

LAW OFFICES  
**ROSE, SUNDBSTROM & BENTLEY, LLP**  
2548 BLAIRSTONE PINES DRIVE  
TALLAHASSEE, FLORIDA 32301

**ORIGINAL**

FREDERICK L. ASCHAUER, JR.  
CHRIS H. BENTLEY, P.A.  
ROBERT C. BRANNAN  
DAVID F. CHESTER  
F. MARSHALL DETERDING  
JOHN R. JENKINS, P.A.  
STEVEN T. MINDLIN, P.A.  
DAREN L. SHIPPY  
WILLIAM E. SUNDBSTROM, P.A.  
DIANE D. TREMOR, P.A.  
JOHN L. WHARTON  
ROBERT M. C. ROSE, OF COUNSEL  
WAYNE L. SCHIEFELBEIN, OF COUNSEL

(850) 877-6555  
FAX (850) 656-4029  
www.rsbattorneys.com

REPLY TO ALTAMONTE SPRINGS

CENTRAL FLORIDA OFFICE  
600 S. NORTH LAKE BLVD., SUITE 160  
ALTAMONTE SPRINGS, FLORIDA 32701  
(407) 830-6331  
FAX (407) 830-8522

MARTIN S. FRIEDMAN, P.A.  
VALERIE L. LOBB, OF COUNSEL  
(LICENSED IN TEXAS ONLY)

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February 20, 2004

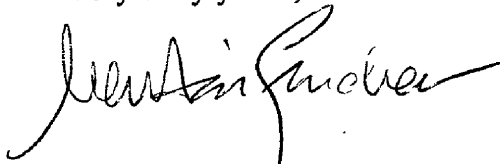
Ms. Blanca Bayo  
Commission Clerk and Administrative Services Director  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

Re: Docket No. 020745-SU; Application of Island Environmental Utility, Inc., for an Original Wastewater Certificate in Charlotte County, Florida  
Our File No.: 37025.01

Dear Ms. Bayo:

Enclosed please find for filing in the above-referenced docket the original and five (5) copies of Island Environmental Utility, Inc.'s Response to Joint Petition for Leave to Intervene of James W. Wade and The Preserve of Don Pedro Owners Association.

Very truly yours,



MARTIN S. FRIEDMAN  
For the Firm

MSF/mp  
Enclosures

AUS  
CAF  
CMP  
COM 3  
CTR  
ECR  
GCL  
OPC  
MMS  
SEC  
OTH

cc: Rosanne Gervasi, Esquire (w/enclosure)  
Jannette S. Knowlton, Esquire (w/enclosure)  
W. Kevin Russell, Esquire (w/enclosure)  
Mr. Ronald Koenig (w/enclosure)  
Mrs. Linda Bamfield (w/enclosure)  
Gary L. Wilkins, Esquire (w/enclosure)  
D. Bruce May, Jr. (w/enclosure)  
Mr. John R. Boyer (w/enclosure)  
Mr. Dean Beckstead (w/enclosure)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of ISLAND  
ENVIRONMENTAL UTILITY, INC., for  
original Wastewater Certificate in  
Charlotte County, Florida.

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DOCKET NO. 020745-SU

**ISLAND ENVIRONMENTAL UTILITY, INC.'S RESPONSE TO JOINT  
PETITION FOR LEAVE TO INTERVENE OF JAMES W. WADE AND  
THE PRESERVE OF DON PEDRO OWNERS ASSOCIATION**

Applicant, ISLAND ENVIRONMENTAL UTILITY, INC. ("Utility"), files this response in opposition to the Joint Petition for Leave to Intervene of James W. Wade ("Wade") and The Preserve of Don Pedro Owners Association ("Association") and asserts:

1. As acknowledged by Wade and the Association, they did not file timely objections, but Wade wrote a letter on behalf of himself and the Association for intervener status which was docketed on November 17, 2003, (Document No. 11462-03). Wade and the Association were advised by a letter from Staff Counsel on November 25, 2003, (Document No. 12032.03) that his request was under consideration, but that he could not represent the Association unless he was an attorney or qualified representative. Instead of immediately hiring an attorney or qualified representative, the Association chose to do nothing until the day Prehearing Statements were due. The Association should not be rewarded for its lack of due diligence. While Wade may be able to argue that his request in November to intervene has never been formally addressed, that cannot be said for the Association. The

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Association clearly knew that it needed to retain an attorney or qualified representative.

2. The primary problem with allowing Wade and the Association to intervene is that their Prehearing Statement (Document No. 02145-04) discloses that it intends to call four witnesses and to introduce six exhibits and any exhibits listed in the other parties' Prehearing Statements. Neither Wade nor the Association have filed any prefiled testimony, so it would not be appropriate to allow those persons to be witnesses on behalf of Wade or the Association in this proceeding.

3. Utility will be extremely prejudiced by the intervention of Wade and the Association in that of their proposed witnesses, three appear to be property owners on the islands where wastewater service is proposed, and thus could testify at the "customer" testimony portion of the hearing. This would allow those persons to circumvent the Commission's requirement to pre-file testimony. Their right to so testify exacerbates the prejudice to the Utility by also allowing these persons to be interveners, with all of the rights attendant to being parties.

4. Although Wade and particularly the Association should not be allowed to intervene in this proceeding, if intervention is allowed, then they must accept the case as it exists and not be allowed to call any witnesses or to introduce any exhibits, nor should they be able to testify in the "customer" testimony portion of the hearing. If Wade wants to testify, then he should not be allowed intervener status.

WHEREFORE, ISLAND ENVIRONMENTAL UTILITY, INC., requests this Commission issue an order denying Wade and the Association's Petition to Intervene.

Respectfully submitted on this 20<sup>th</sup> day of February, 2004, by:

ROSE, SUNDSTROM & BENTLEY, LLP  
600 S. North Lake Boulevard, Suite 160  
Altamonte Springs, Florida 32701  
(407) 830-6331  
(407) 830-8522 Fax

By: 

MARTIN S. FRIEDMAN

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 020745-SU**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to the following parties on this 20<sup>th</sup> day of February, 2004:

Mr. Ronald Koenig  
8006 Lago Vista Drive  
Tampa, FL 33614

Mrs. Linda Bamfield  
P.O. Box 5063  
Grove City, FL 34224

W. Kevin Russell, Esq.  
Wilkins, Frolich, Jones, Hevia,  
Russell, Hanaoka & Mizell, P.A.  
14295 South Tamiami Trail  
North Port, FL 34287

Jannette S. Knowlton, Esq.  
Linda Carroll, Esq.  
Assistant County Attorney  
18500 Murdock Circle  
Port Charlotte, FL 33948

Rosanne Gervasi, Esquire  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

D. Bruce May, Jr.  
Holland & Knight, LLP  
Post Office Drawer 810  
Tallahassee, FL 32302-0810

  
\_\_\_\_\_  
MARTIN S. FRIEDMAN