

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of Sugar Mill water and wastewater facilities in Volusia County from Florida Water Services Corporation to Utilities Commission, City of New Smyrna Beach, and for amendment of Florida Water Services' Certificates 238-W and 182-S to reflect deletion of territory.

DOCKET NO. 020354-WS
ORDER NO. PSC-02-0802-FOF-WS
ISSUED: June 13, 2002

ORDER ACKNOWLEDGING TRANSFER,
AMENDING CERTIFICATES NOS. 138-W AND 182-S,
HELD BY FLORIDA WATER SERVICES CORPORATION,
TO REFLECT THE DELETION OF TERRITORY,
AND CLOSING DOCKET

BY THE COMMISSION:

Florida Water Services Corporation (Florida Water or utility) is a Class A water and wastewater utility that provides service in approximately 24 counties regulated by the Commission. Florida Water provides water and wastewater service to Deltona Lakes and Jungle Den, Sugar Mill, and water-only service to Tomoka in Volusia County.

The transfer of Sugar Mill in Volusia County to Southern States Utilities, Inc., now Florida Water, was granted by Order No. 19841 issued August 22, 1988, in Docket No. 870936-WS. By Order No. PSC-98-1560-FOF-WS, issued November 23, 1998, in Docket No. 980750-WS, we modified the Sugar Mill territory description to correct an error. Florida Water provided water service to approximately 710 water customers, and 681 wastewater customers in the Sugar Mill community.

On August 7, 2000, the Circuit Court of the Seventh Judicial Circuit, in and for Volusia County, Florida, Civil Division, entered an Order of Taking in Utilities Commission, City of New Smyrna Beach, Florida v. Florida Water Services Corporation, et al.

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FPSC-COMMISSION CLERK

Volusia County Circuit Court Case No. 99-30789-CICI, pursuant to the "quick take" procedures established under Chapter 74, Florida Statutes. That Order was appealed by Florida Water to the Fifth District Court of Appeal. In Florida Water Services Corporation v. Utilities Commission, 790 So2d 501 (Fla 5th DCA 2001), the Fifth District affirmed the circuit court order of taking. The condemnation proceeding remains pending before the circuit court and the trial has been rescheduled for the end of September 2002.

On April 19, 2002, Florida Water filed an application to transfer its Sugar Mill facilities to the Utilities Commission, City of New Smyrna Beach (Utilities Commission) and to delete the territory from Certificates Nos. 238-W and 182-S. The application included a copy of the Order of Taking, Order Granting Florida Water's Emergency Motion for Stay, the Fifth DCA Opinion affirming the Order of Taking and Agreed Order Vacating the Stay. According to the Utilities Commission, the value of the Sugar Mill system is estimated to be \$2,920,000. The amount has been placed into the Registry and a final price will be determined after the condemnation proceedings. The Utilities Commission took possession of the property on August 24, 2001.

A statement was provided in the application that the Utilities Commission has obtained the most recently available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction applicable to the facilities being sold. Florida Water refunded all deposits due to the Sugar Mill customers as of August 31, 2001, by applying the deposits as credits to the customers' bills. Customers whose deposits exceeded their last monthly bills were provided refunds for the remainder of the deposits due. The utility is current with regard to its regulatory assessment fees and its annual report.

Based on the foregoing, we find it appropriate to acknowledge the transfer of the Sugar Mill facilities from Florida Water to the Utilities Commission. Certificates Nos. 238-W and 182-S, held by Florida Water, are hereby amended to reflect the remaining territory the utility is authorized to serve. The Sugar Mill territory being deleted is shown on Attachment A of this Order, which by reference is incorporated herein.

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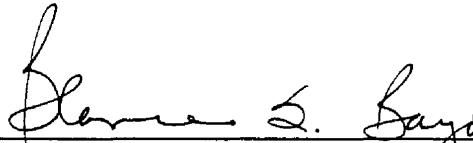
It is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of the Sugar Mill Facilities from Florida Water Services Corporation, Post Office Box 609520, Orlando, Florida 32860-9520, to the Utilities Commission, City of New Smyrna Beach, Post Office Box 100, New Smyrna Beach, Florida 32170-0100, is hereby acknowledged. It is further

ORDERED that Certificates Nos. 238-W and 182-S are hereby amended to reflect the deletion of the Sugar Mill territory. The territory being deleted is shown on Attachment A of this Order, which by reference is incorporated herein. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 13th day of June, 2002.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

ALC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

**VOLUSIA COUNTY
SUGAR MILL**

**Description Of Water and Wastewater
Territory to be Deleted**

Township 17 South, Range 33 East, Volusia County, Florida.

Portions of Sections 2, 10, 11, 15, and 41 and all of Section 42 described more or less as follows:

Beginning at the Northwest corner of Section 42, run North 61°31'38" East a distance of 5,204.73 feet; thence run North 62°29'38" East a distance of 1,973.61 feet; thence run North 00°41'15" East a distance of 342.35 feet to a point, the point of curvature of a circular curve concave to the Northeast having a radius of 840.06 feet; thence run Southeasterly along the arc of the said curve through a central angle of 10°17'10" an arc distance of 150.81 feet; thence run North 86°05'07" East a distance of 351.15 feet; thence run South 27°47'40" East a distance of 87.81 feet; thence run South 27°43'11" East a distance of 2,506.28 feet; thence run South 62°04'50" West a distance of 342.02 feet; thence run North 27°43'22" West a distance of 611.41 feet; thence run South 61°50'23" West a distance of 684.13 feet; thence run South 27°43'47" East a distance of 608.53 feet; thence run South 62°04'50" West a distance of 1,520.76 feet; thence run South 28°41'18" East a distance of 25.00 feet; thence run South 27°11'42" East a distance of 590.82 feet; thence run South 27°11'42" East a distance of 1,590.41 feet; thence run North 62°02'10" East a distance of 1,091.46 feet; thence run South 11°02'28" East a distance of 202.12 feet; thence run North 62°32'45" East a distance of 210.03 feet; thence run North 11°03'42" West a distance of 202.19 feet; thence run North 11°03'42" West a distance 29.33 feet; thence run North 62°02'10" East a distance of 969.80 feet; thence run South 01°06'25" East a distance of 1,311.13 feet; thence run South 88°47'16" West a distance of 1284.44 feet; thence run South 01°06'25" East a distance of 1312.63 feet; thence run South 89°40'30" West a distance of 1,283.74 feet; thence run South 89°40'30" West a distance of 916.95 feet; thence run North 28°23'41" West a distance of 297.16 feet; thence run South 61°36'19" West a distance of 300.81 feet; thence run South 61°36'19" West a distance of 218.70

feet; thence run South $28^{\circ}23'41''$ East a distance of 250.00 feet; thence run South $61^{\circ}36'19''$ West a distance of 66.92 feet; thence run South $30^{\circ}27'09''$ West a distance of 945.42 feet; thence run South $00^{\circ}42'02''$ East a distance of 225.96 feet to a point, the point of a curvature of a circular curve concave to the Southwest having a radius of 2,207.61 feet; thence run Southwesterly along the arc of said curve through a central angle of $07^{\circ}38'51''$ an arc distance of 294.66 feet; thence run South $06^{\circ}56'49''$ West a distance of 375.06 feet to a point, the point of a curvature of a circular curve concave to the Southeast having a radius of 2,308.36 feet; thence run Southeasterly along the arc of said curve through a central angle of $07^{\circ}36'00''$ an arc distance of 306.19 feet; thence run South $00^{\circ}39'11''$ East a distance of 127.27 feet; thence run North $61^{\circ}16'29''$ West a distance of 352.91 feet; thence run North $01^{\circ}02'12''$ West a distance of 543.71 feet; thence run North $89^{\circ}50'55''$ West a distance of 260.00 feet; thence run South $89^{\circ}16'45''$ West a distance of 301.15 feet; thence run South $25^{\circ}29'04''$ West a distance of 199.51 feet; thence run North $61^{\circ}16'29''$ West a distance of 144.50 feet; thence run North $28^{\circ}43'31''$ East a distance of 150.00 feet; thence run North $61^{\circ}16'29''$ West a distance of 175.00 feet; thence run North $28^{\circ}43'31''$ East a distance of 311.59 feet; thence run South $89^{\circ}10'05''$ West a distance of 297.85 feet; thence run South $35^{\circ}58'12''$ West a distance of 316.47 feet; thence run North $61^{\circ}41'37''$ West a distance of 728.35 feet; thence run North $01^{\circ}49'05''$ West a distance of 558.11 feet; thence run North $28^{\circ}16'29''$ West a distance of 4,443.01 feet to the Point of Beginning.

Less the following described parcel:

Starting at the Southwest corner of Section 42 run North $61^{\circ}43'48''$ East a distance of 834.13 feet to a point, the point of curvature of a circular curve concave to the Southeast having a radius of 898.67 feet; thence run Southwesterly along the arc of said curve through a central angle of $08^{\circ}06'53''$ an arc distance of 127.28 feet; thence run South $00^{\circ}56'20''$ East a distance of 100.00 feet to a point, the point of curvature of a circular curve concave to the Northwest having a radius of 235.00 feet; thence run Southwesterly along the arc of said curve through a central angle of $90^{\circ}00'00''$ an arc distance of 369.14 feet; thence run South $89^{\circ}03'40''$ West a distance of 318.04 feet to a point, the point of curvature of a circular curve concave to the Northeast having a radius of 235.00 feet; thence run Northwesterly along the arc of said curve through

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a central angle of $40^{\circ}34'46''$ an arc distance of 166.44 feet to the Point of Beginning. Containing 883 acres, more or less.

Also, the following described land in Section 15:

Beginning at the Northeast corner of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 15, run South $01^{\circ}18'37''$ East a distance of 1,323.75 feet; thence run South $89^{\circ}31'26''$ West a distance of 358.77 feet; thence run North $61^{\circ}16'29''$ West a distance of 175.88 feet; thence run North $28^{\circ}43'31''$ East a distance of 217.17 feet; thence run North $61^{\circ}16'29''$ West a distance of 294.96 feet to a point, the point of curvature of a circular curve concave to the Southeast having a radius of 2,208.36 feet; thence run Northeasterly along the arc of said curve through a central angle of $05^{\circ}54'37''$ an arc distance of 227.80 feet; thence run North $06^{\circ}56'49''$ East an arc distance of 375.00 feet to a point, the point of curvature of a circular curve concave to the Northwest having a radius of 2,307.61 feet; thence run Northwesterly along the arc of said curve through a central angle of $07^{\circ}38'24''$ an arc distance of 307.70 feet; thence run North $89^{\circ}11'08''$ East a distance of 559.23 feet to the Point of Beginning. Containing 17 acres, more or less.