

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M- **RECEIVED**

JUN - 4 1998

11:30
FPSC - Records/Reporting

DATE: JUNE 4, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER AND WASTEWATER (GOLDEN, BEDEMANN)
DIVISION OF LEGAL SERVICES (JAEGER)

RE: DOCKET NO. 961299-WS - APPLICATION FOR GRANDFATHER
CERTIFICATE TO OPERATE A WATER AND WASTEWATER UTILITY IN
POLK COUNTY BY GARDEN GROVE WATER COMPANY, INC.
COUNTY: POLK

AGENDA: JUNE 16, 1998 - REGULAR AGENDA - PROPOSED AGENCY ACTION
FOR A PORTION OF ISSUE 3 AND ISSUE 4 - INTERESTED PERSONS
MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: THIS ITEM SHOULD PRECEDE DOCKET NO. 970158-
WS FOR ORCHID SPRINGS DEVELOPMENT
CORPORATION

FILE NAME AND LOCATION: S:\PSC\WAW\WP\961299B.RCM

CASE BACKGROUND

On May 14, 1996, the Board of County Commissioners of Polk County adopted a resolution, pursuant to Section 367.171, Florida Statutes, declaring the water and wastewater utilities in Polk County subject to the provisions of Chapter 367, Florida Statutes. The resolution was acknowledged by this Commission on July 11, 1996, by Order No. PSC-96-0896-FOF-WS.

Pursuant to Section 367.171, Florida Statutes, a utility subject to the jurisdiction of this Commission must obtain a certificate of authorization. Accordingly, on October 29, 1996, Garden Grove Water Company, Inc. (Garden Grove or utility) filed an application for a certificate under grandfather rights to provide water and wastewater service in Polk County. The utility's

DOCUMENT NUMBER-DATE

06006 JUN -4 98

FPSC-RECORDS/REPORTING

application was found to be deficient. The utility corrected the deficiencies on January 7, 1998. Additionally, as required by Rules 25-30.120(2) and 25-30.110(3), Florida Administrative Code, the utility has paid regulatory assessment fees and filed Annual Reports for 1996 and 1997.

Garden Grove is a Class A utility which provides water and wastewater service to single family residences, multi-family residences, mobile homes, and general service customers. The utility currently serves 6,211 water customers and 3,149 wastewater customers. According to the utility's 1997 Annual Report, the utility had annual operating revenues of \$1,302,749 and \$995,974 for water and wastewater, respectively. Additionally, the utility had a net operating income of \$144,379 for water and \$52,121 for wastewater.

According to the application, the utility's water system has been in existence since 1965; the wastewater system was established in 1970. The utility's water facilities consist of one water treatment system comprised of seven water treatment plants and ten wells which are all interconnected, and one water transmission and distribution system. The utility's wastewater facilities consist of one wastewater treatment plant and one wastewater collection system.

On November 27, 1996, Emmer Development Corporation (Emmer) filed a Petition for Leave to Intervene, Request for Proposed Agency Action Procedures, and Response to Garden Grove Water Company's Application for a Grandfather Certificate (Emmer's petition). Emmer is not a current customer of Garden Grove, but owns land within the service territory granted to Garden Grove by a franchise agreement with Polk County. The franchise agreement was entered into on October 20, 1987, before Polk County transferred jurisdiction to the Commission. Emmer plans to develop a mixed-use subdivision on the property it owns within Garden Grove's franchise agreement with Polk County.

Subsequent to the filing of the Petition, Garden Grove filed an unopposed Motion for Five-day Extension of Time in which to respond to Emmer's Petition.

On December 9, 1996, Garden Grove filed a Motion to Dismiss Emmer Development's Petition for Leave to Intervene, and response to Emmer Development's "Request for Proposed Agency Action Procedures, and Response to Garden Grove Water Company's Application for a Grandfather Certificate" (Motion to Dismiss). On December 16, 1996, Emmer Development filed a Memorandum in

Opposition to Garden Grove Water Company, Inc.'s Motion to Dismiss and a Request for Oral Argument.

The City of Lake Wales (Lake Wales) filed a Petition to Intervene in this proceeding on December 11, 1996. Garden Grove then filed a Motion to Dismiss Lake Wales' Petition to Intervene on December 17, 1996, for which Lake Wales filed a Reply in Opposition on December 27, 1996. Also on December 27, 1996, Lake Wales filed a request for Oral Argument and Polk County filed its Petition to Intervene. Finally, on January 7, 1997, Emmer filed a Motion to Dismiss Polk County's Petition to Intervene, and Polk County filed its Reply in Opposition to the Motion to Dismiss on January 16, 1997.

By Order No. PSC-97-0615-FOF-WS, issued May 29, 1997, the Commission denied all of the Petitions to Intervene, and Emmer's Request for Proposed Agency Action Procedures and a hearing. The Commission found that Section 367.171, Florida Statutes, does not contemplate intervention or a hearing in a grandfather proceeding because there is no requirement that notice be sent to customers, local governmental entities or nearby utilities. Also, Section 367.171, Florida Statutes, does not require the Commission to make a determination that granting a grandfather certificate is in the public interest. However, the Order states that all interested parties may address this Commission at the agenda conference which addresses the disposition of Garden Grove's grandfather certificate application.

Further, the Commission recognized that Garden Grove had failed to register within 30 days or file an application within 90 days as set forth in Section 367.171, Florida Statutes. Section 367.171, Florida Statutes, states in part "if a utility fails to register with the Commission within the prescribed time, the Commission may require that the utility apply for an original certificate of authorization in accordance with s. 367.045." The Commission found that it would not require Garden Grove to file an application for an original certificate, and directed staff to continue processing the application under the "grandfather" provisions of Section 367.171, Florida Statutes. The following is staff's recommendation regarding the utility's application for a grandfather certificate.

DISCUSSION OF ISSUES

ISSUE 1: Should the application of Garden Grove Water Company, Inc. for water and wastewater certificates be granted?

RECOMMENDATION: Yes, Garden Grove Water Company, Inc. should be granted Water Certificate No. 597-W and Wastewater Certificate No. 512-S to serve the territory described in Attachment A. The Settlement Agreement between Garden Grove Water Company, Inc. and Orchid Springs Development Corporation should be approved. The utility should be required to file a modified service territory map and revised tariff sheets consistent with Attachment A within thirty days of the date of the order. (GOLDEN, JAEGER, REDEMANN)

STAFF ANALYSIS: As discussed in the case background, on October 29, 1996, Garden Grove filed its application for a grandfather certificate to provide water and wastewater service in Polk County. The application is in compliance with the governing statute, Section 367.171, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for a grandfather certificate. The rules and statutes do not require noticing for grandfather certificate applications. However, the utility has provided notice of a proposed territory amendment which resulted from a Settlement Agreement (Agreement.) The Agreement and noticing provisions will be discussed later in this issue. The application contains a check in the amount of \$4,500, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.

The applicant has provided evidence that the utility owns or has continued use of the land upon which its facilities are located as required by Rule 25-30.035(6), Florida Administrative Code. Further information on the land used to dispose of the effluent is included in Issue No. 4. Staff has contacted the Department of Environmental Protection (DEP) and learned that there are no outstanding notices of violation.

As discussed in the case background, several Petitions for Intervention were received by the Commission regarding this application. The primary concern of the Petitioners was the utility's service territory. Section 367.171(2)(b), Florida Statutes, states "on the day this chapter becomes applicable to any county, any utility engaged in the operation or construction of a system shall be entitled to receive a certificate for the area served by such utility on the day this chapter becomes applicable to it." The Commission has repeatedly interpreted this position

over the years. Where a county had specifically given a utility a certain described territory (and then transferred jurisdiction), the Commission has, pursuant to Section 367.171, Florida Statutes, included that same territory in any certificates ultimately granted by the Commission. See, Order No. 22565 issued on February 15, 1990, in Docket No. 891313-WS.

Where no specific territory was approved, but the utility was franchised by the county to provide service, the Commission has generally narrowly construed what was meant by "area served," and has limited the territory granted under the "grandfather" provisions to the territory actually being served by the utility. See, Orders Nos. PSC-93-0739-FOF-WS, PSC-93-1793-FOF-SU, and PSC-94-0259-FOF-WU.

In the case at hand, Polk County has granted specific territory to Garden Grove. Located within Garden Grove's territory is another water and wastewater utility, Orchid Springs Development Corporation (Orchid Springs). Orchid Springs was likewise granted specific territory by Polk County. Orchid Spring's application for grandfather certificates is being reviewed in Docket No. 970158-WS.

Upon review of Garden Grove's and Orchid Spring's proposed territory, staff discovered that Garden Grove was serving two customers in Orchid Spring's territory. In April 1987 and December 1996, Garden Grove extended water and wastewater service to two customers without knowledge that such customers are located within "Tract #1" of the Orchid Springs franchise area.

On January 7, 1998, the utilities submitted a Settlement Agreement (Settlement) regarding the territory in question. Upon approval of the Commission, the utilities have proposed that the two customers currently served by Garden Grove within "Tract #1" of the Orchid Springs franchise area shall remain customers of Garden Grove. Also, Orchid Springs determined that it could not economically serve a portion of Parcel 5 which is currently in its service territory because extending service to that area would require that the water and wastewater lines go through an environmentally sensitive wetland area. Garden Grove's water and wastewater lines are currently near the area. Therefore, as part of the Settlement, Orchid Springs has agreed to delete that portion of Parcel 5 from its legal description so that Garden Grove may serve that territory. The Settlement included revised territory descriptions for both utilities which reflect these changes.

The utilities have submitted letters from the two customers stating that they are aware of the Settlement between the utilities

DOCKET NO. 961299-WS
DATE: JUNE 4, 1998

and have no objection to Garden Grove continuing to provide utility service to their property. Additionally, the utilities provided a joint notice of the proposed territory amendment pertaining to Parcel 5. The utilities have provided proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. No objections to the territory amendment have been received and the time for filing such has expired.

Rules 25-30.035(9), (10), and (11), Florida Administrative Code, require that the utilities submit service territory and system maps and a territory description with their grandfather certificate applications. Both utilities submitted these items with their applications, however, they do not reflect the proposed changes contained in the Settlement. The Settlement states that upon approval of the Commission, the utilities will comply with the Commission's requirements regarding any modifications of the territorial maps and territorial legal descriptions for tariffs, to reflect the above modified legal descriptions of their respective territories.

A description of the territory requested by Garden Grove is appended to this memorandum as Attachment A. With the exception of the above mentioned changes, the proposed territory is the same as the territory that was previously granted to Garden Grove by Polk County. Orchid Spring's proposed territory will be addressed later in Docket No. 970158-WS. The Settlement Agreement is appended to this memorandum as Attachment B.

In the case of Florida Public Service Commission v. Florida Cities Water Company, 446 So. 2d 1111, 1113 (Fla. 2d DCA 1984), the Second District Court of Appeal specifically recognized that the utility, "upon application, became automatically entitled to a certificate from the commission authorizing it to operate in the same franchise territory." (emphasis supplied) As stated above, the territory requested by Garden Grove is the same as the territory that was previously granted by Polk County with the exception of the two modifications proposed in the Settlement Agreement.

Therefore, staff believes that, pursuant to the provisions of Section 367.171, Florida Statutes, Garden Grove should be granted the territory previously authorized by Polk County, along with the two modifications discussed above. This leaves Garden Grove in the same legal position as it was before Polk County transferred jurisdiction to this Commission. Further, it provides continuity in service for the two customers who have been served by Garden Grove within Orchid Spring's territory, and a more economical

DOCKET NO. 961299-WS
DATE: JUNE 4, 1998

provision of service for future customers in the above referenced portion of Parcel 5.

Based on the above information, staff believes it is appropriate to grant Garden Grove's application for grandfather certificates. Accordingly, staff recommends that Garden Grove be granted Water Certificate No. 597-W and Wastewater Certificate No. 512-S to serve the territory described in Attachment A. Additionally, staff recommends that the Settlement Agreement between Garden Grove Water Company, Inc. and Orchid Springs Development Corporation should be approved. The utility should be required to file a modified service territory map and revised tariff sheets consistent with Attachment A within thirty days of the date of the order.

ISSUE 2: Should rate base be established and any acquisition adjustment be determined at this time?

RECOMMENDATION: No. Rate base should be established and any acquisition adjustment should be determined in the next rate proceeding. (GOLDEN)

STAFF ANALYSIS: Section 367.171, Florida Statutes, gives the Commission the authority to establish rate base in a grandfather certificate proceeding. Specifically, Section 367.171(2)(c), Florida Statutes, states:

Before the Commission issues a certificate of authorization under paragraph (b), it may establish the amount of money prudently invested in property of the utility, which property is used and useful in the public service; may establish other elements of the rate base; and may set and approve rates pursuant to s. 367.081.

The primary goal in a grandfather certificate proceeding is to obtain enough information about the utility to enable the Commission to regulate the utility on a going-forward basis. Although the Commission has the discretion to establish rate base, it has been Commission practice not to establish rate base in grandfather certificate proceedings. When a county turns over jurisdiction to the Commission, the only element in the utility's operation that changes is the entity which regulates it. The utility's ownership, rate base, and rates remain the same. Consequently, there is not the same necessity to review rate base in this type of proceeding as there is in other types of proceedings, such as the sale of a utility or a rate case. Rate base for utilities receiving grandfather certificates is typically established in the utility's first rate proceeding filed under the Commission's jurisdiction.

Staff has reviewed the utility's application for a grandfather certificate and does not believe there are any circumstances in this case which necessitate a rate base review at this time. Therefore, staff recommends that rate base be established and any acquisition adjustment be determined in the next rate proceeding.

ISSUE 3: What rates and charges should be approved for this utility?

RECOMMENDATION: The rates and charges as detailed in the staff analysis should be approved. The effective date of the rates and charges should be the stamped approval date on the tariff. Further, the utility should be required to provide additional information pertaining to the AFPI charge for the Effluent Disposal Facility as detailed in the staff analysis within 90 days of the date of the order. The portion of the order concerning the AFPI charge for the Effluent Disposal Facility should be issued as proposed agency action. (GOLDEN)

STAFF ANALYSIS: The utility's current connection fees were established by the Polk County Board of County Commissioners (Polk County) effective June 1, 1990. The utility's current rates and remaining charges were established by Polk County effective February 1, 1992. On November 1, 1996, the Florida Public Service Commission (Commission) approved a pass-through rate increase to recognize the difference in regulatory assessment fees charged by Polk County and the Commission. (Subsection 367.171(2)(c), Florida Statutes, provides for approving rates prior to the actual issuance of a grandfather certificate.) Therefore, the utility's current water and wastewater rates and charges are as follows:

WATER

Monthly Service Rates

Residential:

Base Facility Charge:

Meter Size:

5/8" x 3/4"	\$ 3.47
1"	\$ 8.67
1 1/2"	\$ 17.33
2"	\$ 27.73

Gallage Charge per 1,000 gallons:

1st 25,000 Gallons	\$.75
Next 35,000 Gallons	\$.94
Over 60,000 Gallons	\$ 1.13

DOCKET NO. 961299-WS
DATE: JUNE 4, 1998

General Service:

Base Facility Charge:

Meter Size:

5/8" x 3/4"	\$ 3.47
1"	\$ 8.67
1 1/2"	\$ 17.33
2"	\$ 27.73
3"	\$ 60.66
4"	\$103.98
6"	\$216.62
8"	\$311.93

Gallonage Charge per 1,000 gallons \$.75

WASTEWATER

Monthly Service Rates

Residential:

Flat Rate:

All Meter Sizes \$ 21.96

General Service:

Base Facility Charge:

Meter Size:

5/8" x 3/4"	\$ 5.27
1"	\$ 13.17
1 1/2"	\$ 26.33
2"	\$ 42.14
3"	\$ 92.18
4"	\$158.01
6"	\$329.19
8"	\$474.02

Gallonage Charge per 1,000 Gallons \$ 2.89

DOCKET NO. 961299-WS
 DATE: JUNE 4, 1998

Miscellaneous Service Charges

	<u>During Business Hours</u>	<u>After Business Hours</u>
Initial Connection	\$ 10.00	\$ 25.00
Normal Reconnection	\$ 10.00	\$ 25.00
Violation Reconnection:		
Water	\$ 15.00	\$ 20.00
Wastewater	Actual Cost	Actual Cost
Temporary Disconnection	\$ 25.00	N/A

Customer Deposits

	<u>Residential</u>	<u>General Service</u>
<u>Water:</u>		
<u>Meter Size:</u>		
5/8" x 3/4"	\$ 40.00	\$ 50.00
1"	\$ 40.00	\$100.00
1 1/2"	\$ 40.00	\$100.00
2" and Over	2 months avg.	2 months avg.
<u>Wastewater:</u>		
<u>Meter Size:</u>		
All Meter Sizes	\$ 40.00	\$ 50.00

Service Availability Charges

<u>Water:</u>	
Backflow Preventor Installation Fee:	
5/8" x 3/4"	\$150.00
1"	\$170.00
1 1/2"	\$270.00
2"	\$375.00
Over 2"	Actual Cost

DOCKET NO. 961299-WS
 DATE: JUNE 4, 1998

Customer Connection Charge:
 Per ERC (ERC = 360 gallons per day) \$510.00

Main Extension Charge Actual Cost

Meter Installation Fee:
 5/8" x 3/4" \$100.00
 1" \$150.00
 1 1/2" \$150.00
 2" \$200.00
 Over 2" Actual Cost

Wastewater:

Customer Connection Charge:
 Per ERC (ERC = 270 gallons per day) \$2,050.00

Allowance For Funds Prudently Invested (AFPI):

AFPI for Wastewater Treatment Facility:								
	1992	1993	1994	1995	1996	1997	1998	1999
January	6.64	86.81	172.75	265.07	364.45	471.63	587.44	712.79
February	13.28	93.93	180.40	273.30	373.32	481.21	597.81	724.04
March	19.92	101.05	188.04	281.53	382.19	490.80	608.18	735.28
April	26.57	108.17	195.69	289.76	391.06	500.38	618.56	746.53
May	33.21	115.28	203.33	297.98	399.94	509.97	628.93	757.77
June	39.85	122.40	210.98	306.21	408.81	519.55	639.30	769.02
July	46.49	129.52	218.62	314.44	417.68	529.14	649.68	780.27
August	53.13	136.64	226.27	322.67	426.55	538.72	660.05	791.51
September	59.77	143.76	233.91	330.89	435.43	548.31	670.43	802.76
October	66.41	150.87	241.56	339.12	444.30	557.89	680.80	814.00
November	73.05	157.99	249.20	347.35	453.17	567.48	691.17	825.25
December	79.70	165.11	256.85	355.58	462.04	577.06	701.55	836.49

AFPI for Effluent Disposal Facility:								
	1992	1993	1994	1995	1996	1997	1998	1999
January	6.62	86.70	174.25	270.06	374.99	490.03	616.24	754.80
February	13.24	93.94	182.17	278.73	384.50	500.46	627.69	767.39
March	19.87	101.18	190.09	287.41	394.01	510.89	639.15	779.97
April	26.49	108.42	198.01	296.08	403.52	521.33	650.60	792.55
May	33.11	115.66	205.93	304.76	413.03	531.76	662.05	805.13
June	39.73	122.90	213.86	313.43	422.54	542.19	673.50	817.71
July	46.35	130.14	221.78	322.11	432.05	552.62	684.96	830.29
August	52.98	137.37	229.70	330.78	441.56	563.06	696.41	842.88
September	59.60	144.61	237.62	339.46	451.07	573.49	707.86	855.46
October	66.22	151.85	245.54	348.13	460.58	583.92	719.32	868.04
November	72.84	159.09	253.46	356.81	470.09	594.35	730.77	880.62
December	79.46	166.33	261.38	365.48	479.60	604.79	742.22	893.20

Commission practice in grandfather certificate proceedings has been to approve the rates and charges that were in effect at the time the Commission received jurisdiction over that county. However, as discussed in Issue 2, Section 367.171(2)(c), Florida Statutes, gives the Commission the authority to set and approve rates pursuant to s. 367.081 in a grandfather certificate proceeding. Upon review of the utility's application, staff determined that the utility may have exceeded the number of equivalent residential connections (ERCs) represented by its Allowance For Funds Prudently Invested (AFPI) charge for the Effluent Disposal Facility.

Rule 25-30.434(1), Florida Administrative Code, defines an AFPI charge as "a mechanism which allows a utility the opportunity to earn a fair rate of return on prudently constructed plant held for future use from the future customers to be served by that plant in the form of a charge paid by those customers." The Commission typically calculates AFPI charges using a 5-year period, but occasionally uses as many as 7 years. Rule 25-30.434(5), Florida Administrative Code, states that unless the utility demonstrates that the 5-year period is inappropriate, it is prudent for a utility to have an investment in future use plant for a period of

no longer than 5 years beyond the test year. Further, Rule 25-30.434(6), Florida Administrative Code, states:

For utilities that have non-used and useful plant to be held for periods longer than what is determined to be prudent, the AFPI charge will cease accruing charges and will remain constant after the accrual period, established by the Commission, has expired. The utility can continue to collect the constant charge until all ERCs projected in the calculation have been added.

The AFPI charge calculations for Garden Grove's current charges are contained in a report entitled Garden Grove Water Company Analysis of Proposed Rate Adjustment on Behalf of the Polk County Utilities Commission by Sheahen, Rowlson & Messina, P.A. (County's Report), dated December 31, 1991. The AFPI charges contained in that report were approved effective by Polk County on February 1, 1992. The charges were calculated based upon an 8-year period, which exceeds the number of years typically used by the Commission. Because each County determines how it regulates its private utilities, this deviation from Commission methodology does not by itself demand a review of the utility's charges. However, as stated above, staff's review of the utility's application indicates that the utility may have collected the AFPI charge for the Effluent Disposal Facility beyond the number of ERCs projected in the calculation. If this proves to be true, the utility is in violation of Rule 25-30.434(6), Florida Administrative Code, which specifies that the charge should be discontinued when the utility has added the number of ERCs projected in the AFPI charge calculation.

According to the County's Report, the AFPI charge for the Wastewater Treatment Facility was designed to be recovered from 1,132 ERCs. The AFPI charge for the Effluent Disposal Facility was designed to be recovered from only 437 ERCs. A comparison of billing data contained in the County's Report to customer information contained in the utility's application indicates that from the time the charges were approved through 1996, the utility added 655 wastewater customers. Based upon the American Water Works Association meter equivalency factors, those 655 customers represent 754 ERCs. Therefore, it appears that the utility has connected at least 317 ERCs beyond the number of ERCs used in the AFPI calculation for the Effluent Disposal Facility (754 - 437 = 317).

Staff believes that further review of the utility's AFPI charge is warranted in this case. However, because staff's opinion

is based on a preliminary review of limited information, staff believes the utility should be provided the opportunity to review its records and provide additional information prior to the Commission taking any action to change or eliminate the charge. Staff believes the utility should be allowed 90 days from the date of the order to provide one of the following:

1. if the utility has not charged the AFPI charge for the Effluent Disposal Facility to more than 437 ERCs, the utility should provide documentation to support the number of ERCs that have been charged, or
2. if the utility has charged more than 437 ERCs, the utility should submit a tariff filing to remove the AFPI charges for the Effluent Disposal Facility from its tariff, or
3. if the utility has connected in excess of 437 ERCs but believes it should still be authorized to collect the AFPI charge for the Effluent Disposal Facility, the utility should file an application in accordance with Rule 25-30.434, Florida Administrative Code, requesting approval of the AFPI charge so that the Commission may determine if a need still exists for the AFPI charge.

The utility has filed a tariff which reflects the above rates and charges. Staff recommends that they be approved as submitted. Staff further recommends that Garden Grove be required to continue to charge these rates and charges until authorized to change by the Commission. The tariff should be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets. Further, staff recommends that the utility be required to provide additional information pertaining to the AFPI charge for the Effluent Disposal Facility as detailed in the staff analysis within 90 days of the date of the order. Staff recommends that the portion of the order concerning the AFPI charge for the Effluent Disposal Facility be issued as proposed agency action.

ISSUE 4: Should the utility be authorized to continue providing reclaimed water service at no charge?

RECOMMENDATION: Yes. The utility should file a wastewater tariff sheet reflecting the reclaimed water class of service within thirty days of the date of the order. The tariff should be effective for services rendered on or after the stamped approval date of the tariff. In the event the utility agrees to provide reclaimed water service to other customers, the utility should return to the Commission for a determination regarding rates for reclaimed water service prior to providing that service to any other customers. (GOLDEN, REDEMANN)

STAFF ANALYSIS: According to the utility's application, the utility disposes of all of its effluent in a citrus grove which is owned by the utility's President, Mr. John G. Wood. On July 19, 1994, the utility entered into a Use Agreement⁺ (Agreement) with Mr. Wood. The term of the Agreement was 5 years. Because this is currently the utility's only available means of effluent disposal, staff was concerned that the term of the Agreement was too short. Therefore, at staff's request, the utility and Mr. Wood amended the Agreement to a term of 20 years, effective May 12, 1997. The Agreement essentially provides for the following:

1. Mr. Wood has agreed to accept from Garden Grove wastewater effluent that meets all regulatory requirements for purposes of a reuse irrigation system on land owned by Mr. Wood;
2. The term of the use agreement is 20 years;
3. The agreement may be terminated as to all or part of the land by either party upon a six month notice of termination. Any termination of the agreement shall not be effective unless Garden Grove has obtained substitute land suitable to accept the same amount of wastewater effluent that is being placed on the land covered by the portion of the agreement being terminated. Suitability shall be determined by Garden Grove obtaining all necessary regulatory permits for the substitute land;
4. Mr. Wood shall be responsible for the maintenance of the citrus grove and irrigation system connected to the pumps. Garden Grove will not permit the effluent irrigation to adversely affect the growing of citrus on Mr. Wood's land;

5. Mr. Wood agrees to allow Garden Grove to maintain and operate monitoring wells in accordance with regulatory requirements.

Garden Grove does not charge Mr. Wood for the effluent service. Likewise, Mr. Wood does not charge Garden Grove for the use of the land for the purposes of effluent disposal. As stated above, this is currently the utility's only available means of effluent disposal.

Due to growing concerns over water conservation, reclaimed water is increasingly being viewed as an alternative source of water for irrigation. Along with the increased use of reclaimed water comes a recognition that there are costs, associated with the provision of reclaimed water. Consequently, it has become Commission practice to recognize reclaimed water service (sometimes referred to as effluent service) as a class of service which should be included in the utility's tariff, even if they are not currently assessing a charge for the service.

Although there are costs associated with the provision of reclaimed water service, there are cases in which the "avoided costs" outweigh the actual cost of the service, and thus not charging for the effluent is justified. For example, disposing of effluent on non-utility property may delay or even eliminate the need for the utility to purchase additional land for spray fields or percolation ponds, thereby resulting in lower rates for the utility's existing wastewater customers.

Regarding Garden Grove's effluent service, staff believes the issue of whether or not the utility should be charging for this service is beyond the scope of this application. However, staff believes that it does qualify as reclaimed water service and as such should be included in the utility's tariff, at a zero rate. Further, staff does not believe that the utility should be show-caused for violating its tariff in this instance. It appears that Polk County did not require the utility to include this in its tariff. Further, the utility has not assessed any unauthorized charges for the service and in fact may have avoided additional effluent disposal costs through this type of arrangement. This recommendation is consistent with past Commission practice. See Order No. PSC-95-1325-FOF-WS issued on October 31, 1995, in Docket No. 941151-WS.

Therefore, staff recommends that the utility be authorized to continue providing the reclaimed water service at no charge. Additionally, the utility should be required to file a wastewater

DOCKET NO. 961299-WS
DATE: JUNE 4, 1998

tariff sheet reflecting the reclaimed water class of service within thirty days of the date of the order. The tariff should be effective for services rendered on or after the stamped approval date of the tariff. In the event the utility agrees to provide reclaimed water service to other customers, the utility should return to the Commission for a determination regarding rates for reclaimed water service prior to providing that service to any other customers.

DOCKET NO. 961299-WS
DATE: JUNE 4, 1998

ISSUE 5: Should this docket be closed?

RECOMMENDATION: Yes, in the event a timely protest is not filed, the docket may be closed upon staff's verification that the utility has submitted a modified service territory map and revised tariff sheets consistent with Attachment A, the necessary information pertaining to its AFPI charge for the Effluent Disposal Facility as detailed in Issue No. 3, and a tariff sheet for reclaimed water service. (JAEGER)

STAFF ANALYSIS: Regarding Issue No. 3, if the utility submits a tariff filing or an application for approval of AFPI charges, it should be processed separately from this docket. Therefore, if there are no timely protests filed by a substantially affected person to the proposed agency action issues (a portion of Issue No. 3 and Issue No. 4), the docket may be closed upon staff's verification that the utility has submitted a modified service territory map and revised tariff sheets consistent with Attachment A, the necessary documentation pertaining to its AFPI charge for the Effluent Disposal Facility as detailed in Issue No. 3, and a tariff sheet for reclaimed water service.

Garden Grove Water Company, Inc.

Water and Wastewater Territory Description

Polk County

All or Parts of Township 28 South, Range 26 East, Sections 25, 26, 27, 34, 35, and 36, Township 28 South, Range 27 East, Sections 19, 20, 29, 30, 31, and 32, Township 29 South, Range 26 East, Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23 and 24, and Township 29 South, Range 27 East, Sections 5, 6, 7, and 18. More particularly described as follows:

Begin at an intersection of the Northerly right-of-way line of Seaboard Coastline Railroad and the North South center of section line of Section 9, Township 29 South, Range 26 East, Polk County, Florida; thence North $00^{\circ}16'09''$ West along said center of section line a distance of 434.64 feet to a curve concave Southerly having a radius of 203.62 feet; thence Easterly along said curve through a central angle of $24^{\circ}46'14''$ a distance of 88.03' (CH=87.35, CB=S $65^{\circ}16'36''$ E); thence South $52^{\circ}53'35''$ East a distance of 1579.16' to the West line of the East half of the Southeast quarter of said Section 9; thence North along said West line to the North line of the East half of the Southeast quarter; thence East along said North line to the waters of Lake Eloise, thence South, Southeasterly, South, East, North, East, Northeasterly, Northerly, and Westerly along said waters edge to its intersection with the West boundary of the East half of the Northwest quarter of Section 3, Township 29 South, Range 26 East; thence run North along the said West boundary to the Northwest corner of said East half of the Northwest quarter, thence continue North along the West boundary of the East half of the West half of Section 34, Township 28 South, Range 26 East to the Northwest corner of the East half of the Northwest quarter of said Section 34, Township 28 South, Range 26 East; thence West along the North boundary of said Northwest quarter of Section 34 to the waters of Lake Otis; thence Northerly along said waters to an intersection with the North boundary of the Southwest quarter of Section 27, Township 28 South, Range 26 East; thence East along said North boundary of the Southwest quarter of Section 27 to the waters of Lake Link; thence Southerly, Easterly and Northerly along said waters to the aforesaid North boundary of

the Southwest quarter of Section 27; thence East along said North boundary of the Southwest quarter of Section 27 to the Northwest corner of the Southeast quarter of said Section 27; thence East along the North boundary of the Southeast quarter of said Section 27 to the Northwest corner of the Southwest quarter of Section 26, Township 28 South, Range 26 East; thence East along the North boundary of said Southwest quarter of Section 26 to the Southwest corner of the Northeast quarter of said Section 26; thence North along the West boundary of said Northeast quarter of Section 26 to the North boundary of the South half of said Northeast quarter, thence East along said North boundary to the East line of said Section 26; thence continue East 50' to a point on a line lying 50' East of and parallel with said East line of Section 26, thence, South along said parallel line a distance of 635 feet; thence East to the East boundary of the Southeast quarter of the Northeast quarter of Section 25, Township 28 South, Range 26 East, thence North along said East boundary to the North boundary of said Southeast quarter of the Northeast quarter; thence East along said North boundary to the East boundary of said Section 25; thence North along said East boundary of Section 25 to the Southeast corner of Section 24, Township 28 South, Range 26 East; thence North along the East boundary of said Section 24 to the North boundary of Section 19, Township 28 South, Range 27 East; thence East along said North boundary of Section 19 to the East boundary of said Section 19; thence South along said East boundary of Section 19 to the Northwest corner of the Southwest quarter of Section 20, Township 28 South, Range 27 East; thence East along the North boundary of said Southwest quarter of Section 20 to the East boundary of said Southwest quarter; thence South along said East boundary of the Southwest quarter to the South boundary of said Southwest quarter; thence run South along the center of said Section 29 to the South quarter corner and continue South to the Southwest corner of the northwest quarter of the Northeast quarter of Section 32, Township 28 South, Range 27 East; thence run East along the South boundary of said Northwest quarter of the Northeast quarter to the Westerly right-of-way of U.S. Highway 27; thence run Southerly along the said Westerly right-of-way of U.S. Highway 27 to its intersection with the South boundary of Section 5, Township 29 South, Range 27 East; thence West along said South boundary to the Southwest corner of said Section 5; thence South along the East boundary of Section 7 and 18, Township 29 South, Range 27 East to the Northeast corner of Section 19, Township 29 South, Range 27 East; thence continue South to the Southeast corner of the North half of said Section 19; thence West along the South boundary of said North half to the Southeast corner of the North half of Section 24, Township 29 South, Range 26 East; thence continue West along the South boundary of said North half of Section 23, Township

DATE: JUNE 4, 1998

29 South, Range 26 East; thence continue West along the South boundary of the Northeast quarter of Section 22, Township 29 South, Range 26 East to an intersection with the North right-of-way line of Seaboard Coastline Railroad; thence North along said Northerly right-of-way to the POINT OF BEGINNING. **LESS AND EXCEPT** the Orchid Springs Franchise described as follows:

TRACT A: Starting at the Northeast corner of Section 35, Township 28 South, Range 26 East, run thence South $0^{\circ}22'$ East along the East boundary of Section 35 a distance of 580.8 feet to a concrete marker for the POINT OF BEGINNING; run thence South $0^{\circ}22'$ East along the East boundary of Section 35 a distance of 1414.2 feet; thence North $89^{\circ}44'$ East a distance of 560 feet; thence North $33^{\circ}58'$ East a distance of 1000 feet; thence North $40^{\circ}11'$ West a distance of 1826.13 feet; thence North $60^{\circ}57'$ West a distance of 467 feet to the Easterly right-of-way boundary of County Road 550; thence South $29^{\circ}03'$ West along the Easterly right-of-way of County Road 550 a distance of 1195 feet; thence North $89^{\circ}44'$ East a distance of 1038.76 feet to the POINT OF BEGINNING, AND

TRACT B: North 420 feet of the South 749.20 feet of the Northeast quarter of the Northeast quarter of Section 35, Township 28 South, Range 26 East, lying East of the right-of-way of County Road 550, containing approximately 11.16 acres. Also the $12\frac{1}{2}$ feet immediately East of the above-described property which was closed as a road by Polk County Commissioners, Resolution recorded in Official Records Book 1067, page 823.

TRACT #2: All that part of the West half of the Southwest quarter of the Southwest quarter of Section 25, Township 28 South, Range 26 East, and the East half of the Southeast quarter of the Southeast quarter, Section 26, Township 28 south, range 26 East, lying Southeasterly and Southerly of the right-of-way of County Road 550, and lying Northerly of a line described as follows: Starting at the corner common to Sections 25, 26, 35, and 36, Township 28 South, Range 26 East, Polk County, Florida, run thence North $89^{\circ}46'$ East along the South boundary of said Section 25 a distance of 148.78 feet for the POINT OF BEGINNING; thence run North $40^{\circ}11'$ West a distance of 303.13 feet, thence North $60^{\circ}57'$ West a distance of 467 feet to a concrete marker located on the Easterly right-of-way boundary of County Road 550 at a point 459.05 feet North and 454.77 feet West of the common corner above described for the end of said line. **SUBJECT** to rights-of-way as of record and/or in use.

TRACT #3: The South half of the Southeast quarter of the Northeast quarter, Section 35, Township 28 South, Range 26 East, AND that part of the Northwest quarter of Section 36, Township 28 South, Range 26 East, Polk County, Florida, described as: Starting at the Northwest corner of Section 36, Township 28 South, Range 26 East, run thence North 89°46' East along the North boundary of Section 36 a distance of 148.78 feet for a POINT OF BEGINNING; thence run South 40°11' East a distance of 1523.0 feet, thence South 33°58' West a distance of 1000.0 feet, thence South 89°44' West a distance of 560 feet to the West boundary of Section 36, thence South 0°22' East along the Section line 464.95 feet to a point 200.04 feet Northerly of the Southwest corner of the Northwest quarter of Section 36, thence run North 69°50'30" East along the centerline of a canal a distance of 683.83 feet, thence North 33°58' East a distance of 1296.18 feet, thence North 40°11' West a distance of 1506.60 feet to a point on the North boundary of Section 36, thence run South 89°46' West along the said North boundary of Section 36 a distance of 260.89 feet to the POINT OF BEGINNING. SUBJECT to rights-of-way as of record and/or in use. (37.1).

TRACT #4: All that part of the Northwest quarter of Section 36, Township 28 South, Range 26 East, Polk County, Florida, lying Easterly and Northerly of a line described as: Starting at the Northwest corner of Section 36, run thence North 89°46' East along the North boundary of Section 36, a distance of 409.67 feet for the POINT OF BEGINNING of said line; run thence South 40°11' East a distance of 1506.60 feet, thence South 33°58' West a distance of 1296.18 feet to the centerline of a canal, thence run North 69°50'30" East along the centerline of said canal a distance of 2139.4 feet, more or less, to its intersection with the East boundary of said Northwest quarter of Section 36, for the end of said line. SUBJECT to rights-of-way as of record and/or in use.

TRACT #5: The South half of the Southeast quarter Section 25, Township 28 South, Range 26 East, Polk County, Florida, **LESS AND EXCEPT:** Begin at the Northeast corner of said South half of the Southeast quarter and run South 0°19'17" East along the East line of said South half of the Southeast quarter a distance of 457.10 feet, thence North 88°44'17" West 108.15 feet, thence South 52°15'43" West 476.63 feet, thence South 0°5'17" East 252.20 feet, thence South 89°54'43" West 138.00 feet, thence North 0°5'17" West 182.00 feet, thence North 80°58'17" West 419.00 feet, thence North 50°57'17" West 725.00 feet, thence North 69°41'17" West 625.70 feet, thence North 0°5'17" West 72.69

DOCKET NO. 961299-WS
DATE: JUNE 4, 1998

feet to a point on the North line of said South half of the Southeast quarter, thence North $89^{\circ}54'43''$ East along said North line 2184.81 feet to the POINT OF BEGINNING, LESS AND EXCEPT the East 30 feet of the South 866.9 feet of the Southeast quarter of the Southeast quarter of said Section 25 for road, and LESS AND EXCEPT Beginning 473.96 feet North of the Southwest corner of the South half of the Southeast quarter and run North a distance of 812.03 feet thence run East a distance of 313.07 feet thence run South a distance of 806.95 feet thence run West a distance of 313.03 feet to the Point of Beginning.

TRACT #6: That part of the Northeast quarter of Section 36, Township 28 South, Range 26 East, Polk County, Florida, described as: Beginning at the Northeast corner of Section 36, run thence South along the East boundary of Section 36 a distance of 533.80 feet to its intersection with the centerline of a canal, thence run South $69^{\circ}50'30''$ West along said centerline of canal a distance of 2823.3 feet, more or less, to its intersection with the West boundary of said Northeast quarter, thence run a distance of 1,496.01 feet North along the West boundary of said Northeast quarter to the Northwest corner of the Northeast quarter, thence run Easterly along the North boundary of said Northeast quarter of Section 36 a distance of 2642.28 feet to the POINT OF BEGINNING. SUBJECT to right-of-way over the East 30 feet thereof.

SETTLEMENT AGREEMENT

ATTACHMENT B

This Settlement Agreement is made this 26 day of December, 1997, by and between GARDEN GROVE WATER COMPANY, INC. (Garden Grove) and ORCHID SPRINGS DEVELOPMENTS CORPORATION (Orchid Springs).

WHEREAS, Garden Grove and Orchid Springs provide water and wastewater service to the public in Polk County, and

WHEREAS, Garden Grove and Orchid Springs are authorized to provide such service within the territory prescribed by franchises granted to them by Polk County; and

WHEREAS, Garden Grove and Orchid Springs each have an application for grandfather certificates pending before the Florida Public Service Commission (FPSC), by which they seek to preserve their respective territories authorized by Polk County prior to the County's adoption of a resolution transferring water and wastewater regulatory jurisdiction to the FPSC; and

WHEREAS, Orchid Springs' territory under its County franchise is located within the interior of Garden Grove's territory under its County franchise; and

WHEREAS, on or about April 1987 and December 1996, Garden Grove extended water and wastewater service to two customers without knowledge that such customers are located within "Tract #1" of the Orchid Springs franchise area; and

WHEREAS, the legal description of the franchise area of Orchid Springs is in other minor respects ambiguous or technically incorrect; and

WHEREAS, as a result of certain discussions between Garden Grove, Orchid Springs and the FPSC staff, the parties now wish to resolve any differences with respect to the legal descriptions of their respective franchise areas and thereby facilitate FPSC approval of their respective grandfather applications, and to seek FPSC approval of such resolution;

NOW, THEREFORE, with FPSC approval, the parties, their successors and assigns, in consideration of the foregoing and for other good and valuable consideration shall abide by the terms of this Settlement Agreement as follows:

1. The foregoing recitals are incorporated herein as if further set out at length.

2. This Agreement shall become binding upon the Parties, and their successors and assigns, upon its execution by duly authorized representatives of the respective entities and upon final approval by the FPSC.

3. The two customers currently served by Garden Grove within "Tract #1" of the Orchid Springs franchise area shall remain the customers of Garden Grove.

4. a) The legal description of the area for which Orchid Springs seeks certification by the FPSC under grandfather rights is modified as reflected in Attachment "A".

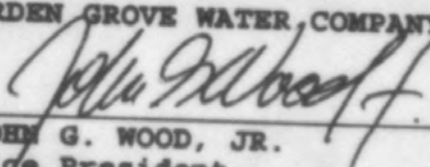
b) The legal description of the area for which Garden Grove seeks certification by the FPSC under grandfather rights is modified as reflected in Attachment "B".

c) Upon approval of this Agreement by the FPSC, the Parties shall comply with FPSC requirements regarding any modification of the territorial maps and territorial legal descriptions for tariffs, to reflect the above modified legal descriptions of their respective territories.

5. This Agreement may be signed in counterparts by the respective parties hereto.

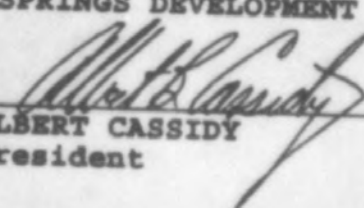
WHEREFORE, the parties have executed this Settlement Agreement on the date first set out hereinabove by the signatures of their duly authorized representatives.

GARDEN GROVE WATER COMPANY, INC.



JOHN G. WOOD, JR.
Vice President

ORCHID SPRINGS DEVELOPMENT CORPORATION



ALBERT CASSIDY
President

ORCHID SPRINGS FRANCHISE

TRACT A: Starting at the Northeast corner of Section 35, Township 28 South, Range 26 East, run thence South 0°22' East along the East boundary of Section 35 a distance of 580.8 feet to a concrete marker for the POINT OF BEGINNING; run thence South 0°22' East along the East boundary of Section 35 a distance of 1414.2 feet; thence North 89°44' East a distance of 560 feet; thence North 33°58' East a distance of 1000 feet; thence North 40°11' West a distance of 1826.13 feet; thence North 60°57' West a distance of 467 feet to the Easterly right-of-way boundary of County Road 550; thence South 29°03' West along the Easterly right-of-way of County Road 550 a distance of 1195 feet; thence North 89°44' East a distance of 1038.76 feet to the POINT OF BEGINNING, AND

TRACT B: North 420 feet of the South 749.20 feet of the Northeast quarter of the Northeast quarter of Section 35, Township 28 South, Range 26 East, lying East of the right-of-way of County Road 550, containing approximately 11.16 acres. Also the 12½ feet immediately East of the above-described property which was closed as a road by Polk County Commissioners, Resolution recorded in Official Records Book 1067, page 823.

TRACT #2: All that part of the West half of the Southwest quarter of the Southwest quarter of Section 25, Township 28 South, Range 26 East, and the East half of the Southeast quarter of the Southeast quarter, Section 26, Township 28 South, Range 26 East, lying Southeasterly and Southerly of the right-of-way of County Road 550, lying Northerly of a line described as follows: Starting at the corner common to Sections 25, 26, 35, and 36, Township 28 South, Range 26 East, Polk County, Florida, run thence North 89°46' East along the South boundary of said Section 25 a distance of 148.78 feet for the POINT OF BEGINNING; thence run North 40°11' West a distance of 303.13 feet, thence North 60°57' West a distance of 467 feet to a concrete marker located on the Easterly right-of-way boundary of County Road 550 at a point 459.05 feet North and 454.77 feet West of the common corner above described for the end of said line. SUBJECT to rights-of-way as of record and/or in use.

TRACT #3: The South half of the Southeast quarter of the Northeast quarter, Section 35, Township 28 South, Range 26 East, AND that part of the Northwest quarter of Section 36, Township 28 South, Range 26 East, Polk County, Florida, described as: Starting at the Northwest corner of Section 36, Township 28 South, Range 26 East, run thence North 89°46' East along the North boundary of Section 36 a distance of 148.78 feet for a POINT OF BEGINNING; thence run South 40°11' East a distance of 1523.0 feet, thence South 33°58' West a distance of 1000.0 feet, thence South 89°44' West a distance of 560 feet to the West boundary of Section 36, thence South 0°22' East along the Section line 464.95 feet to a point 200.04 feet Northerly of the Southwest corner of the Northwest quarter of Section

ATTACHMENT "A"

Page 1 of 2 3

36, thence run North 69°50'30" East along the centerline of a canal a distance of 683.83 feet, thence North 33°58' East a distance of 1296.18 feet, thence North 40°11' West a distance of 1506.60 feet to a point on the North boundary of Section 36, thence run South 89°46' West along the said North boundary of Section 36 a distance of 260.89 feet to the POINT OF BEGINNING. SUBJECT to rights-of-way as of record and/or in use. (37.1).

TRACT #4: All that part of the Northwest quarter of Section 36, Township 28 South, Range 26 East, Polk County, Florida, lying Easterly and Northerly of a line described as: Starting at the Northwest corner of Section 36, run thence North 89°46' East along the North boundary of Section 36, a distance of 409.67 feet for the POINT OF BEGINNING of said line; run thence South 40°11' East a distance of 1506.60 feet, thence South 33°58' West a distance of 1296.18 feet to the centerline of a canal, thence run North 69°50'30" East along the centerline of said canal a distance of 2139.4 feet, more or less, to its intersection with the East boundary of said Northwest quarter of Section 36, for the end of said line. SUBJECT to rights-of-way as of record and/or in use.

TRACT #5: The South half of the Southeast quarter Section 25, Township 28 South, Range 26 East, Polk County, Florida, **LESS AND EXCEPT:** Begin at the Northeast corner of said South half of the Southeast quarter and run South 0°19'17" East along the East line of said South half of the Southeast quarter a distance of 457.10 feet, thence North 88°44'17" West 108.15 feet, thence South 52°15'43" West 476.63 feet, thence South 0°5'17" East 252.20 feet, thence South 89°54'43" West 138.00 feet, thence North 0°5'17" West 182.00 feet, thence North 80°58'17" West 419.00 feet, thence North 50°57'17" West 725.00 feet, thence North 69°41'17" West 625.70 feet, thence North 0°5'17" West 72.69 feet to a point on the North line of said South half of the Southeast quarter, thence North 89°54'43" East along said North line 2184.81 feet to the POINT OF BEGINNING, **LESS AND EXCEPT** right-of-way of County Road 550, and **LESS AND EXCEPT** the East 30 feet of the South 866.9 feet of the Southeast quarter of the Southeast quarter of said Section 25 for road and **LESS AND EXCEPT** Beginning 473.96 Feet North of the Southwest corner of the South half of the Southeast quarter and run North a distance of 812.03 feet thence run East a distance of 313.07 feet thence run South a distance of 806.95 feet thence run West a distance of 313.03 feet to the Point of Beginning.

TRACT #6: That part of the Northeast quarter of Section 36, Township 28 South, Range 26 East, Polk County, Florida, described as: Beginning at the Northeast corner of Section 36, run thence South along the East boundary of Section 36 a distance of 533.80 feet to its intersection with the centerline of a canal, thence run South 69°50'30" West along said centerline of canal a distance of 2823.3 feet, more or less, to its intersection with the West boundary of said Northeast quarter, thence run a distance of 1,496.01 feet North along the West boundary of said Northeast quarter to the Northwest corner of the Northeast quarter, thence run Easterly along the North boundary of said Northeast quarter of Section 36 a distance of 2642.28 feet to the POINT OF BEGINNING. SUBJECT to right-of-way over

ATTACHMENT "A"

Page 2 of 23

the East 30 feet thereof.

c:\gpo.299\orchlatt.b2

ATTACHMENT "A"
Page 3 of 23

- 29 -

Garden Grove Water Company
Water and Wastewater Service Area
Polk County

All or Parts of Township 28 South, Range 26 East, Sections 25, 26, 27, 34, 35, and 36, Township 28 South, Range 27 East, Sections 19, 20, 29, 30, 31, and 32, Township 29 South, Range 26 East, Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23 and 24, and Township 29 South, Range 27 East, Sections 5, 6, 7, and 18. More particularly described as follows:

Begin at an intersection of the Northerly right-of-way line of Seaboard Coastline Railroad and the North South center of section line of Section 9, Township 29 South, Range 26 East, Polk County, Florida; thence North $00^{\circ}16'09''$ West along said center of section line a distance of 434.64 feet to a curve concave Southerly having a radius of 203.62 feet; thence Easterly along said curve through a central angle of $24^{\circ}46'14''$ a distance of 88.03' (CH=87.35. CB=S $65^{\circ}16'36''$ E); thence South $52^{\circ}53'35''$ East a distance of 1579.16' to the West line of the East half of the Southeast quarter of said Section 9; thence North along said West line to the North line of the East half of the Southeast quarter; thence East along said North line to the waters of Lake Eloise, thence South, Southeasterly, South, East, North, East, Northeasterly, Northerly, and Westerly along said waters edge to its intersection with the West boundary of the East half of the Northwest quarter of Section 3, Township 29 South, Range 26 East; thence run North along the said West boundary to the Northwest corner of said East half of the Northwest quarter, thence continue North along the West boundary of the East half of the Northwest quarter of said Section 34, Township 28 South, Range 26 East; thence West along the North boundary of said Northwest quarter of Section 34 to the waters of Lake Otis; thence Northerly along said waters to an intersection with the North boundary of the Southwest quarter of Section 27, Township 28 South, Range 26 East; thence East along said North boundary of the Southwest quarter of Section 27 to the waters of Lake Link; thence Southerly, Easterly and Northerly along said waters to the aforesaid North boundary of the Southwest quarter of Section 27; thence East along said North boundary of the Southwest quarter of Section 27 to the Northwest corner of the Southeast quarter of said Section 27; thence East along the North boundary of the Southeast quarter of said Section 27 to the Northwest corner of the Southwest quarter of Section 26, Township 28 South, Range 26 East; thence East along the North boundary of said Southwest quarter of Section 26 to the Southwest corner of the Northeast quarter of said Section 26; thence North along the West boundary of said Northeast quarter of Section 26 to the North boundary of the South half of said Northeast quarter, thence East along said North boundary to the East line of said Section 26; thence continue East 50' to a point on a line lying 50' East of and parallel with said East line of Section 26, thence, South along said parallel line a distance of 635 feet; thence East to the East boundary of the Southeast quarter of the Northeast quarter of Section 25, Township 28 South, Range 26 East, thence North along said East boundary to the North boundary of said Southeast quarter of the Northeast quarter; thence East along said North boundary to the East boundary of said Section 25; thence North along said East boundary of Section 25 to the Southeast corner of Section 24,

ATTACHMENT "B"

Page 1 of 4

Township 28 South, Range 26 East; thence North along the East boundary of said Section 24 to the North boundary of Section 19, Township 28 South, Range 27 East; thence East along said East boundary of Section 19 to the East boundary of said Section 19; thence South along said North boundary of Section 19 to the Northwest corner of the Southwest quarter of Section 20, Township 28 South, Range 27 East; thence East along the North boundary of said Southwest quarter of the Southwest quarter to the South boundary of said Southwest quarter; thence run South along the center of said Section 29 to the South quarter corner and continue South to the Southwest corner of the northwest quarter of the Northeast quarter of Section 32, Township 28 South, Range 27 East; thence run East along the South boundary of said Northwest quarter of the Northeast quarter to the Westerly right-of-way of U.S. Highway 27; thence run Southerly along the said Westerly right-of-way of U.S. Highway 27 to its intersection with the South boundary of Section 5, Township 29 South, Range 27 East; thence West along said South boundary to the Southwest corner of said Section 5; thence South along the East boundary of Section 7 and 18, Township 29 South, Range 27 East to the Northeast corner of Section 19, Township 29 South, Range 27 East; thence continue South to the Southeast corner of the North half of Section 24, Township 29 South, Range 27 East to said North half to the Southeast corner of the North half of Section 23, Township 29 South, Range 26 East; thence continue West along the South boundary of the Northeast quarter of Section 22, Township 29 South, Range 26 East to an intersection with the North right-of-way line of Seaboard Coastline Railroad; thence North along said Northerly right-of-way to the POINT OF BEGINNING. LESS AND EXCEPT the Orchid Springs Franchise described as follows:

TRACT A: Starting at the Northeast corner of Section 35, Township 28 South, Range 26 East, run thence South 0°22' East along the East boundary of Section 35 a distance of 580.8 feet to a concrete marker for the POINT OF BEGINNING; run thence South 0°22' East along the East boundary of Section 35 a distance of 1414.2 feet; thence North 89°44' East a distance of 560 feet; thence North 33°58' East a distance of 1000 feet; thence North 40°11' West a distance of 1826.13 feet; thence North 60°57' West a distance of 467 feet to the Easterly right-of-way boundary of County Road 550; thence South 29°03' West along the Easterly right-of-way of County Road 550 a distance of 1195 feet; thence North 89°44' East a distance of 1038.76 feet to the POINT OF BEGINNING, AND

TRACT B: North 420 feet of the South 749.20 feet of the Northeast quarter of the Northeast quarter of Section 35, Township 28 South, Range 26 East, lying East of the right-of-way of County Road 550, containing approximately 11.16 acres. Also the 12½ feet immediately East of the above-described property which was closed as a road by Polk County Commissioners, Resolution recorded in Official Records Book 1067, page 823.

TRACT #2: All that part of the West half of the Southwest quarter of the Southwest quarter of Section 25, Township 28 South, Range 26 East, and the East half of the Southeast quarter of the Southeast quarter, Section 26, Township 28 south, range 26 East, lying Southeasterly

ATTACHMENT "B"
Page 2 of 4

and Southerly of the right-of-way of County Road 550, lying Northerly of a line described as follows: Starting at the corner common to Sections 25, 26, 35, and 36, Township 28 South, Range 26 East, Polk County, Florida, run thence North 89°46' East along the South boundary of said Section 25 a distance of 148.78 feet for the POINT OF BEGINNING; thence run North 40°11' West a distance of 303.13 feet, thence North 60°57' West a distance of 467 feet to a concrete marker located on the Easterly right-of-way boundary of County Road 550 at a point 459.05 feet North and 454.77 feet West of the common corner above described for the end of said line. SUBJECT to rights-of-way as of record and/or in use.

TRACT #3: The South half of the Southeast quarter of the Northeast quarter, Section 35, Township 28 South, Range 26 East, AND that part of the Northwest quarter of Section 36, Township 28 South, Range 26 East, Polk County, Florida, described as: Starting at the Northwest corner of Section 36, Township 28 South, Range 26 East, run thence North 89°46' East along the North boundary of Section 36 a distance of 148.78 feet for a POINT OF BEGINNING; thence run South 40°11' East a distance of 1523.0 feet, thence South 33°58' West a distance of 1000.0 feet, thence South 89°44' West a distance of 560 feet to the West boundary of Section 36, thence South 0°22' East along the Section line 464.95 feet to a point 200.04 feet Northerly of the Southwest corner of the Northwest quarter of Section 36, thence run North 69°50'30" East along the centerline of a canal a distance of 683.83 feet, thence North 33°58' East a distance of 1296.18 feet, thence North 40°11' West a distance of 1506.60 feet to a point on the North boundary of Section 36, thence run South 89°46' West along the said North boundary of Section 36 a distance of 260.89 feet to the POINT OF BEGINNING. SUBJECT to rights-of-way as of record and/or in use. (37.1).

TRACT #4: All that part of the Northwest quarter of Section 36, Township 28 South, Range 26 East, Polk County, Florida, lying Easterly and Northerly of a line described as: Starting at the Northwest corner of Section 36, run thence North 89°46' East along the North boundary of Section 36, a distance of 409.67 feet for the POINT OF BEGINNING of said line; run thence South 40°11' East a distance of 1506.60 feet, thence South 33°58' West a distance of 1296.18 feet to the centerline of a canal, thence run North 69°50'30" East along the centerline of said canal a distance of 2139.4 feet, more or less, to its intersection with the East boundary of said Northwest quarter of Section 36, for the end of said line. SUBJECT to rights-of-way as of record and/or in use.

TRACT #5: The South half of the Southeast quarter Section 25, Township 28 South, Range 26 East, Polk County, Florida, LESS AND EXCEPT: Begin at the Northeast corner of said South half of the Southeast quarter and run South 0°19'17" East along the East line of said South half of the Southeast quarter a distance of 457.10 feet, thence North 88°44'17" West 108.15 feet, thence South 52°15'43" West 476.63 feet, thence South 0°5'17" East 252.20 feet, thence South 89°54'43" West 138.00 feet, thence North 0°5'17" West 182.00 feet, thence North 80°58'17" West 419.00 feet, thence North 50°57'17" West 725.00 feet, thence North 69°41'17" West 625.70 feet, thence North 0°5'17" West 72.69 feet to a point on the

ATTACHMENT "B"

Page 3 of 4

- 32 -

North line of said South half of the Southeast quarter, thence North $89^{\circ}54'43''$ East along said North line 2184.81 feet to the POINT OF BEGINNING, LESS AND EXCEPT right-of-way of County Road 550, and LESS AND EXCEPT the East 30 feet of the South 866.9 feet of the Southeast quarter of the Southeast quarter of said Section 25 for road and LESS AND EXCEPT Beginning 473.96 Feet North of the Southwest corner of the South half of the Southeast quarter and run North a distance of 812.03 feet thence run East a distance of 313.07 feet thence run South a distance of 806.95 feet thence run West a distance of 313.03 feet to the Point of Beginning.

TRACT #6: That part of the Northeast quarter of Section 36, Township 28 South, Range 26 East, Polk County, Florida, described as: Beginning at the Northeast corner of Section 36, run thence South along the East boundary of Section 36 a distance of 533.80 feet to its intersection with the centerline of a canal, thence run South $69^{\circ}50'30''$ West along said centerline of canal a distance of 2823.3 feet, more or less, to its intersection with the West boundary of said Northeast quarter, thence run a distance of 1,496.01 feet North along the West boundary of said Northeast quarter to the Northwest corner of the Northeast quarter, thence run Easterly along the North boundary of said Northeast quarter of Section 36 a distance of 2642.28 feet to the POINT OF BEGINNING. SUBJECT to right-of-way over the East 30 feet thereof.

ATTACHMENT "B"

Page 4 of 4

October 17, 1997

John G. Wood, Jr.
Vice-President
Garden Grove Water Company, Inc.
3601 Cypress Gardens Road
Winter Haven, Florida 33884

Dear Mr. Wood:

You have advised me that there has been a settlement of a dispute between Garden Grove Water Company, Inc. and Orchid Springs Development Corporation concerning which utility would provide service to our property. We have no objection to Garden Grove Water Company, Inc. continuing to provide utility service to our property pursuant to the settlement agreement.

Sincerely,

Art Effects

By: Mary J. Pace
Mary J. Pace, President



A Residential Assisted Living Community

625 Overlook Drive
Winter Haven, Florida 33884
941-324-2212


October 29, 1997

John G. Wood, Jr.
Vice President
Garden Grove Water Company, Inc.
3601 Cypress Gardens Rd.
Winter Haven, FL 33884

Dear Mr. Wood,

You have advised me that there has been a settlement of a dispute between Garden Grove Water Company, Inc. and Orchid Springs Development Corporation concerning which utility would provide service to our property. We have no objection to Garden Grove Water Company continuing to provide utility service to our property pursuant to the settlement agreement.

Sincerely,



John A. McCoy, Ph.D.
General Partner