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MEMORANDUM

January 24, 1995

TO : EVONNE SAGER, DIVISION OF LEGAL SERVICES
DIVISION OF RECORDS AND REPORTING

FROM: RICHARD REDEMANN, DIVISION OF WATER AND WASTEWATER

RE : DOCKET NO. 941044-WB; RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY DECLARING CHARLOTTE COUNTY SUBJECT TO THE PROVISIONS OF CHAPTER 367, F.S. - REQUEST FOR EXEMPTION FOR WATER AND WASTEWATER SERVICE BY HARBOR INDUSTRIAL CONDO ASSOCIATION.

On September 27, 1994, the Charlotte County Board of County Commissioners adopted Resolution No. 94-195, pursuant to Section 367.171, Florida Statutes, declaring the privately owned water and wastewater utilities in Charlotte County subject to the provisions of Chapter 367, Florida Statutes, effective September 27, 1994. The Florida Public Service Commission received Charlotte County's resolution on September 30, 1994. The effect of the resolution is to invoke Public Service Commission jurisdiction over privately owned water and wastewater systems in Charlotte County. Pursuant to Section 367.031, Florida Statutes, all utilities subject to the Commission's jurisdiction must obtain either a certificate to provide water and wastewater service or an order recognizing the exempt status of the system.

On December 23, 1994, Harbor Industrial Condo Association (Harbor) applied for an exemption for a water and wastewater facility from the Florida Public Service Commission under Section 367.022 (7), Florida Statutes, and Rule 25-30.060(3)(g), Florida Administrative Code a Nonprofit Association Exemption. Harbor obtains water from two wells. These wells are identified by the Department of Environmental Protection as Harbor Industrial Condo Association 1 and Harbor Industrial Condo Association 2. The location of the water and wastewater system is at 23440 Janice Avenue, Charlotte Harbor, FL 33980. The mailing address is the same. Mr. Fred McGready, president, is the contact person. Harbor Industrial Condo Association provides water and wastewater service to a 48 unit condominium association.

In its application, Harbor states it is a nonprofit corporation, that it provides water and wastewater service, that service will be provided solely to members who own and control it that Harbor will do the billing for such service and that the service area is located at 23440 Janice Drive Avenue, Charlotte Harbor, FL 33980. The articles of incorporation as filed with the Secretary of State and bylaws which clearly show the requirements

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for membership, that the members' voting rights are one vote per unit of ownership were attached to the application. Control of the corporation has long since been taken over by the members of the condominium. Also, attached was proof of ownership of the utility facilities and the land upon which the facilities will be located. In addition, the applicant acknowledged Section 837.06, Florida Statutes, regarding false statements.

Based upon the facts presented herein, staff believes Harbor is exempt for water and wastewater service as defined by Section 367.022 (7), Florida Statutes, and Rule 25-30.060(3)(g), Florida Administrative Code a Nonprofit Association Exemption. Section 2.08(C)(14) of the Administrative Procedures Manual (APM) gives staff the administrative authority to approve requests for determination of exempt status that are clear-cut and without controversy. Staff recommends that an administrative order be issued within 30 days indicating the exempt status of Harbor and closing the docket. The order should provide that in the event of any change of circumstances or method of operation, Harbor, or its successor(s) in interest should notify the Commission within thirty days of such change so that its exempt status may be reevaluated.

If any further information is needed, please contact me as soon as possible.

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