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MEMORANDUM

January 4, 1995

TO : ALICE CROSBY, DIVISION OF LEGAL SERVICES  
~~DIVISION OF RECORDS AND REPORTING~~

FROM: <sup>PPR</sup> RICHARD REDEMANN, <sup>NSW</sup> DIVISION OF WATER AND WASTEWATER <sup>GRW</sup>

RE : DOCKET NO. 941044-WS; RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY DECLARING CHARLOTTE COUNTY SUBJECT TO THE PROVISIONS OF CHAPTER 367, F.S.

**REQUEST FOR EXEMPTION FOR WASTEWATER SERVICE BY MERCURY MARINE**

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

On November 21, 1994, Mercury Marine applied for an exemption for a wastewater facility from the Florida Public Service Commission under Section 367.021 (12), Florida Statutes, and Rule 25-30.060(3)(j), Florida Administrative Code as a non-jurisdictional entity. That application did not have the correct authorization. The location of the wastewater system is on HWY 775, P.O. Box 300, Placida, FL 33946. The mailing address is the same. Mr. David Gussert, Plant Manager, signed the application and is the contact person. On December 22, 1994, the staff filed a letter signed by Michael D. Schmitz, Assistant Secretary of the Brunswick Corporation, authorizing Mr. David A. Gussert, Manager of Mercury Marine - Plant No. 37 to sign the exemption application. Mercury Marine is an operating division of the Brunswick Corporation.

In its application, Mercury Marine states it provides wastewater service only, there is no charge for providing utility service, all costs of providing service are treated or recovered as operational expenses and the service area was specified above. In addition, the applicant acknowledged Section 837.06, Florida Statutes, regarding false statements.

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Based upon the facts presented herein, staff believes Mercury Marine is exempt for wastewater service as defined by Section 367.021(12), Florida Statutes, and Rule 25-30.060(3)(j), Florida Administrative Code. Section 2.08(C)(14) of the Administrative Procedures Manual (APM) gives staff the administrative authority to approve requests for determination of exempt status that are clear-cut and without controversy. Staff recommends that an administrative order be issued within 30 days indicating the exempt status of Mercury Marine. The order should provide that in the event of any change of circumstances or method of operation, Mercury Marine, or its successor(s) in interest should notify the Commission within thirty days of such change so that its exempt status may be reevaluated.

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

cc: Travis Coker

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