

RUTLEDGE, ECENIA, PURNELL & HOFFMAN

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

ORIGINAL

STEPHEN A ECENIA
KENNETH A HOFFMAN
THOMAS W. KONRAD
MICHAEL G MAIDA
MARTIN P McDONNELL
J. STEPHEN MENTON

POST OFFICE BOX 551, 32302-0551
215 SOUTH MONROE STREET, SUITE 420
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788
TELECOPIER (850) 681-6515

R DAVID PRESCOTT
HAROLD F X. PURNELL
MARSHA E RULE
GARY R RUTLEDGE

GOVERNMENTAL CONSULTANTS
MARGARET A-MENDUNI
M LANE STEPHENS

April 19, 2002

Ms. Blanca Bayo, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

HAND DELIVERED

RECEIVED - FPSC
APR 19 PM 3:07
COMMISSION CLERK

020354-WS

Re: In re: Application by Florida Water Services Water Services Corporation for approval of transfer of Sugar Mill Water and Wastewater Facilities in Volusia County to Utilities Commission, City of New Smyrna Beach, Florida, and amendment of Certificate Nos. 238-W and 182-S.

Dear Ms. Bayo:

Enclosed with this letter are the original and five copies of the Application by Florida Water Services Corporation for approval of transfer of Sugar Mill Water and Wastewater Facilities in Volusia County to Utilities Commission, City of New Smyrna Beach, Florida and amendment of Certificate Nos. 238-W and 182-S.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

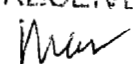
Thank you for your assistance with this filing.

Sincerely,



Kenneth A. Hoffman

KAH/rl
Enclosures

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

04360 APR 19 02

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by Florida Water Services)
Water Services Corporation for approval of transfer)
of Sugar Mill Water and Wastewater Facilities in)
Volusia County to Utilities Commission, City of)
New Smyrna Beach, Florida, and amendment of)
Certificate Nos. 238-W and 182-S.)
_____)

Docket No. 020354-WS

Filed: April 19, 2002

**FLORIDA WATER SERVICES CORPORATION'S
APPLICATION FOR APPROVAL OF TRANSFER OF SUGAR
MILL WATER AND WASTEWATER FACILITIES IN
VOLUSIA COUNTY TO UTILITIES COMMISSION,
CITY OF NEW SMYRNA BEACH, FLORIDA
AND AMENDMENT OF CERTIFICATE NOS. 238-W AND 182-S**

Florida Water Services Corporation, by and through its undersigned counsel, and pursuant to Section 367.071(4), Florida Statutes, and Rule 25-30.038(4), Florida Administrative Code, hereby files this Application for Approval of the Transfer of Florida Water's Sugar Mill water and wastewater facilities in Volusia County, Florida to Utilities Commission, City of New Smyrna Beach, Florida, and amendment of Certificate Nos. 238-W and 182-S to delete the Sugar Mill water and wastewater territory. In support of this Application, Florida Water states as follows:

1. The name and address of the regulated utility is:

Florida Water Services Corporation
P. O. Box 609520
Orlando, Florida 32860-9520

2. Florida Water provided water and wastewater services to the Sugar Mill community in Volusia County, Florida, pursuant to Certificates Nos. 238-W and 182-S.

3. The name and address of the Utility's authorized representatives are:

Kenneth A. Hoffman, Esq.
Martin P. McDonnell, Esq.
Rutledge, Ecenia, Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, Florida 32302
(850) 681-6788 (Telephone)
(850) 681-6515 (Telecopier)

4. Utilities Commission, City of New Smyrna Beach, is exempt from regulation by the Commission pursuant to Section 367.022(2), Florida Statutes.

5. 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., Volusia County Circuit Court Case No. 99-30789-CICI, pursuant to the "quick take" procedures established under Chapter 74, Florida Statutes. That Order was appeal by Florida Water to the Fifth District Court of Appeal. In Florida Water Services Corporation v. Utilities Commission, 790 So.2d 501 (Fla. 5th DCA 2001), the Fifth District Court of Appeal affirmed the circuit court order of taking. The condemnation proceeding remains pending before the circuit court and is scheduled for trial in May 2002. In the meantime, in August 2001, the Utilities Commission, City of New Smyrna Beach, assumed the operation of Florida Water's Sugar Mill water and wastewater systems in Volusia County, Florida, following the Fifth District's affirmance of the Order of Taking. Copies of the Order of Taking, Order Granting Florida Water's Emergency Motion for Stay, the Fifth DCA Opinion affirming the Order of Taking and the Agreed Order Vacating the Stay are attached hereto as Composite Exhibit A.

6. The Utilities Commission, City of New Smyrna Beach, 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 to be sold, as was required by Section 367.071(4)(a), Florida Statutes.

7. Florida Water refunded all customer deposits due to the Sugar Mill customers as of August 31, 2001 by applying such deposits as credits to customer bills. Customers whose deposits exceeded their last monthly bill from Florida Water were provided refunds by check from Florida Water for the remainder of the deposit due.

8. All regulatory assessment fees for Florida Water have been paid in full.

9. There are no fines or refunds owed.

10. The legal description of the Sugar Mill water and wastewater territory is attached hereto as Exhibit B.

11. All additional and supplemental information required under Rule 25-30.038(4), Florida Administrative Code, is included in the Application attached hereto as Exhibit C.

12. Florida Water's original Certificate Nos. 238-W and 182-S are filed herewith.

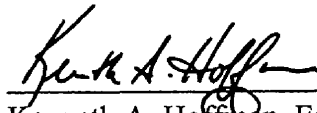
WHEREFORE, Florida Water requests that this Commission:

A. Approve the transfer of the Sugar Mill water and wastewater facilities as set forth in this Application to Utilities Commission, City of New Smyrna Beach, as a matter of right, pursuant to Section 367.071, Florida Statutes;

B. Amend Certificate Nos. 238-W and 182-S, as appropriate, to delete the Sugar Mill water and wastewater territory set forth in the foregoing certificates; and

C. Grant such other relief as is appropriate.

Respectfully submitted this 19th day of April, 2002.



Kenneth A. Hoffman, Esq.

Martin P. McDonnell, Esq.

Rutledge, Ecenia, Purnell & Hoffman, P.A.

P. O. Box 551

Tallahassee, Florida 32302

(850) 681-6788 (Telephone)

(850) 681-6515 (Telecopier)

Flawater\sugarmill.application

In re: Application by Florida Water Services
Water Services Corporation for approval of transfer
of Sugar Mill Water and Wastewater Facilities in
Volusia County to Utilities Commission, City of
New Smyrna Beach, Florida, and amendment of
Certificate Nos. 238-W and 182-S.

COMPOSITE EXHIBIT A

File

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR VOLUSIA COUNTY, FLORIDA
CIVIL DIVISION

UTILITIES COMMISSION, CITY
OF NEW SMYRNA BEACH,
FLORIDA, the governing body of the
Utilities system and a part of the
Government of the City of New
Smyrna Beach, Florida,

Case No.: 99-30789-CICI

Petitioner,

Division: 30

v.

Judge: Rouse

FLORIDA WATER SERVICES
CORPORATION, a Florida
Corporation; SUNTRUST BANK
CENTRAL FLORIDA, N.A.;
FEDERAL SAVINGS AND LOAN
INSURANCE CORPORATION, and
BERNARD J. KANE, as Volusia
County Tax Collector,

Respondents.

ORDER OF TAKING

THIS CAUSE, having come before the Court upon Petitioner's Declaration of Taking, and Defendant's Motion to dismiss, and it appearing that proper notice was first given to the Defendants and to all other persons having or claiming any equity, lien, title or other interest in or to the real property described in the Petition, and the Court having considered the testimony of the witnesses, the exhibits introduced into evidence and the argument of counsel, the Court makes the following findings of fact and conclusions of law:

Harris	<input checked="" type="checkbox"/>	Montana	<input checked="" type="checkbox"/>
Hipp	<input type="checkbox"/>	Shontz	<input type="checkbox"/>
Marshall	<input checked="" type="checkbox"/>	Citent	<input checked="" type="checkbox"/>
B. Harris	<input checked="" type="checkbox"/>		<input type="checkbox"/>

RECEIVED
AUG 0 2000
Handwritten initials

1. The Court has jurisdiction over the subject matter and the parties to this case.

2. Petitioner's enabling legislation, Chapter 85-503, Laws of Florida (1985), entitles it to acquire the subject water and wastewater plant even though it is already devoted to a public use. Moreover, the Special Act does not limit petitioner to acquiring only component parts of a utility system through exercise of eminent domain.

3. Petitioner is authorized to utilize the "quick take" procedure established by Chapter 74, Florida Statutes. Petitioner is an integral of the government of the City of New Smyrna Beach, and therefore is a municipality as that term is used in Section 74.011, Florida Statutes. Additionally, Petitioner is a utility as defined for eminent domain purposes in Chapter 361, Florida Statutes.

4. The Court has determined that the Petitioner's plans to acquire the Sugar Mill water and wastewater utility system do not exceed its delegated authority, and that Petitioner has properly pled the intended use for the subject property to be acquired.

5. The Court is unable to find any infirmity with the Petition and Resolution and has determined that they are sufficient to meet the jurisdictional requirements of Chapter 73, Florida Statutes.

6. The Court finds that, contrary to Defendant's contention, section 180.16, Florida Statutes, does not provide the exclusive method or conditions under which a municipality can acquire a water and waste water utility system.

Moreover, section 180.301, Florida Statutes, is inapplicable to this cause because it pertains to voluntary sales or purchases of utility systems. The Court is therefore unable to find any legal obligation on the part of the Petitioner to exhaust efforts to acquire the subject property through voluntary purchase, as opposed to exercising the power of eminent domain.

7. The Court finds that the acquisition by petitioner of the subject property is reasonable and necessary for the purposes set forth in the Resolution of Necessity. Further, the determination to acquire the subject property was not reached in an arbitrary or capricious manner. Petitioner has broad discretion to determine the amount of property necessary to achieve the intended public purpose.

8. The Court finds that prior to adopting its Resolution of Necessity, Petitioner gave adequate consideration to the common law criteria for public purpose and necessity.

9. The Court finds that Petitioner's estimate of value is based on a valid appraisal and was made in good faith.

10. The Court has considered the other defenses and motion to dismiss in opposition to the taking raised by Defendant Florida Water Services Corporation and has found them to be without merit.

It is, therefore:

ADJUDGED:

1. That the Court has jurisdiction of the subject matter and the parties to this cause.

2. That the pleadings in this cause are sufficient, and Petitioner is properly exercising its delegated authority.

3. That Petitioner's estimate of value in the amount of \$2,920,000 was made in good faith and based upon a valid appraisal.

4. That upon the payment of the estimate of value into the Registry of the Court, the fee simple interest in the following described property shall vest in the Petitioner:

:
:
:
:
:
:
:
:
:
:

EXHIBIT B

1. Real Property. The real property interests owned by Florida Water Services Corporation, including all buildings and other improvements, as described in Attachment 1 hereto, whereupon all water production, storage, treatment, transmission and distribution facilities and a wastewater treatment plant, wells, pumping stations, effluent disposal areas and all their water and wastewater service facilities are located for the purpose of providing water and wastewater service in the area described in Attachment 3 hereto. Also included are all easements, licenses in real estate and rights-of-way owned by Florida Water Services Corporation for the construction, operation and maintenance of the utility system.
2. Permits and Approvals. Subject to all necessary regulatory approvals and to all conditions, limitations or restrictions therein, all existing permits and other governmental authorizations, as more fully described in Attachment 2 hereto, and all other approvals of any kind necessary to operate and maintain the utility system in accordance with all governmental requirements.
3. Plant and Other Facilities. All water production, treatment plant, storage, treatment, transmission, distribution, pumping and other water facilities and all wastewater treatment plant, wastewater collection, transmission, pumping and disposal facilities of every kind and distribution whatsoever including without limitation, all trade fixtures, leasehold improvements, lift stations, pumps, generators, controls,

collection and transmission pipes or facilities, valves, meters, service connections and all other water and wastewater service connections, and all other water and wastewater physical facilities and property installations in use in connection with the operation of the utility by Florida Water Services Corporation, as described in Attachment 4 hereto.

4. Equipment. Inventory of all equipment, tools, parts, laboratory equipment, office equipment and other personal property owned by Florida Water Services Corporation and located on the property and utilized in connection with the operation of the system.
5. Other Rights. All rights, privileges, easements, licenses, prescriptive rights, rights of way and rights to use public and private roads, highways, streets and other areas owned or used by Florida Water Services Corporation in connection with the construction, reconstruction, installation, maintenance and operation of the utility system, as more fully described in Attachment 5 hereto.

EXHIBIT B
Attachment 1

Fee-Simple Property

30 . 0708

SPECIAL WARRANTY DEED

BOOK PAGE
VOLUSIA COUNTY
FLA 44

THIS SPECIAL WARRANTY DEED made the 6th day of August, 1987, by SUGAR MILL UTILITY COMPANY, a Florida corporation, hereinafter called the grantor, to SOUTHERN STATES UTILITIES, INC., a Florida corporation, whose post office address is 1000 Color Place, Apopka, Florida 32703, hereinafter called the grantee:

WITNESSETH: That the grantor, for and in consideration of the sum of ten dollars (\$10.00) and other valuable considerations, receipt thereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Volusia County, Florida, viz:

Water and sewer plant sites as more fully described on Exhibit "A" attached hereto and made a part hereof.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the said grantor.

IN WITNESS WHEREOF, the said grantor has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

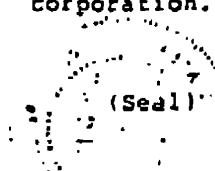
SUGAR MILL UTILITY COMPANY

[Handwritten signatures]

[Handwritten signature]
By: Edward F. Long,
Vice President
(Corporate Seal)

STATE OF FLORIDA)
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this 6th day of August, 1987, by Edward F. Long, Vice President of Sugar Mill Utility Company, a Florida corporation, on behalf of the corporation.



[Handwritten signature]
Notary Public
State of Florida

My Commission Expires:

NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES APRIL 2, 1991.
BONDABLE THROUGH NOTARY PUBLIC UNDERWRITERS.

This Instrument Prepared By: William E. Sundstrom, Esquire, 2544 Blairstone Pines Drive, Tallahassee, Florida 32301.

REC FEES 19.50 REC'D PAYMENT: 25
DOCST \$ 5.50 INDICATED FOR CASE
INT TAX \$ _____ 'C' INTANGIBLE & DOC
PENALTY \$ _____ STAMP TAXES \$ 0.00
INTEREST \$ _____
Lone Credit Card returned to office ✓

FILED FOR RECORD
RECORD VERIFIED
APR 7 9 05 AM '87
103277
CLERK OF CIRCUIT COURT
VOLUSIA COUNTY, FLORIDA
[Handwritten signature]

301770c

EXHIBIT "A"

BOOK PAGE
VOLUSIA COUNTY
FLORIDA

SEWAGE TREATMENT PLANT SITE Tax ID# 7342-00-00-0069'

A part of the Joseph Bonelly Grant, Section 42, Township 17 South, Range 33 East, Volusia County, Florida, described as follows: Commence at the Northeast corner of said Joseph Bonelly Grant; thence S. 61°31'38" W., along the North line thereof 40.00 feet; thence S. 28°28'22" E., 40.00 feet to the South line of a 40.00 foot width drainage easement recorded on the plat of Sugar Mill Country Club and Estates, Unit IV, Plat Book 35, pages 134 and 135, public records of Volusia County, Florida, being the POINT OF BEGINNING of this description; thence continue S. 28°28'22", E., 316.00 feet; thence S. 61°31'38" W., 496.00 feet; thence N. 28°28'22" W., 70.00 feet; thence S. 61°31'38" W., 105.00 feet; thence N. 28°28'22" W., 246.00 feet to the South line of said 40.00 foot width drainage easement; thence N. 61°31'38" E., along the South line of said drainage easement, 601.00 feet to the POINT OF BEGINNING.

WATER PLANT SITE 7342-00-00-0033'

A portion of the Joseph Bonelly Grant, Section 42, Township 17 South, Range 33 East, Volusia County, Florida, described as follows: Commence at a Permanent Reference (PRM) at the Southeast corner of Sugar Mill Country Club and Estates Unit I, Plat Book 29, page 129, public records of Volusia County, Florida; thence N. 28°12' W., along the Easterly line thereof, 400.00 feet to the Southeast corner of Lot 5 in said Sugar Mill Country Club and Estates, Unit I, for the POINT OF BEGINNING: thence along said Easterly line the following four (4) courses and distances; (1) thence N. 28°12' W., 260.00 feet; (2) thence S. 62° W., 5.00 feet; (3) thence N. 28°12' W., 160.00 feet; (4) thence N. 80° 37' W., 47.00 feet; to the Northeast corner of Club House Boulevard; thence N. 10°06' E., along the East right of way line of the Northerly extension of Club House Boulevard, 110.67 feet; thence S. 79°54' E., 111.69 feet; thence S. 28°12' E., 206.31 feet; thence N. 61°48' E., 216.00 feet; thence S. 28°12' E., 260.00 feet; thence S. 61°48' W., 330.00 feet to the POINT OF BEGINNING.

301607 C

BOOK PAGE
VOLUSIA COUNTY
FLC-92

LIFT STATION NUMBER 1 7342-00-00-0090

A part of the Joseph Bonelly Grant, Section 42, Township 17 South, Range 33 East, Volusia County, Florida, described as follows: Commence at the Northwest corner of Sweet Bay Avenue as recorded on the Partial Replat of Sugar Mill Country Club and Estates, Unit II and Unit III, Plat Book 35, page 145, public records of Volusia County, Florida; thence S. 16°36'39" W., along the Westerly right of way line thereof, 70.70 feet; thence S. 74°39'49" W., 101.41 feet; thence S. 53°11'49" W., 106.56 feet; thence S. 66°53'54" W., 115.63 feet; thence N. 23°06'06" W., 60.00 feet for the POINT OF BEGINNING; thence N. 66°53'54" E., 30.00 feet; thence S. 23°06'06" E., 30.00 feet; thence S. 66°53'54" W., 30.00 feet; thence N. 23°06'06" W., 30.00 feet to the POINT OF BEGINNING.

LIFT STATION NUMBER 2 7342-00-00-0031

A part of Government Lot 2, Section 10, Township 17 South, Range 33 East, Volusia County, Florida, described as follows: Commence at the Southeast corner of Sugar Mill Country Club and Estates, Unit II, Plat Book 33, pages 110, 111 and 112, and/or the Southwest corner of Sugar Mill Country Club and Estates Unit I, Plat Book 29, page 129, public records of Volusia County, Florida; thence S. 62° W., along the South line of said Sugar Mill Country Club and Estates Unit I and/or the North line of said Government Lot 2, 97.00 feet for the POINT OF BEGINNING; thence S. 28° E., 20.00 feet; thence S. 62° W., 30.00 feet; thence N. 28° W., 20.00 feet to the North line of said Government Lot 2, and/or the South line of said Sugar Mill Country Club and Estates Unit II; thence N. 62° E., along the North and/or South line thereof 30.00 feet to the POINT OF BEGINNING.

LIFT STATION NUMBER 3 7342-00-00-0071

A part of the Joseph Bonelly Grant, Section 42, Township 17 South, Range 33 East, Volusia County, Florida, described as follows: Commence at the Northeast corner of said Joseph Bonelly Grant; thence S. 28°25'12" E., along the East line thereof 40.00 feet; thence S. 61°31'36" W. and parallel to the North line of said Joseph Bonelly Grant 987.71 feet for the POINT OF BEGINNING; thence S. 28°28'22" E., 16.93 feet to a point on a curve on the Easterly right of way line of Club House Boulevard as recorded on the plat of Sugar Mill Country Club and Estates, Unit IV, Plat Book 35, pages 134 and 135, public records of Volusia County, Florida; said curve concave Southerly, having a radius of 526.94 feet; thence from a tangent bearing of S. 83°06'22" W., run 52.81 feet along the arc of said curve, thru a central angle of 05°44'32" to a point on said curve; thence N. 61°31'38" E., 50.00 feet to the POINT OF BEGINNING.

Sheet 2 of 3 Sheets

#3648h/2
07/23/87

301807

BOOK PAGE
VOLUSIA COUNTY
FLORIDA

LIFT STATION NUMBER 4 7342-00-00-0016

A part of the Joseph Bonelly Grant, Section 42, Township 17 South, Range 33 East, Volusia County, Florida, described as follows: Commence at the intersection of the Southeast corner of Lot 1, with the West right of way line of Club House Boulevard as recorded on the Partial Replat of Sugar Mill Country Club and Estates Unit II and Unit III, Plat Book 35, page 145, public records of Volusia County, Florida; thence S. 02°01'07" E., along the West right of way line of Club House Boulevard, 78.91 feet to the POINT OF BEGINNING; thence continue S. 02°01'07" E., along said West right of way line 25.00 feet; thence S. 87°58'53" W., 20.00 feet; thence N. 02°01'07" W., 25.00 feet; thence N. 87°58'53" E., 20.00 feet to the POINT OF BEGINNING.

LIFT STATION NUMBER 5 7342-00-00-0015

A part of the Joseph Bonelly Grant, Section 42, Township 17 South, Range 33 East, Volusia County, Florida, described as follows: Beginning at the intersection of the Southeasterly corner of Lot 45 with the Northerly right of way line of Red Maple way as per plat of Sugar Mill Country Club and Estates, Unit III, Plat Book 33, pages 113, 114 and 115, public records of Volusia County, Florida; thence N. 67°06'19" W., along the Easterly line of said Lot 45, 17.50 feet; thence N. 53°55'22" E., 40.45 feet; thence N. 36°04'38" W., 10.00 feet; thence N. 50°45'06" E., 37.21 feet; thence S. 42°25'10" E., 25.00 feet, to a point on a curve on the Northerly right of way line of said Red Maple Way, said curve concave Northerly, having a radius of 361.36 feet; thence from a tangent bearing of S. 47°34'50" W., run 40.00 feet along the arc of said curve thru a central angle of 06°20'32" to the point of tangency thereof; thence S. 53°55'22" W., 31.43 feet to the POINT OF BEGINNING.

LIFT STATION NUMBER 6 7342-14-00-0041

A part of the Joseph Bonelly Grant in Section 42, Township 17 South, Range 33 East, Volusia County, Florida, described as follows: Commence at the Northwest corner of Club House Boulevard (Crooked Wood Boulevard) as recorded on the plat of Sugar Mill Country Club and Estates, Unit III, Plat Book 33, pages 113, 114 and 115, public records of Volusia County, Florida; thence N. 33°03'38" E., 70.00 feet to the Northeast corner thereof; thence N. 56°56'22" W., 218.82 feet; thence N. 29°45'00" W., 206.17 feet for the POINT OF BEGINNING; thence continue N. 29°45'00" W., 30.00 feet; thence N. 60°15'00" E., 25.00 feet; thence S. 29°45'00" E., 30.00 feet; thence S. 60°15'00" W., 25.00 feet to the POINT OF BEGINNING.

03/09/99 19:33:36

984-788-9869->

984 423 3989 984-761-8331

Page 004

BEST COPY 4

BOOK PAGE

3451 1895

FILED FOR RECORD

W. J. ...
CLERK COUNTY COURT

Property Appraiser's Parcel No.: 214638

GENERAL WARRANTY DEED

THIS INDENTURE, is made this 6th day of April, 1990. Wherever used herein, the terms "GRANTOR" and "GRANTEE" shall include the heirs, personal representatives, successors and/or assigns of the respective parties hereto.

BETWEEN FLORIDA LAND COMPANY, a Florida corporation, having its principal place of business at 255 S. Orange Avenue, Suite 1444, Orlando, Florida, 32801, "GRANTOR," and SOUTHERN STATES UTILITIES, INC., a Florida corporation, having its principal place of business at 1000 Color Place, Apopka, Florida 32703, "GRANTEE." The Grantor's Tax Identification Number is: _____.

WITNESSETH, that the GRANTOR, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained and sold to the said GRANTEE forever, the land lying in the Volusia County, Florida, legally described in Exhibit "A" attached hereto, and by this reference made a part hereof (the "Land"), and all right, title, interest, claim and demand which the said Grantor has and to the access and sign easement as contained in the instrument recorded in O.R. Book 2397, page 1131, public records of Volusia County, Florida, which easement rights are hereby merged into the fee simple interest being conveyed by this deed.

Grantor conveys title to the Land to Grantee subject to real estate taxes for the year 1990 and subsequent years, and zoning and land-use ordinances and regulations adopted by governmental authority; and Grantor, subject to the matters referred to above, does hereby warrant the title to the Land and will defend the same against the lawful claims of all persons whomsoever.

This instrument prepared by:

James M. Reed, Esquire
TAUS & WILLIAMS, P.A.
100 South Annley Drive
Suite 3100
Post Office Box 3430
Tampa, Florida 33601

RECORDED \$15.00
INDEXED \$12.75
W. J. ...

03/09/99 19:32:57

984-788-9869->

984 423 3989 984-761-8331

Page 083

BEST COPY 4

BOOK PAGE
3451 1896
VOLUME 000000

IN WITNESS WHEREOF, Grantor has executed this General Warranty Deed as of the date stated above.

Signed, sealed and delivered in our presence:

FLORIDA LAND COMPANY, a Florida corporation

(Corporate Seal)

Alisa C. Villaneda
Ann T. Singsper

By: Ronald D. Campbell
Ronald D. Campbell
President

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 11 day of April, 1990, by Ronald D. Campbell, as President of Florida Land Company, a Florida corporation, on behalf of the corporation.

My Commission Expires:

NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES APRIL 2, 1991.

Alisa C. Villaneda
NOTARY PUBLIC

ALR0088B.WPS

03/09/99 19:31:58

984-788-9869->

984 423 3909 984-761-8331

Page 882

BEST COPY 4

BOOK PAGE
125 1007

EXHIBIT A

A portion of the Joseph Bonally Grant, Section 42, Township 17 South, Range JJ East, Volusia County, Florida, being described as follows:

Commence at the Northwest corner of Lot 8, Unit 1, Sugar Mill Country Club and Estates Subdivision, according to the plat thereof as recorded in Plat Book 29, page 129, public records of Volusia County, Florida, said point being located on the Easterly right-of-way line of Club House Boulevard according to the plat of Area Burn Unit 1 as recorded in Plat Book 35, pages 5, 6, and 7, public records of Volusia County, Florida; thence along said Easterly right-of-way line the following two (2) courses and distances, North 09° 39' 23" East, 110.67 feet to a point of curvature of a curve, concave Southwesterly, having a radius of 216.76 feet; thence run Northerly 25.54 feet along the arc of said curve, thru a central angle of 06° 45' 00" for the point of beginning; thence South 37° 05' 37" East, radial to last said curve 337.38 feet; thence South 28° 36' 08" East, 118.27 feet to an iron pipe being the Northeast corner of an existing Water Plant Site; thence North 09° 54' 53" West, 69.49 feet to the Westerly boundary of a Golf Course; thence North 44° 55' 20" West, along said Westerly boundary, 156.41 feet; thence South 77° 52' 19" West, 277.33 feet to the point of beginning; and

A portion of the Joseph Bonally Grant, Section 42, Township 17 South, Range JJ East, Volusia County, Florida, being described as follows:

Commence at the Northwest corner of Lot 8, Unit 1, Sugar Mill Country Club and Estates Subdivision, according to the plat thereof as recorded in Plat Book 29, page 129, public records of Volusia County, Florida, said point being located on the Easterly right-of-way line of Club House Boulevard, according to the plat of Area Burn Unit 1, as recorded in Plat Book 35, pages 5, 6, and 7, public records of Volusia County, Florida; thence North 09° 39' 23" East, along said Easterly right-of-way line, 110.67 feet for the point of beginning, said point being a point of curvature of a curve, concave Southwesterly, having a radius of 216.76 feet; thence run Northerly 25.54 feet along the arc of said curve thru a central angle of 06° 45' 00" to a point; thence South 37° 05' 37" East, radial to last said curve 337.38 feet; thence South 28° 36' 08" East, 118.27 feet to an iron pipe being the Northeast corner of an existing Water Plant Site; thence South 61° 23' 52" West, along the North line of said Water Plant Site, 216.00 feet; thence North 38° 36' 08" West, 205.65 feet; thence North 80° 20' 37" West, 109.81 feet to the point of beginning.

ALR004C9.W75

044538

5. That the deposit of money by Petitioner will secure the persons lawfully entitled to the compensation which will be ultimately determined by final judgment of this Court.

6. That the sum of money to be deposited in the Registry of the Court within twenty (20) days of the entry of this order shall be in the amount of Two Million Nine Hundred Twenty Thousand and No Dollars (\$2,920,000.00).

7. That upon the deposit by Petitioner as set forth above, and without further notice or order of this Court, the Petitioner shall be entitled to possession of the property described herein.

DONE AND ORDERED in Chambers at Daytona Beach, Volusia County, Florida, this 7th day of August, 2000.

ROBERT K. ROUSE, JR.

Robert K. Rouse, Jr., Circuit Judge

Copies To:

- Robert E. V. Kelley, Jr., Esquire
- Hal Spence, Esquire
- Gordon H. Harris, Esquire
- Matthew G. Minter, Esquire

Clerk of the Volusia County Circuit Court

Federal Savings & Loan Insurance Corporation
1700 Sixth Street, NW
Washington, DC 70552

SunTrust Bank, Central Florida, N.A.
225 E. Robinson Street, Suite 250
Orlando, FL 32801

TPA1 #1012482 v1

IN THE CIRCUIT COURT OF THE 7TH
JUDICIAL CIRCUIT, IN AND FOR
VOLUSIA COUNTY, FLORIDA

UTILITIES COMMISSION, CITY OF
NEW SMYRNA BEACH,
FLORIDA, the governing body of
the utilities system and a party
of the government of the City of
New Smyrna Beach Florida,

Case No. 99-30789-CICI
Division: 30, Judge: Rouse

Petitioner,

vs.

FLORIDA WATER SERVICES
CORPORATION, a Florida corporation;
SUNTRUST BANK CENTRAL FLORIDA,
N.A.; FEDERAL SAVINGS AND LOAN
INSURANCE CORPORATION, and
BERNARD J. KANE, as Volusia
County Tax Collector.

Respondents.

**ORDER GRANTING
FLORIDA WATER SERVICES CORPORATION'S
EMERGENCY MOTION FOR STAY**

THIS CAUSE came on to be heard on FLORIDA WATER SERVICES
CORPORATION'S EMERGENCY MOTION FOR STAY and having heard the argument
of counsel and being otherwise advised of the premises, it is hereby

ORDERED AND ADJUDGED THAT:

1. FLORIDA WATER SERVICES CORPORATION'S Emergency Motion for
Stay is hereby GRANTED. The Order of Taking entered on August 7, 2000, is stayed
until further Order of this Court. This stay will also apply to any subsequent Orders

Copies To:	✓		
Harris	✓	Montana	✓
Hipp	✓	Shontz	✓
Marshall	✓	Client	✓ (Carlyn Kowalski)

which may be entered by this Court to permit attachments 2-5 referenced in the Order of Taking (but not attached to the Order of Taking) to be attached to said Order.

2. The Court finds that Florida Water Services Corporation has met its burden of demonstrating a substantial likelihood of success on the merits of its appeal; that Florida Water Services Corporation will suffer irreparable harm if the stay is not entered; that the issuance of the stay will not harm the other parties in interest; and that the issuance of the stay is in the interest of justice.

3. The Court rejects the Petitioner's argument that Section 73.131(1), Florida Statutes, precludes this Court from issuing a stay pursuant to the procedure established in Rule 9.310, Florida Rules of Appellate Procedure.

4. During the pendency of this stay, Florida Water Services Corporation has agreed, and this Court so orders, that the Sugar Mill Water and Wastewater System will be operated by Florida Water Services Corporation in the ordinary course of business and Florida Water Services Corporation will continue to perform any necessary maintenance or service required on the facilities. Florida Water Services Corporation shall not take any action which would constitute waste or harm to the property.

5. During the pendency of this stay, the Petitioner may withdraw the money deposited into the registry of the court.

6. This stay was and is effective as of the time this Court announced its ruling on Thursday, August 10, 2000, until further order of this Court.

DONE AND ORDERED in Chambers at Daytona Beach, Volusia County,
Florida, this 14th day of August, 2000.



JUDGE ROBERT K. ROUSE, JR.
CIRCUIT COURT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished via
U.S. Mail to Gordon H. Harris, Esquire, c/o Gray, Harris & Robinson, P.A., P. O. Box
3068, Orlando, Florida 32802; Robert E. V. Kelly, Jr., Esquire and James A. Hattaway,
Esquire, c/o Holland & Knight, LLP, P. O. Box 1288, Tampa, FL 33601; and to Hal
Spence, Esquire, 221 N. Causeway, New Smyrna Beach, FL 32169-5239, and to all
those listed on the attached Service List, this 14th day of August, 2000.



JUDICIAL ASSISTANT

SERVICE LIST OF INTERESTED PARTIES

Volusia County Tax Collector
c/o Matthew G. Minter, Esquire
Assistant County Attorney
123 W. Indiana Avenue
DeLand, Florida 32720-4613

Federal Savings & Loan Insurance Corporation
1700 - 6th Street, N.W.
Washington, D.C. 20552

SunTrust Bank, Central Florida N.A.
Suite 250
225 E. Robinson Street
Orlando, FL 32801



STATE OF FLORIDA, VOLUSIA COUNTY
I HEREBY CERTIFY the foregoing is a true copy
of the original filed in this office. This

14th day of August, A.D.: 2000
Clerk of Circuit and County Court

By: [Signature]
Deputy Clerk

Client Name FWS - SUSANMU

Client Number 40001-186

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR VOLUSIA COUNTY, FLORIDA
CIVIL DIVISION

UTILITIES COMMISSION, CITY OF
NEW SMYRNA BEACH, FLORIDA, etc.

Petitioner,

Case No.: 99-30789-CICI

vs.

Division: 30

FLORIDA WATER SERVICES
CORPORATION, etc., et.al.

Judge: Rouse

Respondents.

AGREED ORDER VACATING STAY

THIS CAUSE having come to be heard upon Petitioner's Renewed Motion to Vacate Stay, and the Court having considered the record of this cause, it is therefore:

ORDERED that this Court's prior Order of August 14, 2000 staying the Order of Taking, be, and the same is hereby vacated. It is further

ORDERED that Petitioner shall be entitled to take possession of the subject property at 8:00 a.m. Friday, August 24, 2001 without further order of this Court. Defendant Florida Water Services Corporation shall cause customer meters to be read for final billing purposes, as well as to take any other necessary

RECEIVED

AUG 23 2001

TAM

action related to transition of possession and control of the system prior to that time.

DONE AND ORDERED in Chambers at Daytona Beach, Volusia County, Florida, this ____ day of August, 2001.

**ROBERT K. ROUSE, JR.
CIRCUIT JUDGE**

Robert K. Rouse Jr. AUG 21 2001
Circuit Judge
SIGNED & DATED

Copies furnished to:

Robert E.V. Kelley, Jr., Esq.
Tracy A. Marshall, Esquire
Mathew G. Minter, Esquire
Federal Savings & Loan Insurance Corporation
SunTrust Bank, Central Florida, NA.

37124-5

TPAI #1160237 v1

FLORIDA WATER SERVICES
CORPORATION,
Appellant,

v.

UTILITIES COMMISSION,
Etc., Appellee.

No. 5D00-2275.

District Court of Appeal of Florida,
Fifth District.

June 22, 2001.

Rehearing Denied Aug. 2, 2001.

Municipal utility commission commenced eminent domain proceeding to acquire water and waste water system for subdivision annexed by city. The Circuit Court, Volusia County, Robert K. Rouse, Jr., J., entered non-final order of taking, increasing amount of compensation to \$2,920,000. System operator appealed. The District Court of Appeal, Orfinger, R.B., J., held that: (1) utilities commission's estimate of system's value was based on valid appraisal; (2) utility commission was not required to formally amend its declaration of taking to reflect recent changes in appraiser's valuation; and (3) prior public use doctrine did not prohibit taking, as property would still be used by condemnor as water and waste water system.

Affirmed.

1. Eminent Domain ⇌188

Municipal utilities commission's estimate of subdivision's water and sewer water system's value was based on valid appraisal, in eminent domain proceeding, though appraisal was prepared by registered professional engineer specializing in water and waste water utilities who was not certified real estate appraiser, but who was assisted by two state certified real

estate appraisers. West's F.S.A. §§ 74.031, 475.612(4).

2. Eminent Domain ⇌205

Estimate of value of property is based on a "valid appraisal," under eminent domain statute, if the trial court had substantial, competent evidence presented to it at trial in order to properly base a decision. West's F.S.A. § 74.031.

See publication Words and Phrases for other judicial constructions and definitions.

3. Appeal and Error ⇌971(2)

Trial court's ruling on whether a witness is qualified to give an expert opinion should not be disturbed on appeal in the absence of a clear abuse of discretion.

4. Eminent Domain ⇌188

Municipality utility commission was not required to formally amend its declaration of taking to reflect recent changes in appraiser's valuation of subdivision's water and waste water system, in quick-take condemnation proceeding, as condemnee had right to contest commission's estimate of value prior to transfer of title and trial judge was not bound by taking authority's estimate in deciding amount to be deposited with court.

5. Eminent Domain ⇌188

Amount to be deposited by taking authority in quick-take condemnation proceeding does not necessarily reflect the condemning authority's estimate of value or the values opined by appraisers who testify before the court. West's F.S.A. § 74.061.

6. Eminent Domain ⇌188

Amount to be deposited by taking authority in quick-take condemnation proceeding represents the trial court's judgment of the amount necessary to fully compensate the property owner based on

the evidence presented, subject to a final determination by a jury at trial. West's F.S.A. §§ 74.051(2), 74.061.

7. Eminent Domain ⇨188

Purpose of requiring the estimate of value and deposit of sufficient funds with the court during quick take condemnation proceedings is to allow the condemnee use of the money while the taking authority has use of the land and the parties are awaiting a final determination of value. West's F.S.A. §§ 74.031, 74.051(2), 74.061.

8. Eminent Domain ⇨47(1)

Prior public use doctrine did not prohibit municipal utilities commission's taking of subdivision's water and waste water system, as property would still be used by commission as water and waste water system after taking, and commission's authority to condemn property was sufficient authority for taking.

9. Eminent Domain ⇨47(1)

Under the "prior public use doctrine," property devoted to a public use cannot be taken and appropriated to another and different public use unless the legislative intent to so take has been manifested in express terms or by necessary implication.

See publication Words and Phrases for other judicial constructions and definitions.

Gordon H. Harris, Tracy A. Marshall and Bruce M. Harris of Gray, Harris & Robinson, P.A., Orlando, for Appellant.

Steven L. Brannock and Robert E.V. Kelley, Jr. of Holland & Knight LLP, Tampa, for Appellee.

ORFINGER, R. B., J.

Florida Water Services Corporation appeals a non-final order of taking entered in favor of the Utilities Commission, City of New Smyrna Beach, Florida, pursuant to

the "quick take" procedure authorized by section 74.011, Florida Statutes (1999). Florida Water argues that the circuit court erred in entering the order of taking because (1) the Utilities Commission's estimate of value was not based on a valid appraisal as required by section 74.031, Florida Statutes (1999); (2) the Utilities Commission did not file an amended declaration of taking to reflect changes in its estimate of value; and (3) the Utilities Commission lacks the power to take by eminent domain an existing privately owned public utility already dedicated to a public use. We find no error and affirm.

The Sugar Mill Country Club subdivision, including its water and waste water system (the "system" or the "Sugar Mill system"), was outside the city limits of New Smyrna Beach until 1998 when the subdivision and its water and sewer system were annexed into the City of New Smyrna Beach. Because the Utilities Commission provided water and sewer services to all New Smyrna Beach residents with the exception of those in Sugar Mill, it determined that it would be in the best interest of the citizens of New Smyrna Beach and the residents of Sugar Mill to acquire the Sugar Mill system and thereby consolidate all water and sewer services into a single system. The Utilities Commission attempted to negotiate a voluntary purchase of the Sugar Mill system. When those negotiations failed, the Utilities Commission initiated eminent domain proceedings.

Chapter 74, Florida Statutes (1999) permits a taking authority to take possession of and title to condemned property in advance of final judgment if the taking authority complies with certain procedural requirements. One such procedural safeguard requires the taking authority to file a declaration of taking. § 74.031, Fla. Stat. (1999). The declaration of taking must

include a good estimate of value for each parcel.

In its declaration of taking, the Utilities Commission valued the system at \$2,855,000. The value was based on an appraisal performed by Gerald Hartman, a self-declared professional water and wastewater engineer, who was not a licensed professional engineer. Hartman obtained an appraisal of the property from a private appraiser. The appraisal began on January 1, 1998, and ended on February 21, 1998. The initial appraisal value was \$2,855,000. The appraisal was repeated again on April 1, 1998. Hartman's estimate of value for the Utilities Commission's declaration of taking in Hartman's declaration of taking.

On August 1, 1998, Hartman entered an order of taking and title to the system for \$2,920,000 in the Utilities Commission's name. The Utilities Commission now appeals.

[1] Florida Statutes (1999) requires that the Utilities Commission file a valid appraisal of the property to be taken. § 74.031.² The Utilities Commission contends that the appraisal performed by Hartman is valid.

1. The appraisal of the value of water and sewer services transmitted by the water treatment plant and waste water treatment plant upon which

include a good faith estimate of value, which must be based on a valid appraisal of each parcel in the proceeding. *Id.*

In its declaration of taking, the Utilities Commission estimated the value of the system at \$2,460,000.¹ The estimate of value was based on an appraisal prepared by Gerald Hartman. Hartman is a registered professional engineer specializing in water and waste water utilities, but he is not a licensed real estate appraiser. As part of his estimate of value, Hartman obtained an appraisal on the system's real property from two state certified real estate appraisers. The order of taking hearing began on February 4, 2000 and continued on February 10, 2000, April 25, 2000 and June 21, 2000. Hartman updated his initial appraisal to reflect an estimated value of \$2,855,000 on February 3, 2000 and again on April 25, 2000 when he increased his estimate of value to \$2,920,000. The Utilities Commission did not amend its declaration of taking to reflect the changes in Hartman's estimated value of the system.

On August 7, 2000, the circuit court entered an order of taking, allowing the Utilities Commission to take possession of and title to the system upon the deposit of \$2,920,000 in the court registry. Florida Water now appeals the order of taking.

[1] Florida Water first argues that Hartman's appraisal of the system is not a "valid appraisal" as required by section 74.031.² Specifically, Florida Water contends that section 74.031 requires the estimate of value to be based on an appraisal performed by an appraiser certified pursu-

ant to part II of chapter 474, Florida Statutes.

The requirement that the taking authority's estimate of value be based on a "valid appraisal" was established by the enactment of section 74.031 in 1965 and has never been modified. See § 74.031, Fla. Stat. (2000); Ch. 65-369, § 4, at 1279-80, Laws of Fla. Part II of chapter 475, authorizing the certification and licensing of real estate appraisers, was created in 1991 and substantially revised in 1998. See Ch. 91-89, § 9 at 674-86, Laws of Fla.; Ch. 98-250 §§ 20-38 at 2209-20, Laws of Fla. We do not believe that when the Legislature wrote section 74.031, it intended to incorporate or refer to a statute that was not created until 26 years later. To the contrary, section 475.612(4), Florida Statutes (1999) addresses the admissibility of the expert testimony from appraisers who are not licensed, certified or registered and provides:

This section does not prevent any state court or administrative law judge from certifying as an expert witness in any legal or administrative proceeding an appraiser who is not certified, licensed, or registered; nor does it prevent any appraiser from testifying, with respect to the results of an appraisal.

[2, 3] An estimate of value is based on a valid appraisal if "the trial court had substantial, competent evidence presented to it at trial in order to properly base a decision." *Cordones v. Brevard County*, 781 So.2d 519, 523 (Fla. 5th DCA 2001). Whether a witness is qualified to give an expert opinion is a question best left to the discretion of the trial judge. A trial

er miscellaneous components that comprise the entire system.

2. The statute does not define the term "valid appraisal."

1. The appraisal of the system included the value of water wells; water treatment plants; transmission and distribution lines; waste water treatment plant; collection, lift and waste water transmission systems; the land upon which these assets are situated and oth-

court's ruling in this regard should not be disturbed on appeal in the absence of a clear abuse of discretion. *Dean Witter Reynolds, Inc. v. Cichon*, 692 So.2d 313, 315 (Fla. 5th DCA 1997).

The Utilities Commission was free to offer Hartman's testimony and Florida Water was free to introduce testimony from state certified appraisers, if it chose to do so. Florida Water's arguments regarding Hartman's qualifications are more appropriately directed to the weight the trial court should have given Hartman's testimony, not its admissibility. Considering Hartman's experience with other water and waste water systems, the trial judge did not abuse his discretion in allowing Hartman's testimony as to the value of the Sugar Mill system. We do not believe that the enactment of part II of Chapter 475, Florida Statutes, altered the requirements of a taking authority under section 74.031, Florida Statutes, and we agree with the trial court that the Utilities Commission's estimate of value was based on a valid appraisal.

[4] Florida Water next argues that the Utilities Commission was required to amend its declaration of taking to reflect the changes in its estimate of value. A property owner is entitled to a hearing to challenge any aspect of the declaration of taking, including the amount to be deposited in the court registry for the property. § 74.051, Fla. Stat. (1999). The value of condemned property is determined as of the date of the taking or the first day of trial, whichever occurs first. § 73.071(2), Fla. Stat. (1999); *Dept of Transp. v. Finkelstein*, 629 So.2d 932, 933 (Fla. 4th DCA 1993), approved, 656 So.2d 921 (Fla. 1995). Courts have required that a taking authority's estimate of value be relatively contemporaneous with the time of the taking.

3. However, the amount of the deposit cannot be less than the condemning authority's esti-

See, e. g., *Culbertson v. State Rd. Dept*, 165 So.2d 255, 257 (Fla. 1st DCA 1964) (stating that appraisal made four months prior to taking was too remote to serve as competent basis for testimony regarding value at the date of taking).

To satisfy the requirement of a timely appraisal, the Utilities Commission updated its initial estimate of value in February, 2000 and April, 2000, just prior to the hearings before the trial court. Florida Water contends that the Utilities Commission was required to amend its declaration of taking to reflect the change in the estimated value of the property. We find no such requirement in the statutory or case law of this state.

[5, 6] As previously discussed, in a "quick take" proceeding, the condemning authority must file a declaration of taking that includes a good faith estimate of value based on a valid appraisal. § 74.031, Fla. Stat. (1999). Prior to taking possession of and title to the condemned property, the taking authority is required to make a deposit of sufficient funds with the court. § 74.061, Fla. Stat. (1999). The amount to be deposited in the court registry in a quick-take proceeding is determined by the trial judge. *Bainbridge v. State Rd. Dept*, 139 So.2d 714, 716 (Fla. 1st DCA 1962). The amount to be deposited does not necessarily reflect the condemning authority's estimate of value or the values opined by appraisers who testify before the court.³ *Id.* Rather, the amount of the deposit represents the trial court's judgment of the amount necessary to fully compensate the property owner based on the evidence presented, subject to a final determination by a jury at trial. See § 74.051(2), Fla. Stat. (1999); *Fla. E. Coast Ry. Co. v. Broward County*, 421 So.2d 681, 684 (Fla. 4th DCA 1982).

mate of value. § 74.051(2), Fla. Stat. (1999).

[7] The purpose of value appraisals is to estimate the value of the property to be taken for public use. The purpose of the money deposited is to provide the condemning authority with use of the money pending the final decision of the court. *Jacksonville Express*, 124 So.2d 307, 308 (Fla. 1961). Since the right to contest the estimate of value prior to the taking and considering the public utility is bound by the taking authority's decision, the court, requiring the condemning authority to formally amend its declaration of taking is merely to reflect the change in the estimate of value. It would be a rule of law that the condemning authority is unwilling to adopt.

[8, 9] Finally, we note that the prior public utility law, which provided for the taking of a public utility for public use. Under the "general rule" that the amount to be deposited to a public utility is appropriated to public use unless the taking authority has been authorized by necessity. *Coast Ry. Co. v. Broward County*, 545, 547 (Fla. 1962). *F. Ry. Co. v. Broward County*, 111, 112 (Fla. 1962). The Utilities Commission's estimate of value for public use doctrine is not applicable to the present public use; the property should be used for the public use. A similar rule is found in *City of Palm Beach v. Palm Beach Utilities*, 4th DCA 1962.

4. *City of Palm Beach v. Palm Beach Utilities*, discussion of the

[7] The purpose of requiring the estimate of value and deposit of sufficient funds with the court is to allow condemnee use of the money while the taking authority has use of the land and the parties are awaiting a final determination of value. *Jacksonville Expressway Auth. v. Bennett*, 124 So.2d 307 (Fla. 1st DCA 1960), *quashed on other grounds*, 131 So.2d 740 (Fla.1961). Since the condemnee has the right to contest the taking authority's estimate of value prior to the transfer of title, and considering that the trial judge is not bound by the taking authority's estimate in deciding the amount to be deposited with the court, requiring a taking authority to formally amend its declaration of taking merely to reflect an updated estimate would be a rule without a reason. We are unwilling to adopt such a rule.

[8,9] Finally, Florida Water argues that the prior public use doctrine prohibits the taking of an existing privately owned public utility already dedicated to a public use. Under the prior public use doctrine, "[t]he general rule is that property devoted to a public use cannot be taken and appropriated to another and different public use unless the legislative intent to so take has been manifested in express terms or by necessary implication." *Fla. E. Coast Ry. Co. v. City of Miami*, 321 So.2d 545, 547 (Fla.1975) (quoting *Georgia S. & F. Ry. Co. v. State Rd. Dep't*, 176 So.2d 111, 112 (Fla. 1st DCA 1965)). The Utilities Commission asserts that the prior public use doctrine does not apply because the system is not being taken for a different public use; rather, the property is to be used for the same public purpose. We agree. A similar argument was rejected in *City of Palm Bay v. General Development Utilities, Inc.*, 201 So.2d 912 (Fla. 4th DCA 1967), wherein the court said:

[A] municipality may, under general statutory authority, take by eminent domain the property of a private corporation already devoted to a public use and devote it to a like purpose.

Id. at 917.⁴ The prior public use doctrine does not apply in this situation because (1) the system is to be used for the same public purpose after the taking as it was before; and (2) a municipality's general statutory authority to condemn property is sufficient authority for the taking.

Although a specific grant of authority is not required to support the Utilities Commission's taking of the system, *City of Palm Bay*, 201 So.2d at 917, such authority exists in the Utilities Commission's enabling act. See Ch. 85-503, § 9 at 345, Laws of Fla. That special act authorizes the Utilities Commission to "acquire . . . water production and distribution facilities and systems . . . and sanitary sewer facilities and systems . . ." Ch. 85-805, § 9 at 345, Laws of Fla. The special act does not place any limits on the means by which the Utilities Commission may acquire such property. Thus, we conclude that the Legislature provided the Utilities Commission with express authority to condemn a water and sewer utility such as the Sugar Mill system, though no such specific authority is required for the reasons previously discussed.

Finding no error in the order of taking, we affirm the trial court's order.

AFFIRMED.

PETERSON and GRIFFIN, JJ.,
concur.



4. *City of Palm Bay* contains an extensive discussion of the prior public use doctrine and

the exceptions thereto. We agree with its reasoning and result.

In re: Application by Florida Water Services
Water Services Corporation for approval of transfer
of Sugar Mill Water and Wastewater Facilities in
Volusia County to Utilities Commission, City of
New Smyrna Beach, Florida, and amendment of
Certificate Nos. 238-W and 182-S.

EXHIBIT B

VOLUSIA COUNTY

Description Of Territory Served

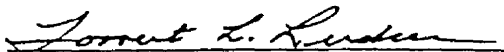
SUGAR MILL

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 1,284.44 feet; thence run South 01°06'25" East a distance of 1,312.63 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°23'41" East a distance of 250.00 feet; thence run South 61°36'19" West a distance of 66.92 feet; thence run South 30°27'09" West a distance of 945.42 feet; thence run South 00°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°38'51" an arc distance of 294.66 feet; thence run South 06°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°36'00" an arc distance of 306.19 feet; thence run South 00°39'11" East a distance of 127.27 feet; thence run North 61°16'29" West a distance of 352.91 feet; thence run North 01°02'12" West a distance of 543.71 feet; thence run North 89°50'55" West a distance of 260.00 feet; thence run South 89°16'45" West a distance of 301.15 feet; thence run South 25°29'04" West a distance of 199.51 feet; thence run North 61°16'29" West a distance of 144.50 feet; thence run North 28°43'31" East a distance of 150.00 feet; thence run North 61°16'29" West a distance of 175.00 feet; thence run North 28°43'31" East a distance of 311.59 feet; thence run South 89°10'05" West a distance of 297.85 feet; thence run South 35°58'12" West a distance of 316.47 feet; thence run North 61°41'37" West a distance of 728.35 feet; thence run North 01°49'05" West a distance of 558.11 feet; thence run North 28°16'29" West a distance of 4,443.01 feet to the Point of Beginning.

Effective Date:

By: 
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

VOLUSIA COUNTY

Description Of Territory Served

SUGAR MILL (Cont.)

Less the following described parcel:

Starting at the Southwest corner of Section 42 run North 61°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°06'53" an arc distance of 127.28 feet; thence run South 00°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°00'00" an arc distance of 369.14 feet; thence run South 89°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 a central angle of 40°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 ¼ of the Northeast ¼ of Section 15, run South 01°18'37" East a distance of 1,323.75 feet; thence run South 89°31'26" West a distance of 358.77 feet; thence run North 61°16'29" West a distance of 175.88 feet; thence run North 28°43'31" East a distance of 217.17 feet; thence run North 61°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°54'37" an arc distance of 227.80 feet; thence run North 06°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°38'24" an arc distance of 307.70 feet; thence run North 89°11'08" East a distance of 559.23 feet to the Point of Beginning.

Containing 17 acres, more or less.

Effective Date:

By: 
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

VOLUSIA COUNTY

Description Of Territory Served

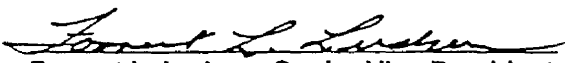
SUGAR MILL

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 1,284.44 feet; thence run South 01°06'25" East a distance of 1,312.63 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°23'41" East a distance of 250.00 feet; thence run South 61°36'19" West a distance of 66.92 feet; thence run South 30°27'09" West a distance of 945.42 feet; thence run South 00°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°38'51" an arc distance of 294.66 feet; thence run South 06°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°36'00" an arc distance of 306.19 feet; thence run South 00°39'11" East a distance of 127.27 feet; thence run North 61°16'29" West a distance of 352.91 feet; thence run North 01°02'12" West a distance of 543.71 feet; thence run North 89°50'55" West a distance of 260.00 feet; thence run South 89°16'45" West a distance of 301.15 feet; thence run South 25°29'04" West a distance of 199.51 feet; thence run North 61°16'29" West a distance of 144.50 feet; thence run North 28°43'31" East a distance of 150.00 feet; thence run North 61°16'29" West a distance of 175.00 feet; thence run North 28°43'31" East a distance of 311.59 feet; thence run South 89°10'05" West a distance of 297.85 feet; thence run South 35°58'12" West a distance of 316.47 feet; thence run North 61°41'37" West a distance of 728.35 feet; thence run North 01°49'05" West a distance of 558.11 feet; thence run North 28°16'29" West a distance of 4,443.01 feet to the Point of Beginning.

Effective Date:

By: 
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

VOLUSIA COUNTY

Description Of Territory Served

SUGAR MILL (Cont.)

Less the following described parcel:

Starting at the Southwest corner of Section 42 run North 61°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°06'53" an arc distance of 127.28 feet; thence run South 00°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°00'00" an arc distance of 369.14 feet; thence run South 89°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 a central angle of 40°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 ¼ of the Northeast ¼ of Section 15, run South 01°18'37" East a distance of 1,323.75 feet; thence run South 89°31'26" West a distance of 358.77 feet; thence run North 61°16'29" West a distance of 175.88 feet; thence run North 28°43'31" East a distance of 217.17 feet; thence run North 61°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°54'37" an arc distance of 227.80 feet; thence run North 06°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°38'24" an arc distance of 307.70 feet; thence run North 89°11'08" East a distance of 559.23 feet to the Point of Beginning.

Containing 17 acres, more or less.

Effective Date:

By: Forrest L. Ludsen
Forrest L. Ludsen, Senior Vice President
Rates & Regulatory Affairs

In re: Application by Florida Water Services
Water Services Corporation for approval of transfer
of Sugar Mill Water and Wastewater Facilities in
Volusia County to Utilities Commission, City of
New Smyrna Beach, Florida, and amendment of
Certificate Nos. 238-W and 182-S.

EXHIBIT C

FLORIDA PUBLIC SERVICE COMMISSION

INSTRUCTIONS FOR COMPLETING APPLICATION FOR TRANSFER TO GOVERNMENTAL AUTHORITY (Section 367.071, Florida Statutes)

General Information

The attached form has been prepared by the Florida Public Service Commission to aid utilities under its jurisdiction to file information required by Chapter 367, Florida Statutes, and Chapter 25-30, Florida Administrative Code. Any questions regarding this form should be directed to the Division of Regulatory Oversight, Bureau of Certification (850) 413-6480.

Note that, pursuant to Section 367.071(4)(a), Florida Statutes, a governmental authority, prior to taking any official action, shall request from the utility or the Commission the most recent available income and expense statement, balance sheet and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.

Instructions

1. Fill out the attached application form completely and accurately.
2. Complete all the items that apply to your utility. If an item is not applicable, mark it "N.A.". Do not leave any items blank.
3. Notarize the completed application form.
4. Return applicable regulatory assessment fee and form with the application.
5. Return utility's original certificate(s) with the application for transfer.
6. The **original and five copies** of the completed application and attached exhibits; **one copy** of each territory and system map (if applicable); the **original and two copies** of the proposed tariff sheet(s) (if applicable); the appropriate regulatory assessment form(s) and fee(s); and the original certificate(s) should be mailed to:

**Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850**

(THIS PAGE INTENTIONALLY LEFT BLANK)

APPLICATION FOR TRANSFER TO GOVERNMENTAL AUTHORITY

(Pursuant to Section 367.071(4)(a), Florida Statutes)

**TO: Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850**

The undersigned hereby makes application for the approval of the transfer of
(all or part) of the facilities operated under Water Certificate No. 238-W and/or
Wastewater Certificate No. 182-S located in Volusia County, Florida,
and submits the following:

PART I APPLICANT INFORMATION

A) The full name (as it appears on the certificate), address and telephone number of the
seller (utility):

Florida Water Services Corporation
Name of utility

(407) 598-4100 (407) 598-4241
Phone No. Fax No.

1000 Color Place
Office street address

Apopka, FL 32703
City State Zip Code

Mailing address if different from street address

Internet address if applicable

B) The name, address and telephone number of a representative of the utility to contact concerning this application:

Kenneth A. Hoffman, Esq. (850) 681-6788
Name Phone No.

P. O. Box 551
Street address

Tallahassee, FL 32302
City State Zip Code

C) The full name, address and telephone number of the governmental authority:

Utilities Commission, City of New Smyrna Beach
Name of utility

(904) 427-1361 ()
Phone No. Fax No.

200 Canal Street
Office street address

New Smyrna Beach FL 32168
City State Zip Code

Post Office Box 100, New Mmyrna Beach, FL 32170-0100
Mailing address if different from street address

Internet address if applicable

D) The name, address and telephone number of a representative of the governmental authority to contact concerning this application:

Ronald L. Vaden (386) 423-7100
Name Phone No.

P. O. Box 100
Street address

Nw Smyrna Beach, FL 32170-0100
City State Zip Code

PART II FINANCIAL INFORMATION

- A) Exhibit _____ - A copy of the contract pursuant to Rules 25-30.037(4)(c) and (d), Florida Administrative Code. Not applicable.
- B) Exhibit _____ - A statement regarding the disposition of customer deposits and the accumulated interest thereon. See Petition, at ¶7.
- C) Exhibit _____ - A statement regarding the disposition of any outstanding regulatory assessment fees, fines or refunds owed. See Petition, at ¶8.
- D) Exhibit _____ - A statement that the buyer (governmental authority) obtained from the utility or the Commission the utility's most recent available income and expense statement, balance sheet and statement of rate base for regulatory purposes and contributions-in-aid-of-construction. See Petition, at ¶6.
- E) Indicate the date on which the buyer proposes to take official action to acquire the utility:

See Petition, at ¶5

If only a portion of the utility's facilities is being transferred, a revised territory description and map of the utility's remaining territory must be provided, as discussed in PART III, below.

IF THE UTILITY'S ENTIRE FACILITIES ARE BEING TRANSFERRED, PLEASE DISREGARD PART III OF THIS APPLICATION FORM.

PART III CERTIFICATION

A) **TERRITORY DESCRIPTION**

Exhibit N/A - An accurate description of the utility's revised territory. If the water and wastewater territory is different, provide separate descriptions.

Note: Use the Survey of Public Lands method (township, range, section, and quarter section), if possible, or a metes and bounds description. Give the subdivision or project name. The description should NOT refer to land grants or plat books, but may use geographic boundaries (i.e., road right-of-ways, railroads, rivers, creeks, etc). The object is to make the description as brief, but as accurate as possible.

B) **TERRITORY MAPS**

Exhibit N/A - One copy of an official county tax assessment map or other map showing township, range and section with a scale such as 1"=200' or 1"=400' on which the remaining territory is plotted by use of metes and bounds or quarter sections and with a defined reference point of beginning. If the water and wastewater territory is different, provide separate maps.

C) **TARIFF SHEETS**

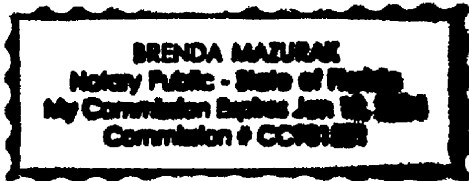
Exhibit N/A - The original and two copies of tariff sheet(s) revised to show correct service territory. Please refer to Rules 25-9.009 and 25-9.010, Florida Administrative Code, regarding page numbering of tariff sheets before preparing the tariff revisions. (Pages 11-12.) Sample tariff sheets are attached. (Pages 13-16.)

PART IV AFFIDAVIT

I Tony Isaacs (applicant) do solemnly swear or affirm that the facts stated in the forgoing application and all exhibits attached thereto are true and correct and that said statements of fact thereto constitutes a complete statement of the matter to which it relates.

BY: *Tony Isaacs*
Applicant's Signature
Tony Isaacs
Applicant's Name (Typed)
Vice President of Customer Services
Applicant's Title *

Subscribed and sworn to before me this 18th day of
April, 2002 by Tony Isaacs who
is personally known to me X or produced identification _____.
(Type of Identification Produced)



Brenda Mazurak
Notary Public's Signature

Print, Type or Stamp Commissioned
Name of Notary Public

* If applicant is a corporation, the affidavit must be made by the president or other officer authorized by the by-laws of the corporation to act for it. If applicant is a partnership or association, a member of the organization authorized to make such affidavit shall execute same.

(THIS PAGE INTENTIONALLY LEFT BLANK)

FLORIDA PUBLIC SERVICE COMMISSION

Certificate Number
238 - W

Upon consideration of the record it is hereby ORDERED
that authority be and is hereby granted to:

FLORIDA WATER SERVICES CORPORATION

Whose principal address is:

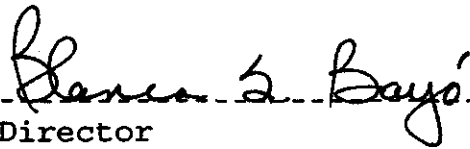
1000 Color Place
Apopka, Florida 32703 (Volusia County)

to provide water service in accordance with the provision
of Chapter 367, Florida Statutes, the Rules, Regulations
and Orders of this Commission in the territory described
by the Orders of this Commission.

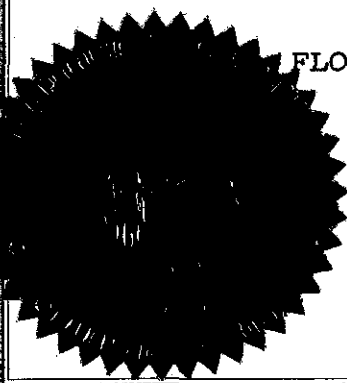
This Certificate shall remain in force and effect until
suspended, cancelled or revoked by Orders of this
Commission.

ORDER	19841	DOCKET	870936-WS
ORDER	20869	DOCKET	880605-WS
ORDER	25575	DOCKET	910662-WS
ORDER	PSC-93-1449-FOF-WS	DOCKET	930153-WS
ORDER	PSC-97-0427-FOF-WS	DOCKET	970028-WS
ORDER	PSC-98-1560-FOF-WS	DOCKET	980750-WS
ORDER	PSC-00-1659-PAA-WU	DOCKET	000334-WU
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	

BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION



Director
Division of Records and Reporting



FLORIDA PUBLIC SERVICE COMMISSION

Certificate Number
182 - S

Upon consideration of the record it is hereby ORDERED
that authority be and is hereby granted to:

FLORIDA WATER SERVICES CORPORATION

Whose principal address is:

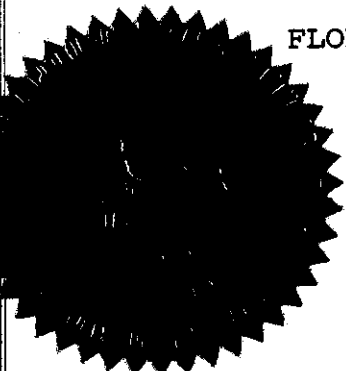
1000 Color Place
Apopka, Florida 32703 (Volusia County)

to provide wastewater service in accordance with the
provision of Chapter 367, Florida Statutes, the Rules,
Regulations and Orders of this Commission in the
territory described by the Orders of this Commission.

This Certificate shall remain in force and effect until
suspended, cancelled or revoked by Orders of this
Commission.

ORDER	19841	DOCKET	870936-WS
ORDER	20869	DOCKET	880605-WS
ORDER	25575	DOCKET	910662-WS
ORDER	PSC-93-1449-FOF-WS	DOCKET	930153-WS
ORDER	PSC-97-0427-FOF-WS	DOCKET	970028-WS
ORDER	PSC-98-1560-FOF-WS	DOCKET	980750-WS
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	

BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION



Blanca S. Bayo
Director
Division of Records and Reporting