

H 02258

ARTICLES OF MERGER
Merger Sheet

MERGING:

H2O ACQUISITION, INC., a Florida corporation, P97000057370

INTO

HYDROPRO, INC., a Florida corporation, H02258

File date: August 25, 1997

Corporate Specialist: Darlene Connell

AUG-25-97 MON 12:42 PM HOLLAND & KNIGHT

FAX NO. 9043581872

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CONTACT: JO ELLEN VAN CAMP
PHONE: (904) 353-2000
(904) 358-1872

FAX #:

NAME: HYDROPRO, INC.

AUDIT NUMBER.....H97000013983

DOC TYPE.....MERGER OR SHARE EXCHANGE

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*Merger
8/26/97
DL*

*Thank
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HOLLAND & KNIGHT

A Registered Limited Liability Partnership

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August 26, 1997

JO ELLEN VAN CAMP,
LEGAL ASSISTANT
904-788-5413

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Division of Corporations
Florida Department of State
P.O. Box 6327
Tallahassee, Florida 32314
ATTN: DARLENE

Re: Articles of Merger of H2O Acquisition, Inc., into Hydropro, Inc.
Audit Number H97000013983

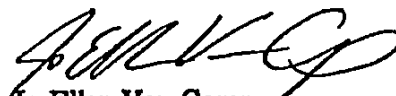
Dear Darlene:

Pursuant to our conversation earlier today and on behalf of our client, I am transmitting with this letter the two attachments to the Articles of Merger, as follows: (1) Amended and Restated Articles of Incorporation for the Surviving Corporation, including an Acceptance by the Registered Agent named therein (pursuant to Section 1.4 of the Articles of Merger); and (2) a list of the officers of the surviving corporation (pursuant to Section 1.6 of the Articles of Merger).

Please let me know if any further information or documentation will be required in order for the Articles of Merger to be effective. Thank you for your assistance in this matter.

Very truly yours,

HOLLAND & KNIGHT LLP



Jo Ellen Van Camp
Legal Assistant

Attachments

cc: L. Kinder Cannon III, Esq. (w/encl.)
Mr. Sandy Steinman (w/encl.)

ARTICLES OF MERGER
OF
H2O ACQUISITION, INC., A FLORIDA CORPORATION
WITH AND INTO
HYDROPRO, INC.,
A FLORIDA CORPORATION

FILED
27 AUG 25 PM 1:28
TALLAHASSEE, FLORIDA

THESE ARTICLES OF MERGER are made this 25th day of August, 1997, by and between H2O ACQUISITION, INC., a Florida corporation ("Subsidiary") and HYDROPRO, INC., a Florida corporation ("Target").

WHEREAS, Subsidiary is a wholly-owned subsidiary of Environmental Corporation of America (formerly, NTS Technology, Inc.), a Delaware corporation ("Parent"); and

WHEREAS, for various business reasons, the board of directors of each of Subsidiary and Target believe that it is in the best interests of their respective shareholders that Subsidiary be merged with and into Target (sometimes referred to herein as "Surviving Corporation"), with Target continuing as the surviving corporation (the "Merger"), pursuant to these Articles of Merger and that certain Agreement and Plan of Merger dated July 15, 1997, among Parent, Subsidiary, Target and Target Shareholders (the "Merger Agreement").

NOW, THEREFORE, the undersigned corporations, in accordance with Sections 607.1105 and 607.1107, Florida Statutes, and in consideration of the premises and the mutual agreements and covenants herein contained, hereby adopt these Articles of Merger and agree as follows:

ARTICLE I. The plan of merger is as follows:

Section 1. Merger; Effect of Merger. On the Corporate Filing Date, Subsidiary shall merge with and into Target, which shall survive the Merger as the Surviving Corporation.

1.1 Effect of Merger. The Merger shall become effective upon the filing of duly executed Articles of Merger with the Secretary of State of Florida in accordance with the applicable Legal Requirements of the State of Florida. On the Corporate Filing Date, and as a result of the Merger, (i) the separate existence of Subsidiary will cease; (ii) title to all assets and properties, or any interest therein, owned by Subsidiary will be vested in the Surviving Corporation without reversion or impairment; (iii) the Surviving Corporation will thenceforth be responsible and liable for all the liabilities and obligations of Subsidiary; (iv) neither the rights of creditors nor any liens upon the property of Subsidiary will be impaired by the Merger; and (v) the Target Shares that are to be converted into the right to receive the Merger Consideration will be converted only as set forth herein, and the Target Shareholders are entitled only to the rights provided herein.

1.2 Surviving Corporation. Following the Merger, the existence of the Surviving Corporation shall continue unaffected and unimpaired by the Merger, with all the

rights, privileges, immunities and powers, and subject to all the duties and liabilities of a corporation organized under the laws of the State of Florida.

1.3 Name. As a result of the Merger, the name of the Surviving Corporation shall be unchanged from the name of Target.

1.4 Articles of Incorporation. The articles of incorporation of Surviving Corporation, as in effect on the Corporate Filing Date, shall be amended and restated in their entirety to conform to the articles of incorporation of Subsidiary, as in effect on the Corporate Filing Date, to the extent permitted under Florida law, and such articles of incorporation, as amended and restated, shall remain the articles of incorporation of Surviving Corporation from and after the Corporate Filing Date, subject to the right of Surviving Corporation to amend its articles of incorporation in accordance with Florida law.

1.5 Bylaws. The bylaws of Surviving Corporation, as in effect on the Corporate Filing Date, shall be amended and restated in their entirety to conform to the bylaws of Subsidiary, as in effect on the Corporate Filing Date, to the extent permitted under Florida law, and such bylaws, as amended and restated, shall remain the bylaws of Surviving Corporation from and after the Corporate Filing Date, subject to the right of Surviving Corporation to amend its bylaws in accordance with its articles of incorporation and with Florida law.

1.6 Directors and Officers. Until the election and qualification of their successors, the members of the board of directors of Surviving Corporation shall be William M. Bocchino, William K. Hendershaw, Bernard D. Mohlenhoff and Bruce D. Goodin, and the officers of Surviving Corporation shall be the officers of Subsidiary in office on the Corporate Filing Date.

Section 2. Conversion of Shares.

2.1 Conversion of Target Shares. On the Corporate Filing Date, as a result of the Merger and without any action on the part of Target or any of Target Shareholders, each and every issued and outstanding share of capital stock of Target ("Target Shares") shall be converted into, and exchanged for, the right to receive a pro rata share of the Stock Consideration and the Cash Consideration (collectively, the "Merger Consideration"), without regard to the class or series of the Target Shares, in the manner set forth below:

(a) Stock Consideration. Each Target Share shall be converted into, and exchanged for, 11,111 shares (the "Conversion Ratio") of Parent Common Stock ("Parent Shares"). The number of Parent Shares issuable to each of Target Shareholders shall be determined by multiplying the number of Target Shares held by such shareholder by the Conversion Ratio. Fractional Parent Shares shall not be issued to any of Target Shareholders in exchange for Target Shares, and, in lieu thereof, each of Target Shareholders shall receive a cash payment equal to such fraction multiplied by the Exchange Price.

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(b) Cash Consideration. The amount of cash consideration which shall be exchanged for the Target Shares, in the aggregate, is \$2,500,000 (the "Cash Consideration"), which shall consist of \$1,250,000 in cash or immediately available funds (the "Closing Payment"), payable at Closing, and Notes of Parent in the aggregate principal amount of \$1,250,000, deliverable at Closing, payable in eight (8) consecutive quarterly installments of principal, each aggregating \$156,250.00, beginning on March 1, 1998, together with interest on the unpaid principal balance at the rate of nine percent (9.0%) per annum. The amount of the Cash Consideration to which each Target Shareholder is entitled shall be determined by multiplying the total cash consideration by a fraction, the numerator of which is the number of Target Shares held by such shareholder and the denominator of which is the total number of Target Shares held by all such shareholders.

(c) Security for Payment of the Notes; Escrow. The full and prompt payment of the Notes in accordance with their terms, subject to any set-off of claims against the Target Shareholders hereunder, shall be collateralized by a pledge of all of the issued and outstanding shares of capital stock of Surviving Corporation (the "Pledged Shares"), pursuant to the Stock Pledge Agreements, in substantially the form attached as *Exhibit I* to the Merger Agreement. Parent and Target Shareholders shall deposit the Pledged Shares, together with separate stock assignments (endorsed in blank), and the fully executed Stock Pledge Agreements in escrow, to be held by Escrow Agent pending satisfaction and discharge of the Notes in accordance with their terms, pursuant to the Escrow Agreement, in substantially the form attached as *Exhibit J* to the Merger Agreement.

2.2 Exchange of Certificates. At Closing, each of Target Shareholders shall surrender to Parent, for cancellation, the certificate(s) evidencing the Target Shares held by such Target Shareholder ("Target Certificate"). Upon such surrender, the holder of such Target Certificate shall be entitled to receive from Parent in exchange therefor, in addition to his proportionate part of the cash consideration, a certificate representing the number of Parent Shares that such holder has the right to receive pursuant to Section 2.1, and the Target Certificate so surrendered shall be cancelled. Until surrendered as contemplated by this Section 2.2, each Target Certificate shall be deemed at any time after the Closing to represent only the right to receive, upon such surrender, the certificate representing Parent Shares and cash in lieu of any fractional Parent Shares as contemplated hereby.

2.3 No Fractional Shares. In lieu of a certificate or scrip representing a fractional Parent Share, Parent shall pay to each of Target Shareholders who surrenders a Target Certificate in accordance herewith and who otherwise would be entitled, given the number of Target Shares the Target Certificate represents, to receive a fractional Parent Share, an amount of cash equal to such fraction multiplied by the Exchange Price.

2.4 No Further Ownership Rights in Target Stock. All shares of Parent Common Stock issued in exchange for Target Shares in accordance with the terms hereof (including any cash paid pursuant to Section 2.3) shall be deemed to have been issued in full

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satisfaction of all rights pertaining to such Target Shares, and there shall be no further registration of transfers on the stock transfer books of Target of the Target Shares.

2.5 Stock Options. Prior to the Closing Date, all options, warrants or other rights to purchase Target Shares (collectively, "Options"), if any, which are outstanding and unexercised shall be cancelled at no cost or expense to Parent and without issuing any shares therefor, so that at the Corporate Filing Date there shall be no outstanding and unexercised Options with respect to Target Shares.

ARTICLE II. The plan of merger embodied in these Articles of Merger (the "Plan of Merger") was duly adopted by the board of directors of Parent and the board of directors of Subsidiary effective as of July 15, 1997. The board of directors of Subsidiary subsequently presented the Plan of Merger to the sole shareholder of Subsidiary, and the Plan of Merger was thereupon approved by the sole shareholder of Subsidiary effective as of July 15, 1997, pursuant to Section 607.1103, Florida Statutes. The Plan of Merger was adopted by the board of directors of Surviving Corporation as of July 15, 1997. The board of directors of Surviving Corporation subsequently presented the Plan of Merger to the shareholders of Surviving Corporation, and the Plan of Merger was thereupon approved by all the shareholders of Surviving Corporation as of July 15, 1997, pursuant to Section 607.1103, Florida Statutes.

ARTICLE III. The effective date of the Merger shall be the date these Articles of Merger are filed with the Florida Department of State.

IN WITNESS WHEREOF, the parties hereto have executed these Articles of Merger as of the date first written above.

SUBSIDIARY:

H2O ACQUISITION, INC., a Florida corporation

By: 

William M. Bocchino, President

SURVIVING CORPORATION:

HYDROPRO, INC., a Florida corporation

By: 

William K. Hendershaw, President

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Attachment to Articles of Merger of
H2O Acquisition, Inc., a Florida corporation,
with and into
Hydropro, Inc., a Florida corporation

AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
HYDROPRO, INC.

Hydropro, Inc., as the Surviving Corporation of the merger of H2O Acquisition, Inc., with and into Hydropro, Inc., hereby adopts the following Articles of Incorporation effective upon the filing of the Articles of Merger:

ARTICLE I. NAME

The name of the corporation is: Hydropro, Inc.

ARTICLE II. ADDRESS

The street address of the principal office and the mailing address of the corporation are:

1151 Phillips Highway South
Jacksonville, Florida 32256

ARTICLE III. AUTHORIZED SHARES

The maximum number of shares the corporation is authorized to issue is 100,000 shares of common stock having a par value of \$0.01 per share.

ARTICLE IV. REGISTERED OFFICE AND AGENT

The corporation designates 701 Brickell Avenue, Suite 3000, Miami, Florida 33131 as the street address of the registered office of the corporation and names Intrastate Registered Agent Corporation the corporation's registered agent at that address to accept service of process within this state.

ARTICLE VI. INITIAL BOARD OF DIRECTORS

The number of directors may be either increased or diminished from time to time, as provided in the bylaws, but will never be less than one. The names and addresses of all the directors of the corporation as of the effective date of these Amended and Restated Articles of Incorporation, are as follows:

William M. Bocchino
417 Oak Pond Drive
Jacksonville, FL 32259

Bernard D. Mohlenhoff
403 Pittsburg Drive
Jupiter, FL 33458

William K. Hendershaw
1201 Seafarer Circle, #101J
Jupiter, FL 33477

Bruce D. Goodin
1541 Coply Street
Port St. Lucie, FL 34983

ARTICLE VIII. INDEMNIFICATION

(a) The corporation shall indemnify any person who is or was a party to any proceeding by reason of the fact that such person is or was a director or officer of the corporation or its subsidiaries, to the fullest extent not prohibited by law, for actions taken in the capacity of such person as a director or officer of the corporation or its subsidiaries. To the fullest extent not prohibited by law, the corporation shall advance indemnification expenses for actions taken in the capacity of such person as an officer or director, within twenty (20) days after receipt by the corporation of (1) a written statement requesting such advance, (2) evidence of the expenses incurred, and (3) a written statement by or on behalf of such person agreeing to repay the advanced expenses if it is ultimately determined that such person is not entitled to be indemnified against such expenses.

(b) The corporation by action of its board of directors, in its sole discretion, may indemnify any person who is or was a party to any proceeding, by reason of the fact that such person is or was an employee or agent of the corporation or its subsidiaries, to the fullest extent not prohibited by law, for actions taken in the capacity of such person as an employee or agent of the corporation or its subsidiaries. The corporation by action of its board of directors, in its sole discretion, may advance indemnification expenses for actions taken in the capacity of such person as an employee or agent, after receipt by the corporation of (1) a written statement requesting such advance, (2) evidence of the expenses incurred, and (3) a written statement by or on behalf of such person agreeing to repay the advanced expenses if it is ultimately determined that such person is not entitled to be indemnified against such expenses. Absent specific action by the board of directors, the authority granted to the board of directors in this paragraph (b) shall create no rights in the persons eligible for indemnification or advancement of expenses and shall create no obligations of the corporation relating thereto.

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ACCEPTANCE OF REGISTERED AGENT

The undersigned corporation agrees to act as registered agent for the corporation named above, to accept service of process at the place designated in these Amended and Restated Articles of Incorporation, and to comply with the provisions of the Florida Business Corporation Act, and acknowledges that it is familiar with, and accepts, the obligations of such position.

INTRASTATE REGISTERED AGENT
CORPORATION

Dated as of August 25, 1997

By Donald W. Wallis
Donald W. Wallis, Vice President

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Attachment to Articles of Merger of
H2O Acquisition, Inc., a Florida corporation,
with and into
Hydropro, Inc., a Florida corporation

OFFICERS OF THE SURVIVING CORPORATION

Officer Name and Address

Title

William M. Bocchino
417 Oak Pond Drive
Jacksonville, FL 32259

President

Sanford L. Steinman
1151 Phillips Highway South
Jacksonville, FL 32256

Secretary/Treasurer