

MEMORANDUM

March 31, 1995

TO : SCOTT EDMONDS, DIVISION OF LEGAL SERVICES
DIVISION OF RECORDS AND REPORTING

FROM: ANGELA MASSEY-AZPELL, DIVISION OF WATER AND WASTEWATER

RE : DOCKET NO. 941044 WS, RESOLUTION OF BOARD OF
COMMISSIONERS OF CHARLOTTE COUNTY DECLARING CHARLOTTE
COUNTY SUBJECT TO THE PROVISIONS OF CHAPTER 367, FLORIDA
STATUTES - REQUEST FOR EXEMPTION FOR PROVISION OF WATER
AND WASTEWATER SERVICE BY EL JOBEAN WATER ASSOCIATION,
INC.

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On October 10, 1994, this Commission received an application from El Jobean Water Association, Inc. (El Jobean) for an exemption pursuant to Section 367.022(7), Florida Statutes, and Rules 25-30.060(1), (2), and (3)(g), Florida Administrative Code. The primary contact person for El Jobean is Mr. Robert M.C. Rose, P.A. The mailing address for the above contact person is Rose, Sundstrom & Bentley, 2548 Blairstone Pines Drive, Tallahassee, Florida, 32301. The system is located physically in the community of El Jobean, in Charlotte County, Florida. The mailing address for the system is P.O. Box 27149, El Jobean, Florida, 33927. At the time the application was filed in October, 1994, Mr. Ray Stillwagon was the President of the Association. However, at this time in March, 1995, the new President of El Jobean Water Association is Ms. Betty Lou Davis. Ms. Davis has signed an affidavit stating that the information submitted is true and correct to the best of her knowledge and belief. The system provides water service to the community known as El Jobean in the north central portion of Charlotte County, Florida. Wastewater is provided by septic tanks.

As stated above the application was filed in accordance with Section 367.022(7), Florida Statutes, and Rules 25-30.060(1), (2), and (3)(g), Florida Administrative Code. Included with the application was a statement from Mr. Stillwagon that the corporation is a nonprofit corporation, that it provides water service solely to members who own and control it, that El Jobean does the billing for such service, and that the service area is the El Jobean community located in north central Charlotte County, Florida. Also included with the application were the Articles of Incorporation as filed with the Secretary of State and the Bylaws which documents clearly show the requirements for membership, and that the members' voting rights are one vote per unit of ownership. The bylaws do not show when control passes to the nondeveloper members because this is a corporation which was formed to be a

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utility and a developer was not involved.

El Jobean did not provide proof of ownership of the utility facilities and the land upon which the facilities are located. El Jobean does not own any land. El Jobean does own a system, as defined by Section 367.021(11), Florida Statutes, but does not own any water treatment facilities. El Jobean does own a water transmission line and water distribution system. The water which El Jobean provides to its members is purchased from Charlotte County. El Jobean's property, pipes and water meters, are personal property conveyed by bills of sale, which are not required to be recorded. Staff believes that Rule 25-30.060(3)(g), Florida Statutes is meant to specify the land on which treatment facilities are located, as do the other rules on the subject. Unless one goes to the trouble and expense of recording bills of sale for line lying in public rights-of-way, and occasionally on easements, there exists no documentary evidence for the ownership of water distribution and sewage collection systems.

The applicant acknowledged Section 837.06, Florida Statutes, regarding false statements.

Based on the above, an order should be issued within thirty days approving El Jobean Water Association, Inc.'s application for exemption pursuant to Section 367.022(7), Florida Statutes, as a nonprofit corporation and closing the docket. In the event of any change of circumstances or method of operation, El Jobean or successor(s) in interest, should be ordered to notify the Commission within thirty days of such change so that its exempt status may be reevaluated.

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