

MEMORANDUM

January 22, 1996

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TO: DIVISION OF RECORDS AND REPORTING *FPSC-RECORDS/REPORTING*

FROM: DIVISION OF LEGAL SERVICES (CROSBY) *RAF*

RE: DOCKET NO. 951235-WS - RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY DECLARING MANATEE COUNTY SUBJECT TO THE PROVISIONS OF CHAPTER 367, FLORIDA STATUTES - REQUEST FOR EXEMPTION FOR PROVISION OF WATER SERVICE BY FALKNER FARM

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Attached is an Order Indicating Nonjurisdictional Status of Falkner Farm to be issued in the above-referenced Docket. (Number of Pages in Order - 3) (Document No. 951235E.ALC)

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Attachment

cc: Division of Water and Wastewater
(Redemann)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of the Board) DOCKET NO. 951235-WS
of County Commissioners of) ORDER NO. PSC-96-0145-POF-WS
Manatee County Declaring Manatee) ISSUED: February 2, 1996
County Subject to the Provisions)
of Chapter 367, Florida Statutes)
- Request For Exemption For)
Provision of Water Service by)
Falkner Farm.)
_____)

ORDER INDICATING NONJURISDICTIONAL STATUS
OF FALKNER FARM

BY THE COMMISSION:

On December 4, 1995, Falkner Farm filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Falkner Farm is located at 35100 State Road 64 East, Myakka, Manatee County, Florida. Ms. Linda Falkner Wright filed the application on behalf of Falkner Farm. The primary contact people are Linda and John Falkner.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.021(12), Florida Statutes, and Rules 25-30.060(2) and (3)(j), Florida Administrative Code.

Section 367.021(12), Florida Statutes, states that a "utility means a water or wastewater utility and except as provided in Section 367.022, includes every person, lessee, trustee, or receiver owning, operating, managing or controlling a system, or proposing construction of a system, who is providing or proposes to provide water or wastewater service to the public for compensation."

According to Falkner Farm's application, water service is provided only to the farm located at 35100 State Road 64 East, Myakka, Florida; there is no charge for providing the service; and all costs of providing service are treated or recovered as operational expenses. Wastewater service is provided by septic tank.

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In addition, pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2)(f), Florida Administrative Code, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Ms. Wright acknowledged that she is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.


Based on the facts as represented, we find that Falkner Farm is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. Accordingly, Falkner Farm is not subject to this Commission's jurisdiction. However, the owner of Falkner Farm or any successors in interest are put on notice that if there is any change in circumstance or method of operation, it should inform the Commission within 30 days of such change so that its nonjurisdictional status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Falkner Farm, 35100 State Road 64 East, Myakka, Florida 34251, is not a water utility subject to this Commission's jurisdiction, pursuant to the provisions of Section 367.021(12), Florida Statutes. It is further

ORDERED that this Docket shall remain open to process additional applications.

By ORDER of the Florida Public Service Commission, this 2nd day of February, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 Records and Reporting, 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 Records and Reporting 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.