

ORIGINAL
FILE COPY

MEMORANDUM

November 26, 1996

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (CYRUS-WILLIAMS) *DCW*

RE: DOCKET NO. 961183-WS - Application for amendment of Certificate No. 322-S in Marion County by Southern States Utilities, Inc.

Please file the attached letter in the above referenced docket.

DCW/dp

Attachment

cc: Division of Water and Wastewater (Redemann)

- ACK _____
- AFA _____
- APP _____
- CAF _____
- DMU _____
- STR _____
- EAG _____
- EG _____
- IN _____
- IRC _____
- ICH _____
- EC _____
- VAS _____
- YTH _____

DOCUMENT NUMBER-DATE

12704 NOV 27 1996

FPSC-RECORDS/REPORTING



Southern States Utilities • 1000 Color Place • Apopka, FL 32703 • 407/880-0058

November 21, 1996

VIA FEDERAL EXPRESS

Ms. Donna Cyrus-Williams
Legal Division
Florida Public Service Comm'n
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 961183-SU -- Application for amendment of
Certificate no. 322-S in Marion County by Southern States
Utilities, Inc.

Dear Donna:

As you are aware, Southern States Utilities, Inc. ("SSU") submitted a quit-claim deed as proof of its ownership of the South Forty treatment facility site involved in this docket. Staff questioned the adequacy of the quit-claim deed.

Please find enclosed a copy of an Ownership and Encumbrance Report ("O&E Report") issued October 25, 1996, by Commonwealth Land Title Insurance Company for the facility site at issue. The purpose of an O&E Report is to verify legal title to and identify encumbrances upon real property. The O&E Report attached verifies that SSU is fee simple owner of the facility site in question. It appears the quit-claim deed SSU filed is in fact predated by recorded Warranty Deeds vesting title for the facility site, as well as other property, in SSU.

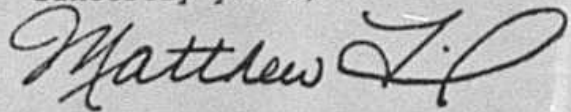
Since I am familiar with the history of staff's concerns with quit-claim deeds, I will, for the record, also note the following. Rule 25-30.036(d), Florida Administrative Code, requires a utility submit evidence that it owns the land upon which the treatment facilities are located or evidence the utility is insured of long-term access to such property. A quit-claim deed vests fee simple title in the grantee. At the time the referenced rule was amended in November 1993, the Commission did nothing to specify that quit-claim deeds were unacceptable (despite extant staff concerns with quit-claim deeds) and, in fact, modified the rule to make it less stringent. Therefore, a quit-claim deed should suffice as proof of ownership. These points notwithstanding, I believe the O&E Report attached adequately addresses staff's concern with title for the property in question in this case.

Please forward the enclosed additional copy of this letter to Richard Redemann for his files.

Ms. Cyrus-Williams
Page 2

If you have any questions regarding the above, please call me at
(407) 880-0058, ext. 260.

Sincerely yours,

A handwritten signature in cursive script that reads "Matthew Feil". The signature is written in dark ink and is positioned to the right of the typed name.

Matthew Feil, Esq.
Staff Attorney

c: Richard Redemann

COMMONWEALTH LAND TITLE INSURANCE COMPANY
OWNERSHIP AND ENCUMBRANCE REPORT

Company File No. OR962329
Agent's File No. None Provided

TO: SOBERING, WHITE & LUCZAK, P. A.
SUITE 1000, SIGNATURE PLAZA
201 SOUTH ORANGE AVENUE
ORLANDO, FL 32801
Attn: Ken Schlitt

Pursuant to your request, the Company has caused a search to be made of the Public Records of Marion County, Florida, solely as revealed by its title plant indices, from September 4, 1985 at 1:29 P. M. through October 17, 1996 at 8:00 A. M., and said search reveals the following:

1. The last deed of record purports to vest title in:

Southern States Utilites, Inc.

2. The land covered by this Report is:

LEGAL DESCRIPTION IS ATTACHED HERETO AND MADE A PART HEREOF

3. The following unsatisfied mortgages, liens, and judgments affecting the land covered by this Report appear of record:

SEE 1 CONTINUATION PAGE(S) ATTACHED HERETO AND MADE A PART HEREOF

4. Taxes:

SEE CONTINUATION PAGE ATTACHED HERETO AND MADE A PART HEREOF

The foregoing report is prepared and furnished for information only, is not intended to constitute or imply any opinion, warranty, guaranty, insurance, or similar assurance as to the status of title, and no determination has been made of the authenticity of any instrument described or referred to herein. The name search for the purpose of determining applicable judgments and liens is limited to the apparent record owner(s) shown herein. No attempt has been made to determine whether the land is subject to liens or assessments which are not shown as existing liens by the public records. The Company's liability hereunder shall not exceed the cost of this Report, or \$1,000, whichever is less.

THIS REPORT SHALL NOT BE USED FOR THE ISSUANCE OF TITLE INSURANCE OR PREPARATION FOR LITIGATION.

COMMONWEALTH LAND TITLE INSURANCE COMPANY
2233 Lee Road, Suite 204
Winter Park, FL 32789-1879
(407) 645-1070

By Ken Schlitt
Authorized Officer or Agent

October 25, 1996

COMMONWEALTH LAND TITLE INSURANCE COMPANY

OWNERSHIP AND ENCUMBRANCE REPORT

LEGAL DESCRIPTION

Company File No. OR962329
Agent File No. None Provided

October 25, 1996

Tract "I", South Forty Industrial Park, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Marion County, Florida recorded in Plat Book R, page 98, said lands situate, lying and being in Marion County, Florida.

END OF LEGAL DESCRIPTION

COMMONWEALTH LAND TITLE INSURANCE COMPANY
OWNERSHIP AND ENCUMBRANCE REPORT

CONTINUATION PAGE

Company File No. OR962329
Agent File No. None Provided

October 25, 1996

UNSATISFIED MORTGAGES, LIENS, AND JUDGMENTS AFFECTING THE LAND COVERED BY THIS REPORT
APPEAR OF RECORD:

1. Warranty Deed recorded in Official Records Book 1302, page 1505 and re-recorded in Official Records Book 1314, Page 91.
2. Quit claim Deed recorded in Official Records Book 1426, page 1363.
3. Mortgage Deed recorded in Official Records Book 1302, page 1507 and re-recorded in Official Records Book 1303, Page 1662, along with Assignments of Mortgage recorded in Official Records Book 1304, Page 389 and Official Records Book 1540, Page 1993.
4. Indenture recorded in Official Records Book 1908, page 668.
5. First Supplemental Indenture recorded in Official Records Book 1915, page 1923.
6. UCC-1 Financing Statement recorded in Official Records Book 1912, page 1680.

NOTE: Warranty Deeds and mortgages reference Tract 1 instead of Tract "I".

NOTE: This report does NOT reflect easements, restrictions, reservations and resolutions of record, if any.

TAXES:

The records of the office of the tax collector for the county in which the property is located reveal 1995 taxes are paid in the gross amount of \$4,961.24 under Folio # 22767-000-01.

END OF CONTINUATION PAGE(S)

900
893

Francis E. Simmons
BY Henry J. Davis

RECORDED AND RECORD
VERIFIED
MARION COUNTY, FL

WARRANT FORM 33

WARRANTY DEED
FROM CORPORATION

85-047210

1985 SEP -4 PM 1:29

This Warranty Deed Made and executed the 3rd day of September A.D. 1985 by

INDUSTRIAL UTILITIES, INC.

a corporation existing under the laws of Florida and having its principal place of business at Ocala, Florida hereinafter called the grantor, to SOUTHERN STATES UTILITIES, INC.

whose postoffice address is 750 West Colonial Drive, Orlando, FL 32804

hereinafter called the grantee:

(Wherever used herein the words "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth: That the grantor, for and in consideration of the sum of \$ 10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situate in Marion County, Florida, viz:

Legal description attached to and made a part hereof as Exhibit "A".

SUBJECT, however, to the following:

1. As to Parcel 2, Covenant with Marion County as recorded in O.R. Book 808, page 147; Restrictions in O. R. Book 818, page 680, certain rights under which have been assigned to Marion Properties and Investments by Assignment recorded in O.R. Book 1095, page 1859; Anchor and Guy Easement in favor of City of Ocala recorded in O.R. Book 319, page 502.
2. As to Parcel 3, Easement recorded in O.R. Book 1124, page 921; Easement in favor of Clay Electric Cooperative, Inc. recorded in O.R. Book 319, page 422.

RECORD TO RETURN TO F-1-A

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances

(CORPORATE SEAL)

In Witness Whereof

the grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

ATTEST: Donna D. Turner
Secretary

INDUSTRIAL UTILITIES, INC.

Signed, sealed and delivered in the presence of:

Donna D. Turner
Maureen C. Adams

By Jack A. Clark
President
SEAL

STATE OF FLORIDA
COUNTY OF MARION

I HEREBY CERTIFY that on this day before me, as officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared **Jack A. Clark and Donna D. Turner**

well known to me to be the President and Asst. Secretary respectively of the corporation named as grantor in the foregoing deed, and that they personally acknowledged executing the same in the presence of me as officer of said county and voluntarily under no duress, fraud, coercion or undue influence, and that the seal of said county is in the true possession and of said corporation.

WITNESSED my hand and official seal in the County and State here above named this 3rd day of September A.D. 1985

Maureen C. Adams

This instrument prepared by: T.J. Simmons
135 N.E. First Ave

BA1302 P61505

EXHIBIT "A"

Parcel #1:
Tract "1" SOUTH FORTY INDUSTRIAL PARK, as per plat thereof recorded in Plat Book R, page 98, public records of Marion County, Florida.

Parcel #2:
Tracts B and C of Citrus Park, as per plat thereof recorded in Plat Book S, pages 14 and 15, public records of Marion County, Florida.

Parcel #3:
Commencing at the NW corner of the J. M. Hernandez Grant, as established by the U. S. Government dependent re-survey by George F. Rigby, of 1928; thence run S.86°46'05"E., along the North boundary of said Grant 382.55 feet more or less to a point on the Westerly right of way line of County Road No. C-316 (100 feet wide), said point being on the arc of a curve concave northeasterly and having a radius of 5779.65 feet; thence Southeasterly along and with the arc of said curve a chord bearing and distance of S.32°43'08"E., 279.37 feet to the Point of Tangency (P.T.); thence continue along said right of way line S.34°06'14"E., 379.34 feet to the Point of Beginning. From the Point of Beginning thus described continue S.34°06'14"E., along said right of way line 66.02 feet; thence departing from said right of way line N.83°20'03"W., 189.36 feet; thence S.6°39'57"W., 364.77 feet; thence N.83°20'03"W., 511.86 feet to a concrete monument said monument being S.80°53'13"E., 50.00 feet from the NE corner of the S. R. Chitty, Jr., unrecorded subdivision; thence along the Easterly right of way of a 27 foot wide easement the following courses and distances: N.7°42'57"W., 63.23 feet to the P. C. (Point of Curva) of a curve concave Easterly and having a radius of 204.92 feet, thence Northerly along and with the arc of said curve, a chord bearing and distance of N.3°30'48"E., 79.81 feet to the Point of Tangency (P.T.); thence N.14°44'33"E., 155.52 feet to the P.C. of a curve, concave Southeasterly and having a radius of 100.33 feet, thence Northeasterly along and with the arc of said curve, a chord bearing and distance of N.45°14'50"E., 101.86 feet to the Point of Tangency; thence N.75°44'03"E., 77.08 feet to the P.C. of a curve, concave Northwesterly and having a radius of 171.00 feet, thence Northeasterly along and with the arc of said curve, a chord bearing and distance of N.70°51'59"E., 29.17 feet; thence departing from said right of way line and said curve S.83°20'03"E., 494.56 feet to the Point of Beginning. All being in Marion County, Florida.



James E. Higgins
Henry J. Davis

RECORDED AND RECORDED
 VERIFIED
 MARION COUNTY, FL

85-047210

855 SEP -4 PM 1:29

This Warranty Deed Made and executed the 3rd day of September A.D. 1985 by

INDUSTRIAL UTILITIES, INC.
 a corporation existing under the laws of Florida and having its principal place of
 business at Ocala, Florida
 hereinafter called the grantor, to
 SOUTHERN STATES UTILITIES, INC.

whose postoffice address is 750 West Colonial Drive, Orlando, FL 32804

hereinafter called the grantee:

(Witness and herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth: That the grantor, for and in consideration of the sum of \$ 10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situate in Marion County, Florida, viz:

Legal description attached to and made a part hereof as Exhibit "A".

SUBJECT, however, to the following:

1. As to Parcel 2, Covenant with Marion County as recorded in O.R. Book 808, page 147; Restrictions in O. R. Book 818, page 680, certain rights under which have been assigned to Marion Properties and Investments by Assignment recorded in O.R. Book 1095, page 1859; Anchor and Guy Easement in favor of City of Ocala recorded in O.R. Book 874, page 502.
2. As to Parcel 3, Easement recorded in O.R. Book 1124, page 921; Easement in favor of Clay Electric Cooperative, Inc. recorded in O.R. Book 319, page 422.

Recorded to correct scrivener's error in O.R. reference for Anchor and Guy Easement.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in any wise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances.

In Witness Whereof

the grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers therunto duly authorized, the day and year first above written.

WITNESSETH: *Wanda D. Jordan*
 Clerk

INDUSTRIAL UTILITIES, INC.

Witness, sealed and delivered in the presence of:

Wanda D. Jordan

By *[Signature]*
 Jack A. Clark

Myrtle G. Clemons

SOAL

STATE OF FLORIDA
 COUNTY OF MARION

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, the within and foregoing instrument was acknowledged and subscribed by the person or persons named therein as the grantor and by the person or persons named therein as the grantee, and that the said instrument is the true and correct copy of the original as shown to me by the grantor and the grantee, and that the said instrument is the true and correct copy of the original as shown to me by the grantor and the grantee, and that the said instrument is the true and correct copy of the original as shown to me by the grantor and the grantee.

WITNESSED my hand and official seal in the County and State here aforesaid this 3rd day of September, A.D. 1985

This instrument prepared by: Y.J. Simmons
 114 125 N.E. First Ave.
 Ocala, FL 32670

NOT PUBLIC, STATE OF FLORIDA
 10 THIRTEENTH JUNE 22, 1985

RECORD AND RECORD
 VERIFIED
 MARION COUNTY, FL

855 NOV -7 PM 10:26

James E. Higgins
Henry J. Davis

5066247

841392 261505

841314 40091

EXHIBIT "A"

Parcel #1:
Tract "1" SOUTH FORTY INDUSTRIAL PARK, as per plat thereof recorded in Plat Book R, page 98, public records of Marion County, Florida.

Parcel #2:
Tracts B and C of Citrus Park, as per plat thereof recorded in Plat Book S, pages 14 and 15, public records of Marion County, Florida.

Parcel #3:
Commencing at the NW corner of the J. M. Hernandez Grant, as established by the U. S. Government dependent re-survey by George F. Rigby, of 1928; thence run S.86°46'05"E., along the North boundary of said Grant 582.55 feet more or less to a point on the Westerly right of way line of County Road No. C-316 (100 feet wide), said point being on the arc of a curve concave northeasterly and having a radius of 5779.65 feet; thence Southeasterly along and with the arc of said curve a chord bearing and distance of S.32°43'08"E., 279.37 feet to the Point of Tangency (P.T.); thence continue along said right of way line S.34°06'14"E., 379.34 feet to the Point of Beginning. From the Point of Beginning thus described continue S.34°06'14"E., along said right of way line 66.02 feet; thence departing from said right of way line N.83°20'03"W., 189.36 feet; thence S.6°39'57"W., 364.77 feet; thence N.83°20'03"W., 511.86 feet to a concrete monument said monument being S.80°53'13"E., 50.00 feet from the NE corner of the S. R. Chitty, Jr., unrecorded subdivision; thence along the Easterly right of way of a 20 feet wide easement the following courses and distances: N.7°42'57"W., 63.23 feet to the P. C. (Point of Curve) of a curve concave Easterly and having a radius of 204.92 feet, thence Northerly along and with the arc of said curve, a chord bearing and distance of N.3°30'48"E., 79.81 feet to the Point of Tangency (P.T.); thence N.14°44'33"E., 155.52 feet to the P.C. of a curve, concave Southeasterly and having a radius of 100.33 feet, thence Northeasterly along and with the arc of said curve, a chord bearing and distance of N.45°14'50"E., 101.86 feet to the Point of Tangency; thence N.75°44'03"E., 77.08 feet to the P.C. of a curve, concave Northwesterly and having a radius of 171.00 feet, thence Northeasterly along and with the arc of said curve, a chord bearing and distance of N.70°51'59"E., 29.17 feet; thence departing from said right of way line and said curve S.83°20'03"E., 494.56 feet to the Point of Beginning. All being in Marion County, Florida.



52
2

QUITCLAIM DEED

RAMCO FORM 8

3X1426 PGI363

This Quit-Claim Deed, Executed this 12 day of May, A. D. 1987, by

JACK A. CLARK and DOROTHY B. CLARK, TRUSTEES

first party, to

SOUTHERN STATES UTILITIES, INC.

whose postoffice address is 1000 Color Place, Apopka, FL 32703

second party:

(Wherever word herein the terms "first party" and "second party" shall include singular and plural, male, legal representation, and thrust of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

Witnesseth, That the said first party, for and in consideration of the sum of \$ 10.00 in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claim and demand which the said first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Marion State of Florida to-wit:

TRACT "I" SOUTH FORTY INDUSTRIAL PARK, as per plat thereof recorded in Plat Book R, page 98 public records of Marion County, Florida.

Francis E. Higgins
BY Signet cc
87-031146

RECORDED AND RECORD
VERIFIED
MARION COUNTY, FL
1987 MAY 14 PM 3 12



To Have and to Hold the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.

In Witness Whereof, The said first party has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in presence of:

Donna A Turner

Jack A Clark TS
JACK A. CLARK, TRUSTEE

Louanna C Reaux

Dorothy B Clark TS
DOROTHY B. CLARK, TRUSTEE

STATE OF FLORIDA,
COUNTY OF Marion

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Jack A. Clark and Dorothy B. Clark

to me known to be the persons aforesaid in and who executed the foregoing instrument and they before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 12th day of May, A. D. 1987.

Donna A Turner
My Comm. No. 24244 Expires: 11/20/89

EXCISE AND
STAMP TAX

This instrument prepared by: DONNA TURNER

1111 P O Box 100 Apopka FL 32708