

STATE OF FLORIDA

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(850) 413-6199

Public Service Commission

January 9, 2003

CERTIFIED MAIL

Holley Kreher
de-la-Parte & Gilbert
P.O. Box 2350
Tampa, Florida 33601-2350

Re: Docket No. 021256-WU - Application for certificate to provide water service in Volusia and Brevard Counties by Farmton Water Resources, LLC.

Dear Ms. Kreher:

Per our conversation on January 9, 2003, I am writing you regarding your options in objecting to the application filed in the above-referenced docket. You indicated that you may be objecting to Farmton Water Resources' application for original water certificate in Volusia and Brevard Counties.

The Commission needs to know your intent regarding your objection to this application. If you choose to pursue the objection, you may request a formal hearing, which will be scheduled and at which you will be required to provide testimony and other evidence to support your protest. While there is no specific form used to request a hearing, please refer to Rule 28-106.201 of the Uniform Rules of Procedure for the requirements of a formal hearing request. I have attached a copy of the Rule for your convenience.

On the other hand, if you do not wish to pursue a formal hearing, you may submit a letter containing your concerns about Farmton Water Resources' application. This letter will be placed in the correspondence side of the docket file in this case for informational purposes. Staff will also include your concern in its recommendation due for filing on March 6, 2003. Additionally, upon your request, I will send you a copy of staff's recommendation and you may address the Commissioners at the Agenda Conference scheduled for March 18, 2003.

Please advise the Commission by February 7, 2003, if you intend to pursue your objection and wish to request a formal hearing. Your request should be made in writing and should be addressed to Blanca Bayó, Director, Division of Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850. If we do not hear from you by February 7, 2003, we will assume that you do not wish to pursue a formal hearing.

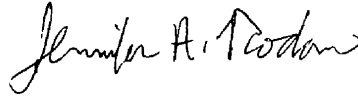
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If you have any further questions, please do not hesitate to contact me at (850) 413-6189.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer A. Rodan".

Jennifer A. Rodan
Office of the General Counsel

JAR/

cc: Division of Commission Clerk and Administrative Services
Division of Economic Regulation (Brady, Rieger, Kaproth)

presiding officer may enter an order requiring that the absent person be notified of the proceeding and be given an opportunity to be joined as a party of record.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS.

History—New 4-1-97.

28-106.110 Service of Papers. Unless the presiding officer otherwise orders, every pleading and every other paper filed in a proceeding, except applications for witness subpoenas, shall be served on each party or the party's representative at the last address of record.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS.

History—New 4-1-97.

28-106.111 Point of Entry into Proceedings and Mediation.

(1) The notice of agency decision shall contain the information required by Section 120.569(1), F.S. The notice shall also advise whether mediation under Section 120.573, F.S., is available as an alternative remedy, and if available, that pursuit of mediation will not adversely affect the right to administrative proceedings in the event mediation does not result in a settlement.

(2) Unless otherwise provided by law, persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing or for mediation with the agency within 21 days of receipt of written notice of the decision.

(3) An agency may, for good cause shown, grant a request for an extension of time for filing an initial pleading. Requests for extension of time must be filed with the agency prior to the applicable deadline. Such requests for extensions of time shall contain a certificate that the moving party has consulted with all other parties, if any, concerning the extension and that the agency and any other parties agree to said extension. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

(4) Any person who receives written notice of an agency decision and who fails to file a written request for a hearing or mediation within 21 days waives the right to request a hearing or mediation on such matters.

(5) The agency may publish, and any person who has timely requested

mediation may, at the person's own expense, cause the agency to publish, a notice of the existence of the mediation proceeding in the Florida Administrative Weekly or in a newspaper of general circulation in the affected area. The mediation notice can be included in the notice of intended agency action.

(a) The notice of the mediation proceeding shall include:

1. A statement that the mediation could result in a settlement adopted by final agency action;

2. A statement that the final action arising from mediation may be different from the intended action set forth in the notice which resulted in a timely request for mediation;

3. A statement that any person whose substantial interests may be affected by the outcome of the mediation shall within 21 days of the notice of mediation proceeding file a request with the agency to participate in the mediation; and

4. An explanation of the procedures for filing such a request.

(b) The notice shall also advise that in the absence of a timely request to participate in the mediation, any person whose substantial interests are or may be affected by the result of the mediation waives any right to participate in the mediation, and that waiver of participation in the mediation is also a waiver of that person's ability to challenge the mediated final agency action pursuant to Chapter 120, F.S.

(6) If mediation does not result in the settlement of the administrative dispute, the agency shall, within 7 days of the conclusion of the mediation, advise all participants in writing of the right to request, within 14 days, an administrative hearing pursuant to Sections 120.569 and 120.57, F.S.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57, 120.573 FS.

History—New 4-1-97.

PART II HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT
28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the

existence of a disputed issue of material fact. Each petition shall be legible and on 8½ by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be doublespaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

(f) A demand for relief.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

(4) A petition may be dismissed if it is not in substantial compliance with subsection (2) of this rule or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured.

(5) The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS.