to occur which does not cause reclaimed water or effluent limitations to be exceeded if it is for essential maintenance

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to assure efficient operation. These bypasses are not subject to the provision of conditions (16)(e) through (c) of this permit.

## (17) Upset Provisions.

(a) A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- An upset occurred and the permittee can identify the cause(s) of the upset;
  - The permitted facility was at the time being properly operated;
  - The permittee submitted notice of the upset as required in condition (14) of this permit; and
  - The permittee complied with any remedial measures required under condition (4) of this permit
- (b) In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.
- (c) Before an enforcement proceeding is instituted, no representation made during the Department review of a claim that noncompliance was caused by an upset is final agency action subject to judicial review.

(18) Generic permits are valid only for the specific activities indicated. Any deviation from the specified activities and the conditions for undertaking those activities shall constitute a violation of the permit

(19) The use of generic permits issued under this Chapter is limited to a term not to exceed five years. Terms and conditions of the permit are automatically continued in accordance with 40 CFR 122.6, which is hereby incorporated by reference, only where the permittee has submitted a timely and complete Notice of Intent 180 days prior to expiration of permit coverage or as otherwise specified in the generic permit. The requirements for submittal of Notice of Intent are located in each specific generic permit.

(20) Coverage under this generic permit may be modified in accordance with Chapter 120, F.S., or suspended or revoked in accordance with Rule 62-620.740(4), F.A.C., if the Secretary determines that there has been a violation of any of the terms or conditions of the permit, there has been a violation of state water quality standards or the permittee has submitted false, incomplete or inaccurate data or information.

Specific Authority 403.061, 403.067, 403.088, 403.0885, 403.08851 F.S.  
Law Implemented 403.061, 403.067, 403.088, 403.0885, 403.08851 F.S.  
History -- New B-22-95, Amended 5-1-97, 2-14-00, 10-22-00

## 62-621.300 Permits.

- (1) Generic Permit for Discharges From Petroleum Contaminated Sites.
- (a) The document "Generic Permit for Discharges From Petroleum Contaminated Sites," document number 62-621.300(1), issued by the Department and effective February 14, 2000, is hereby incorporated by reference and made part of this

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Chapter. This document may be obtained by contacting either the local Department District Office or by writing the Department of Environmental Protection, Industrial Wastewater Section, Mail Station #3545, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(b) The document referenced in rule 62-621.300(1)(a) contains the specific discharge limits, operating requirements, and application requirements for discharges from petroleum contaminated sites.

(2) Generic Permit for Discharge of Produced Ground Water From any Non-contaminated Site Activity.

(a) The document "Generic Permit for the Discharge of Produced Ground Water From Any Non-Contaminated Site Activity," document number 62-621.300(2), issued by the Department and effective February 14, 2000, is hereby incorporated by reference and made part of this Chapter. This document may be obtained by contacting either the local Department District Office or by writing the Department of Environmental Protection, Industrial Wastewater Section, Mail Station #3545, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(b) The document referenced in rule 62-621.300(2)(a) contains the specific discharge limits and operating requirements for discharges of produced ground water from any site activity.

(3) Generic Permit for Discharges from Concrete Batch Plants

(a) The document "Generic Permit for Discharges from Concrete Batch Plants," document number 62-621.300(3)(a), issued by the Department and dated March 10, 1997, is hereby incorporated by reference and made part of this Chapter. This document may be obtained by contacting either the local Department District Office or by writing the Department of Environmental Protection, Industrial Wastewater Section, Mail Station #3545, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(b) Form number 62-621.300(3)(b), Notice of Intent to Use Generic Permit for Discharges from Concrete Batch Plants, effective May 1, 1997, is hereby incorporated by reference and made part of this Chapter. This form may be obtained by contacting either the local Department District Office or by writing the Department of Environmental Protection, Industrial Wastewater Section, Mail Station #3545, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(c) Document number 62-621.300(3)(a) referenced in item (b) of this section contains specific design and operating requirements for discharges from wastewater and stormwater management systems at concrete batch plants.

(4) Generic Permit for Stormwater Discharge from Construction Activities that Disturb Five or More Acres of Land.

(a) The document "Generic Permit for Stormwater Discharge from Construction Activities that Disturb Five or More Acres of Land," document number 62-621.300(4)(a), issued by the Department and effective October 22, 2000 is hereby incorporated by reference and made a part of this Chapter.

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(b) Form number 62-621.300(4)(b), Notice of Intent to Use Generic Permit for Stormwater Discharge from Construction Activities that Disturb Five or More Acres of Land, effective October 22, 2000, is hereby incorporated by reference and made part of this Chapter. This form may be obtained by writing the Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(c) The document referenced in Rule 62-621.300(4)(a), F.A.C., contains specific requirements for stormwater discharges from construction activities that disturb five or more acres of land.

(5) Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity.

(a) The Department hereby adopts and incorporates by reference Federal Register, Volume 60, Number 189, pages 50804-51319, published on September 29, 1995; Federal Register, Volume 61, Number 28, pages 5248-5254, published on February 9, 1996; Federal Register, Volume 61, Number 34, page 6412, published on February 20, 1996; Federal Register, Volume 63, Number 152, pages 42534-42548, published on August 7, 1998; Federal Register, Volume 63, Number 189, pages 52430-52577, published on September 30, 1998; and Federal Register, Volume 64, Number 11, pages 2898-2900, published on January 19, 1999, which shall hereinafter be referred to as the "Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity." When used in the Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity, the following shall mean:

1. EPA shall mean the Department of Environmental Protection.

2. Regional Administrator, Director, or State Director, shall mean the Secretary of the Department of Environmental Protection or the Secretary's designee where appropriate.

(b) Form number 62-621.300(5)(b), Notice of Intent to Use Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity, effective October 22, 2000, is hereby incorporated by reference and made part of this Chapter. This form may be obtained by writing the Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(c) Facilities or activities seeking coverage under this generic permit shall apply to the Department on the form referenced in Rule 62-621.300(5)(b), F.A.C., and in accordance with the Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity, and shall include the appropriate processing fee as required by Rule 62-4.050, F.A.C.

(d) All notices, certifications, reports, or any other information required to be submitted under the Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity, excluding discharge monitoring reports, shall be submitted to Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

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- (e) Discharge monitoring reports (DMRs) required to be submitted under the Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity shall be sent to Department of Environmental Protection, NPDES Stormwater MSGP DMR, Mail Station #2511, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.
- (f) The effective date of coverage under this generic permit shall be two (2) days after the Notice of Intent submitted in accordance with Rule 62-621.300(5)(c), F.A.C., is postmarked, unless notified to the contrary by the Department.
- (g) Coverage under this generic permit is limited to a term not to exceed five years from the effective date of coverage. Permittees may request continued coverage under this generic permit in accordance with the requirements of Rule 62-621.300(5)(c), F.A.C. Request for continued coverage shall be made at least two (2) days before expiration of the current coverage.
- (6) Form number 62-621.300(6), Notice of Termination of Generic Permit Coverage, October 22, 2000, is hereby incorporated by reference and made a part of this Chapter. Facilities or activities seeking to terminate coverage under the generic permit in Rules 62-621.300(4) and (5), F.A.C., shall file a Notice of Termination of Generic Permit Coverage with the Department in accordance with the provisions of the applicable generic permit. This form may be obtained by writing the Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.
- Specific Authority 373.043, 373.1131, 373.413, 373.414, 373.415, 403.061, 403.087, 403.0877, F.S.
- Law Implemented 373.043, 373.1131, 373.413, 373.414, 373.415, 403.061, 403.087, 403.0877, 403.088, 403.0885, 403.08851 F.S.
- History-New - 12-24-96, Amended 5-1-97, 2-14-00, 10-22-00.

62-621.301 Generic Permit for Discharges From Petroleum Contaminated Sites, (Repealed)

Specific Authority 403.061, 403.087, 403.088, 403.0885, 403.08851 F.S.

Law Implemented 403.061, 403.087, 403.088, 403.0885, 403.08851 F.S.

History - New 8-22-95, Repealed 12-24-96.

62-621.302 Generic Permit for Discharge of Produced Ground Water From any Non-Contaminated Site Activity.

Specific Authority 403.061, 403.087, 403.088, 403.0885, 403.08851 F.S.

Law Implemented 403.061, 403.087, 403.088, 403.0885, 403.08851 F.S.

History - New 8-22-95, Repealed 12-24-96

62-621.700 Best Management Practices (BMP) Plan.

When a BMP plan is required by a generic permit listed in this Chapter, the permittee shall prepare the plan in accordance with the following procedures:

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- (1) The permittee shall maintain the BMP plan at the facility and shall make the plan available to the Department upon request.
  - (2) The permittee shall develop and implement a BMP plan which prevents, or minimizes the potential for, the release of pollutants from ancillary activities, including:
    - a. material storage areas;
    - b. plant site runoff;
    - c. in-plant transfer, process and material handling areas;
    - d. loading and unloading operations; and
    - e. sludge and waste disposal areas.
- to the waters of the United States through plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. The term "pollutants" refers to any substance listed as toxic under Section 307(a)(1) of the Clean Water Act (Act), oil, as defined in Section 311(a)(1) of the Act, and substances listed as hazardous under Section 311 of the Act.
- (3) The publication "Guidance Manual for Developing Best Management Practices (BMP)," document number EPA 833-B-93-004, can be used as a reference which contains technical information on BMPs and the elements of the BMP program. Copies of this publication can be obtained by submitting written requests to: Department of Environmental Protection, Bureau of Water Facilities Regulation, Industrial Wastewater Section, Mail Station #3545, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or Director, Water Management Division, U.S. EPA Region IV, 51 Forsyth Street, Atlanta, Georgia 30303.
- Specific Authority 403.061, 403.087, 403.088, 403.0885, 403.08851 F.S.
- Law Implemented 403.061, 403.087, 403.088, 403.0885, 403.08851 F.S.
- History - New 8-22-95, Amended 5-1-97, 2-14-00

62-621.800 Toxicity Testing Requirements.

When specifically required by the generic permit, the toxicity standards and procedures set forth in rules 62-4.244(3), 62-4.246, 62-301.200, 62-302.200 and 62-302.500(1)(d), F.A.C., shall apply.

Specific Authority 403.061, 403.087, 403.088, 403.0885, 403.08851 F.S.

Law Implemented 403.061, 403.087, 403.088, 403.0885, 403.08851 F.S.

History - New 8-22-95.

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**STATE OF FLORIDA**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**GENERIC PERMIT**

**FOR THE**

**DISCHARGE OF PRODUCED GROUND WATER**

**FROM ANY NON-CONTAMINATED SITE ACTIVITY**

Document number 62-621.300(2)  
Effective Date: February 14, 2000

**Generic Permit for the Discharge of Produced Ground Water from any Non-Contaminated Site Activity**

(1) The facility is authorized to discharge produced ground water from any non-contaminated site activity which discharges by a point source to surface waters of the State, as defined in Chapter 62-620, F.A.C., only if the reported values for the parameters listed in Table 1 do not exceed any of the listed screening values. Before discharge of produced ground water can occur from such sites, analytical tests on samples of the proposed untreated discharge water shall be performed to determine if contamination exists.

(2) Minimum reporting requirements for all produced ground water dischargers. The effluent shall be sampled before the commencement of discharge, again within thirty (30) days after commencement of discharge, and then once every six (6) months for the life of the project to maintain continued coverage under this generic permit. Samples taken in compliance with the provisions of this permit shall be taken prior to actual discharge or mixing with the receiving waters. The effluent shall be sampled for the parameters listed in Table 1.

Table 1

Parameter	Screening Values for Discharges into:	
	Fresh Waters	Coastal Waters
Total Organic Carbon (TOC)	10.0 mg/l	10.0 mg/l
pH, standard units	6.0-8.5	6.5-8.5
Total Recoverable Mercury	0.012 µg/l	0.025 µg/l
Total Recoverable Cadmium	9.3 µg/l	9.3 µg/l
Total Recoverable Copper	2.9 µg/l	2.9 µg/l
Total Recoverable Lead	0.03 mg/l	5.6 µg/l
Total Recoverable Zinc	86.0 µg/l	86.0 µg/l
Total Recoverable Chromium (Hex.)	11.0 µg/l	50.0 µg/l
Benzene	1.0 µg/l	1.0 µg/l
Naphthalene	100.0 µg/l	100.0 µg/l

(3) If any of the analytical test results exceed the screening values listed in Table 1, except TOC, the discharge is not authorized by this permit.

(a) For initial TOC values that exceed the screening values listed in Table 1, which may be caused by naturally-occurring, high molecular weight organic compounds, the permittee may request to be exempted from the TOC requirement. To request this exemption, the permittee shall submit additional information with a Notice of Intent (NOI), described below, which describes the method used to determine that these compounds are naturally occurring. The Department shall grant the exemption if the permittee affirmatively demonstrates that the TOC values are caused by naturally-occurring, high molecular weight organic compounds.

(b) The NOI shall be submitted to the appropriate Department district office thirty (30) days prior to discharge, and contain the following information:

1. the name and address of the person that the permit coverage will be issued to;
2. the name and address of the facility, including county location;
3. any applicable individual wastewater permit number(s);
4. a map showing the facility and discharge location (including latitude and longitude);
5. the name of the receiving water; and
6. the additional information required by paragraph (3) (a) of this permit.

(c) Discharge shall not commence until notification of coverage is received from the Department.

(4) For fresh waters and coastal waters, the pH of the effluent shall not be lowered to less than 6.0 units for fresh waters, or less than 6.5 units for coastal waters, or raised above 8.5 units, unless the permittee submits natural background data confirming a natural background pH outside of this range. If natural background of the receiving water is determined to be less than 6.0 units for fresh waters, or less than 6.5 units in coastal waters, the pH shall not vary below natural background or vary more than one (1) unit above natural background for fresh and coastal waters. If natural background of the receiving water is determined to be higher than 8.5 units, the pH shall not vary above natural background or vary more than one (1) unit below natural background of fresh and coastal waters. The permittee shall include the natural background pH of the receiving waters with the results of the analyses required under paragraph (2) of this permit. For

purposes of this section only, fresh waters are those having a chloride concentration of less than 1500 mg/l, and coastal waters are those having a chloride concentration equal to or greater than 1500 mg/l.

(5) In accordance with Rule 62-302.500(1)(a-c), F.A.C., the discharge shall at all times be free from floating solids, visible foam, turbidity, or visible oil in such amounts as to form nuisances on surface waters.

(6) If contamination exists, as indicated by the results of the analytical tests required by paragraph (2), the discharge cannot be covered by this generic permit. The facility shall apply for an individual wastewater permit at least ninety (90) days prior to the date discharge to surface waters of the State is expected, or, if applicable, the facility may seek coverage under any other applicable Department generic permit. No discharge is permissible without an effective permit.

(7) If the analytical tests required by paragraph (2) reveal that no contamination exists from any source, the facility can begin discharge immediately and is covered by this permit without having to submit an NOI request for coverage to the Department. A short summary of the proposed activity and copy of the analytical tests shall be sent to the applicable Department district office within one (1) week after discharge begins. These analytical tests shall be kept on site during discharge and made available to the Department if requested. Additionally, no Discharge Monitoring Report forms are required to be submitted to the Department.

(8) All of the general conditions listed in Rule 62-621.250, F.A.C., are applicable to this generic permit.

(9) There are no annual fees associated with the use of this generic permit.



Jeb Bush  
Governor

John O. Agwunobi, M.D., M.B.A.  
Secretary

CERTIFIED MAIL NO: 7001 0320 0003 0448 6424  
RETURN RECEIPT REQUESTED

NOTICE OF PERMIT

June 17, 2002

In the Matter of an Application  
For Permit by:

Lee County - PW  
PWS ID No: 5364048-3

Mr. Rick Diaz  
Utilities Director  
Lee County Utilities  
P.O. Box 398  
Fort Myers, Florida 33902-0398

Lee County Utilities  
North Lee County  
Water Treatment Plant

Enclosed is Permit Number 0193717-001WC to construct a new reverse osmosis water treatment plant with a production capacity of 6.0 million gallons of drinking water per day, issued under section(s) 403.087 and 403.861 of the Florida Statutes.

Any party to this order 0193717-001WC has the right to seek judicial review of the permit under section 120.68 of the Florida Statutes, by the filing of a Notice of Appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the Office of General Counsel of the Department at 4052 Bald Cypress Way, Bin A02, Tallahassee, Florida 32399-1703 and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this notice is filed with the Clerk of the Department.

Executed in Fort Myers, Lee County, Florida.

Gary A. Maier, P.E.  
Lee County Health Department  
Environmental Engineering

Jr  
Judith Hartner, M.D., M.P.H.  
Director  
Lee County Health Department



LEE COUNTY HEALTH DEPARTMENT  
Judith Hartner, M.D., M.P.H.  
Director

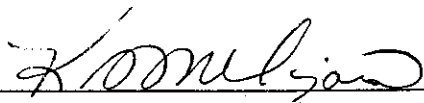
REPLY TO: Environmental Engineering  
60 Danley Drive, Unit #1  
Ft. Myers, Florida 33907  
(239) 939-4245

JUN 25 2002

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certified that the NOTICE OF PERMIT and all copies were mailed before the close of business on June 19, 2002 to the listed person.

FILED, on this date, under section 120.52(7), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

  
Clerk

6/19-02  
Date

Copies furnished to: John Darmody, Montgomery Watson Harza  
Dr. Abdul Ahmadi, Department of Environmental Protection



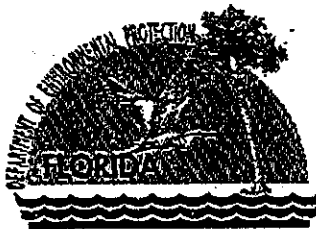
**Part III (5)**

**Information on Liens**

- (1) Lee County, Florida Water and Sewer System Revenue Bonds, Series 2003A & 2003B.**
- (2) Lee County SRF loan Number CS12039331 - 1991.**
- (3) Lee County, Florida Water and Sewer System Revenue Bonds, Series 1999A.**
- (4) Lee County, Florida Water and Sewer System Refunding Revenue Bonds, Series 1993.**
- (5) Lee County SRF loan Number CS12039232P – 2001 (A CW pre-construction loan that will be rolled into a construction loan in the fall of 2005; a presumed payment schedule is incorporated in Schedule of Prior and Parity Liens).**

**Specifics on obligations #2 through #5 are on file with FDEP.**

**FDEP's consent to issue obligation #1 was requested and the particulars are also on file with FDEP. Please see copy of letter from FDEP granting consent to issue following this page.**



# Department of Environmental Protection

Jeb Bush  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David B. Struhs  
Secretary

May 27, 2003

Mr. Juan B. Laracuente, Senior Engineer  
Lee County Utilities  
1500 Monroe Street, Third Floor West  
Fort Myers, Florida 33901

Re: CS120392230 and CS12039232P – Lee County  
State Revolving Fund Loans


Dear Mr. Laracuente:

Thank you for your May 22 letter and the Bond Feasibility Report sections for Lee County's proposed issuance of Water and Sewer Refunding Revenue Bonds, Series 2003A, and Water and Sewer Revenue Bonds, Series 2003B. The Bond Feasibility Report indicates that Lee County's water and sewer revenues will provide coverage of its combined bond and loan debt service which will exceed the requirements of State Revolving Fund Loan Agreements CS120392230 and CS12039232P. Accordingly, the issuance of the proposed Series 2003 Bonds is acceptable to the Department. The Department acknowledges that the Series 2003 Bonds lien on the water and sewer revenues will be senior to the State Revolving Fund loans lien.

Your letter and the Bond Feasibility report satisfy the notification/certification required by Subsection 2.01(4) of Loan Agreement CS120392230 for issuing senior debt. The County does not have to obtain the Department's consent under Loan Agreement CS12039232P because the Series 2003 Bonds are being issued pursuant to the County's Bond Resolution provisions for issuing parity debt. Subsection 1.01(19) of Loan Agreement CS12039232P defines Senior Revenue Obligations to include additional bonds issued on a parity with Lee County's Series 1993 and Series 1999A bonds pursuant to provisions of Resolution No. 93-06-40. Note the last statement in Section 7.02 of the Loan Agreement.

If we may be of further assistance, please call Jerry Herting at (850) 245-8358.

Sincerely,

  
Don W. Berryhill, P.E., Chief  
Bureau of Water Facilities Funding

DWB/gh

cc: Rick Diaz - Lee County  
Jim Lewin - Lee County

REC'D 5/29/2003

"More Protection, Less Process"

Printed on recycled paper.

**Loan Application for Florida SRF Project –DW36100 010**

**ATTACHMENT 8**

**Part III (7)**

**Legal opinion on availability of pledged revenues follows this page.**



**BOARD OF COUNTY COMMISSIONERS**

Writer's Direct Dial Number: (239) 335-2236

Bob Janes  
*District One*

March 1, 2005

Douglas R. St. Cerny  
*District Two*

Ray Judah  
*District Three*

Tammy Hall  
*District Four*

John E. Albion  
*District Five*

Donald D. Stilwell  
*County Manager*

David M. Owen  
*County Attorney*

Diana M. Parker  
*County Hearing Examiner*

Don Berryhill, P.E., Chief  
Bureau of Water Facilities Funding  
FL Department of Environmental Protection  
MS 3505  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400  
(850-245-8385)

**SUBJECT: LEGAL OPINION ON AVAILABILITY OF PLEDGED REVENUES  
CONSTRUCTION OF 5.0 MGD NORTH LEE COUNTY R/O PLANT  
DW 36100 010**

Dear Mr. Berryhill:

I am the duly appointed County Attorney for Lee County, Florida. The County proposes to borrow up to \$24,000,000 from the State Revolving Fund for improvements to the County's water system. The loan will be secured by the net operating revenues of the County's water and sewer system and the pledged revenues are available to pledge. Lee County has the legal authority to increase rates if required to ensure repayment of the loan.

The pledge on revenues is subject to a prior lien with the following issues:

- 1) Lee County, Florida Water and Sewer System Revenue Bonds, Series 2003A & 2003B.
- 2) Lee County SRF Loan Number CS12039331 – 1991.
- 3) Lee County, Florida Water and Sewer System Revenue Bonds, Series 1999A.
- 4) Lee County, Florida Water and Sewer System Refunding Revenue Bonds, Series 1993.
- 5) Lee County SRF Loan Number CS12039232P – 2001.

Sincerely,

David M. Owen  
County Attorney  
Lee County, Florida

DMO/sdg

cc: File

SAQX11S R FD WANLCWTP LOANLEGAL OPINION ON AVAILABILITY OF PLEDGED REVENUES-BERRYHILL 3-1-05 DOC

**Schedule of Actual Revenues and Debt Coverage for Rate-Based System Pledged  
Revenue: Page 8 (c)**

**Other non-operating revenue shown consists of:**

Water Tapping Fees,  
Water Other Income,  
Sewer Tapping Fees,  
Environmental Engineering,  
Building Rental,  
Tower Rental, Tice and others,  
Auction Proceeds,  
Refund of Prior Year Expenses, and  
Other minor, miscellaneous Revenue.

**Schedule of Actual Revenues and Debt Coverage for Rate-Based System Pledged  
Revenue: Page 8 (h).**

**A copy of the “Combined Revenues, Expenses, and Changes in Net Assets”  
page from final, auditted Comprehensive Annual Financial report for 2004  
follows this page.**

Lee County, Florida  
 COMBINING SCHEDULE OF REVENUES, EXPENSES, AND CHANGES IN  
 NET ASSETS - BUDGET (NON-GAAP BUDGETARY BASIS)  
 AND ACTUAL WITH RECONCILIATION TO GAAP  
 ENTERPRISE FUNDS  
 For the Year Ended September 30, 2004  
 (amounts expressed in thousands)

	Port Authority		Water and Wastewater		Transportation Facilities	
	Budget	Actual	Budget	Actual	Budget	Actual
<b>OPERATING REVENUES</b>						
User fees	\$21,657	\$19,735	\$50,935	\$61,976		
Tolls					\$33,505	\$33,352
Rentals and franchise fees	2,639	2,970	62	95		
Concessions	21,682	25,165				
Miscellaneous	162	246	429	802		71
Total operating revenues	46,140	48,116	51,426	62,873	33,505	33,423
Less: Rebates	(799)					
Net operating revenues	45,341	48,116	51,426	62,873	33,505	33,423
<b>OPERATING EXPENSES</b>						
Salaries and wages	12,788	12,762	10,153	10,084	3,873	3,768
Employee benefits	4,855	4,490	3,513	3,327	1,512	1,392
Contractual services, materials, and supplies	10,720	10,296	23,341	11,631	1,671	1,542
Utilities	2,375	2,330	4,705	4,205	279	243
Repairs and maintenance	1,919	1,471	3,147	2,156	566	270
Insurance	1,517	1,357	221	221	467	466
Other	2,064	2,045	2,474	2,474	804	670
Total operating expenses	36,238	34,751	47,554	34,098	9,172	8,351
Operating income (loss)	9,103	13,365	3,872	28,775	24,333	25,072
<b>NON - OPERATING REVENUES (EXPENSES)</b>						
Interest revenue	24,696	13,097	3,256	3,166	258	609
Taxes						
Grants		8	450		(59)	(59)
Special assessment collections			580	493		
Bond proceeds					61,674	61,669
Other debt proceeds	1,500	483	17,532	109	41,500	21,500
Interest expense	(22,885)	(22,860)	(9,771)	(9,771)	(6,717)	(6,673)
Excess fees - City of Sanibel					(635)	(633)
Capital outlay	(345,217)	(169,845)	(113,154)	(32,496)	(77,699)	(11,170)
Principal retirement	(6,877)	(6,876)	(6,654)	(6,654)	(6,911)	(5,505)
Payment to refunding escrow agent					(60,882)	(60,899)
Proceeds from disposal of PP&E		16		19		(1)
Passenger facility charges	10,259	12,878				
Other - Hurricane expenses						
Other revenues		5	133	249	280	29
Other expenses	(46)	(43)	(2,519)	(2,519)	(56)	(56)
Total non - operating revenues (expenses)	(338,570)	(173,137)	(110,147)	(47,404)	(49,247)	(1,189)
Income (loss) before contributions, special item and transfers	(329,467)	(159,772)	(106,275)	(18,629)	(24,914)	23,883
Capital contributions	95,300	51,713	6,846	17,423		
Transfers in	89,108	52,049	41,287	43,331	116,794	109,434
Transfers out	(69,714)	(52,049)	(40,863)	(43,242)	(98,572)	(98,572)
Total contributions and transfers	114,694	51,713	7,270	17,512	18,222	10,862
Change in net assets	(214,773)	(108,059)	(99,005)	(1,117)	(6,692)	34,745
Total net assets - beginning	317,584	283,285	155,425	194,075	14,964	20,878
Total net assets - ending	\$102,811	\$175,226	\$56,420	\$192,958	\$8,272	\$55,623
<b>RECONCILIATION OF BUDGETARY BASIS TO GAAP</b>						
Change in net assets, budgetary basis		(\$108,059)		(\$1,117)		\$34,745
Add: Capital outlay		169,845		32,496		11,170
Principal retirement		6,876		6,654		5,505
Payment to escrow agent						60,899
Capitalized interest		8,975				
Capital contributions				10,952		
Inventory adjustments		317				
Fixed asset transfers				294		415
Less: Depreciation and amortization		(13,716)		(18,621)		(4,524)
Compensated absences		(66)		(133)		(10)
Inventory adjustments						(92)
Fair market value adjustment		(1,508)		(1,059)		(124)
Arbitrage adjustments		(1,322)				
Loan payments from other governments						
Amortization of discount and issuance costs		(915)		(818)		(1,053)
Special assessment collections				(493)		
Bond proceeds						(61,669)
Other debt proceeds		(483)		(109)		(21,500)
Net book value of PP&E disposed		(113)		(382)		(47)
Change in net assets		\$59,831		\$27,664		\$23,715

(continued)

**Schedule of Actual Revenues and Debt Coverage for Rate-Based System Pledged Revenue:**

**Page 8 (i)**

A copy of the “Combined Revenues, Expenses, and Changes in Net Assets” page from final, auditted Comprehensive Annual Financial report for 2004 follows this page.



Lee County, Florida  
 COMBINING SCHEDULE OF REVENUES, EXPENSES, AND CHANGES IN  
 NET ASSETS - BUDGET (NON-GAAP BUDGETARY BASIS)  
 AND ACTUAL WITH RECONCILIATION TO GAAP  
 ENTERPRISE FUNDS  
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Change in net assets		\$59,831		\$27,664		\$23,715

(continued)

**Schedule of Actual Revenues and Debt Coverage for Rate-Based System Pledged Revenue:**

**Page 9 (k)**

**Figures from the 2004 Comprehensive Financial Annual Report were used in the spreadsheet that follows this page to generate future revenue projections. Projects are based on an estimated 3% growth rate using 2004 as the base year.**

NLCWTP Loan Application Financial Data for use on - Page 8

NLCWTP Loan Application Projection for Use on - Page 9

	FY 2002	FY 2003	FY2004 (Prelim)	FY 2005 (Projected)	FY 2006 3%	FY 2007 growth with 2004 as base.)	FY 2008	FY 2009	FY 2010	FY 2011
(a) Operating Revenues:										
Water Service	\$23,798,912	\$26,218,404	\$31,330,015	\$ 32,269,915	\$ 33,238,013	\$ 34,235,153	\$ 35,262,208	\$ 36,320,074	\$ 37,409,676	\$ 38,531,967
Other (Sewer Service)	\$21,681,245	\$25,601,031	\$29,884,534	\$ 30,781,070	\$ 31,704,502	\$ 32,655,637	\$ 33,635,306	\$ 34,644,365	\$ 35,683,696	\$ 36,754,207
(b) Interest Income	\$2,226,000	\$1,534,000	\$1,164,000	\$ 1,198,920	\$ 1,234,888	\$ 1,271,934	\$ 1,310,092	\$ 1,349,395	\$ 1,389,877	\$ 1,431,573
(c) Other Income or Revenue (Identify)	\$0	\$0	\$0	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
(Non Operating Income (see Attachment 9))	\$295,978	\$178,361	\$394,872	\$ 406,718	\$ 418,920	\$ 431,487	\$ 444,432	\$ 457,765	\$ 471,498	\$ 485,643
Other Miscellaneous Income				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
(d) Total Revenues	\$48,002,135	\$53,531,796	\$62,773,421	\$64,656,624	\$66,596,322	\$68,594,212	\$70,652,038	\$72,771,600	\$74,954,748	\$77,203,390
(e) Operating Expenses (excluding interest on debt, depreciation, and other non-cash items)	\$22,348,000	\$27,545,000	\$35,938,967	\$ 37,017,136	\$ 38,127,650	\$ 39,271,480	\$ 40,449,624	\$ 41,663,113	\$ 42,913,006	\$ 44,200,396
(f) Net Revenues (f = d - e)	\$25,654,135	\$25,986,796	\$26,834,454	\$27,639,488	\$28,468,672	\$29,322,732	\$30,202,414	\$31,108,487	\$32,041,741	\$33,002,994
(g) Debt Service (including required coverage; should reflect last column of preceding page)	\$14,502,482	\$15,374,518	\$18,007,746							