

State of Florida



Public Service Commission

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COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: April 21, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Rieger) *SDR P.O. [Signature]*
Office of the General Counsel (Jaeger) *[Signature]*

RE: Docket No. 030644-SU – Emergency application for amendment of Certificate No. 422-S to extend wastewater service area to Seagull Townhouses in Gulf County, by ESAD Enterprises, Inc. d/b/a Beaches Sewer System.

AGENDA: 05/03/04 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\030644.RCM

Case Background

ESAD Enterprises, Inc. d/b/a Beaches Sewer System (Beaches or utility) is a Class C utility serving approximately 256 wastewater customers in Gulf County. Water service is provided by the City of Mexico Beach. The Northwest Florida Water Management District (NFWMD) does not consider this area a water resource caution area.

Pursuant to Order No. 17638, issued June 2, 1987, in Docket No. 861336-SU, In Re: Application of Gulf Aire Properties, Inc. d/b/a Gulf Aire Wastewater Treatment Plant for sewer certificate in Gulf County, under grandfather rights, the utility was granted Certificate No. 422-S for its wastewater system. The certificate was amended pursuant to Order No. 19621, issued July 7, 1988, in Docket No. 880621-SU, In Re: Application of Gulf Aire Wastewater Treatment Plant for amendment of Certificate No. 422-S in Gulf County. It was amended a second time pursuant to Order No. 25275, issued October 30, 1991, in Docket No. 910660-SU, In Re: Application for amendment of Certificate No. 422-S for deletion and addition of territory in Gulf County by Gulf Aire Wastewater Treatment Plant (Gulf Aire Properties, Inc.), to correct, add, and delete territory. The certificate was transferred from Gulf Aire Properties d/b/a Gulf Aire

DOCUMENT NUMBER-DATE

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Wastewater Treatment Plant to the present ownership pursuant to Order No. PSC-02-1299-PAA-SU, issued September 23, 2002, in Docket No. 011379-SU, In Re: Application for transfer of Certificate No. 422-S in Gulf County from Gulf Aire Properties d/b/a Gulf Aire Wastewater Treatment Plant to ESAD Enterprises, Inc. d/b/a Beaches Sewer System. The utility's 2002 annual report shows total operating revenue of \$110,251 and a net operating income of \$11,337.

On July 18, 2003, the utility filed an emergency service application with the Commission indicating that it intended to connect with Seagull Townhouses (Seagull). Seagull is an existing residential area with a hydraulically overloaded onsite sewage treatment and disposal system. It is located outside the utility's certificated territory. The connection was made on July 18, 2003. Prior to that time, the utility contacted staff to inform the Commission of the situation and that a sanitary nuisance existed. The utility indicated that the Gulf County Health Department made a request for the utility to offer to connect Seagull, and that it would respond to that request because of the nature of the emergency.

On August 25, 2003, Order No. PSC-03-0963-PCO-SU, was issued in this current docket, acknowledging the utility's emergency service application and authorizing it to provide wastewater service to Seagull. The above mentioned order allowed the utility to charge Seagull the appropriate rates and charges as set forth in its tariff, and required it to file an application for a quick-take amendment of its certificate to include Seagull in its territory. Pursuant to Section 367.045, Florida Statutes, and Rule 25-30.036(2), Florida Administrative Code, the utility filed the follow up application for the quick-take amendment of certificate on August 22, 2003. A request for a quick-take amendment allows for service territory expansion and amendment of an existing certificate when it is demonstrated that utility service is necessary for an emergency situation.

The purpose of this recommendation is to address the utility's application to amend its certificate to include Seagull. The Commission has jurisdiction to consider this matter pursuant to Section 367.045, Florida Statutes.

Discussion of Issues

Issue 1: Is ESAD Enterprises, Inc. d/b/a Beaches Sewer System's quick-take application for amendment to expand its territory as described in Attachment A in the public interest and should it be granted?

Recommendation: Yes. The utility's quick-take application for amendment to expand its territory as described in Attachment A is in the public interest and should be granted. (Rieger)

Staff Analysis: On July 18, 2003, the utility filed an emergency service application with the Commission, stating that it intended to provide an emergency connection with Seagull. The utility indicated that this was an emergency situation, and that it was in the public's best interest to connect. The utility also noted that there are no other utilities that are available to connect and that no one was expected to object to the utility providing service to Seagull. Pursuant to Section 367.045, Florida Statutes, and Rule 25-30.036(2), Florida Administrative Code, the Commission received an initial application for a quick-take amendment of certificate on July 28, 2003. A follow up application was received on August 22, 2003. All deficiencies to the application were fulfilled on April 13, 2004.

Located approximately three hundred feet outside the utility's service area, Seagull is an existing residential area composed of thirteen townhouses with one vacant lot. It has an hydraulically overloaded onsite sewage treatment and disposal system. According to a July 15, 2003, letter to the utility from the Gulf County Health Department (Health Department) (see Attachment B), Seagull was in violation of Chapter 381, Florida Statutes, which pertains to sanitary nuisance. Because of the situation, the Health Department requested that the utility offer to connect Seagull. The connection was made on July 18, 2003. Staff has verified with the Health Department that the interconnection was made and that the sanitary nuisance has been properly eliminated as a result of the connection to the utility.

The utility's application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning applications for amendment of certificate. The application contained a check in the amount of \$100 which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The application contained proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. The Commission received no objections and the time for filing has passed.

Pursuant to Rule 25-30.036(2)(a) and (b), Florida Administrative Code, the applicant provided a statement that the new territory will not exceed twenty-five ERCs, there are no other utilities in the area of the proposed territory that are willing and capable of providing reasonably adequate service to the new territory, and service is not otherwise available. Pursuant to Rule 25-30.036(3)(d), Florida Administrative Code, the utility also submitted evidence that it owns the land upon which the facilities are located. In addition, an adequate service territory description, appended to this recommendation as Attachment A, territory map, and customer description have been provided as prescribed by Rule 25-30.036(3)(e), (i), and (m), Florida Administrative Code. Pursuant to Rule 25-30.036(3)(o), (p), (q), and (r), Florida Administrative Code, the utility submitted revised tariff sheets reflecting the amended area, provided its certificate for entry reflecting the corrected territory, reflected the most recent Commission order

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establishing rates, and provided an affidavit that it has tariffs and annual reports on file with the Commission.

Based on the above information, staff recommends that Beaches' application to amend its territory, as described in Attachment A, is in the public interest and should be granted. The utility should charge the customers in the territory added herein the monthly service rates contained in its current tariff until authorized to change by the Commission.

Issue 2: Should this docket be closed?

Recommendation: Yes. If staff's recommendation in Issue 1 is approved, no further action is required and the docket should be closed (Jaeger, Rieger)

Staff Analysis: It is staff's recommendation that if issue 1 is approved, no further action is required, and the docket should be closed.

ESAD ENTERPRISES, INC. d/b/a BEACHES SEWER SYSTEM
LEGAL DESCRIPTION OF EXTENSION AREA
SEAGULL TOWNHOUSES

A portion of Section 5, Township 7 South, Range 11 West, Gulf County, Florida. Being more particularly described as follows:

Commence at the West corner of Lot 6, Block 17 of Yon's addition to Beacon Hill as recorded in Plat Book 1, Page 45 of the public records of Gulf County, Florida; thence along the Northeasterly right of way of US Highway 98 (State Road 30), N 39°20'45" W, 580.00 feet; thence S 50°39'15" W, 100 feet to a point on the Southwesterly right of way of US Highway 98 and the POINT OF BEGINNING; thence along the Southwesterly right of way line of said US Highway 98, N 39°20'45" W, 240 feet; thence leaving said right of way line, S 50°39'15" W, 222 feet, more or less to the mean high water line of the Gulf of Mexico; thence along said mean high water line, S 39°20'45" E, 240 feet, more or less to a point on a line that bears S 50°39'15" W of the POINT OF BEGINNING; thence N 50°39'15" E, 222 feet, more or less to the POINT OF BEGINNING.



Jeb Bush
Governor

John Agwanobi, M.D.
Secretary

July 15, 2003

Mr. Frank Seifert
Beaches Sewerage Treatment Facility
P.O. Box 602
Port St. Joe, FL 32456

Dear Mr. Seifert,

Seagull Townhouses, located at 8071 Highway 98, St. Joe Beach, are presently in violation of Florida Statute (FS) Chapter 381, which pertains to sanitary nuisance. The onsite sewage treatment and disposal system (OSTDS) presently serving the facility is hydraulically overloaded and is allowing sewage to seep onto the ground surface. Stopgap measures are currently being performed, including regular pumping of the septic tanks. However, it is imperative that a permanent solution be found quickly. It appears that only two alternatives are left to the homeowners, an expensive repair of the OSTDS or connection to available sewerage system.

Due to the existence of a sanitary nuisance, it is requested that every consideration be offered to the homeowners of Seagull Townhouses to connect to your treatment facility. This is, of course, prefaced by the capacity of your system being available. Abatement of the nuisance is the primary concern of this department and must be corrected as soon as possible.

If you have any questions concerning this letter or the sewage flow produced by the townhouses, please contact this office at (850) 227-1276, ext. 125. Please notify this office with your decision.

Sincerely,

A handwritten signature in cursive script that reads "David M. Fuze".

David M. Fuze
Environmental Specialist II / Coordinator

cc: Jean Arnold
Douglas M. Kent

GULF COUNTY HEALTH DEPARTMENT

2475 Garrison Avenue, Port St. Joe, FL 32456 • (850)227-1276 • Fax (850)227-1766
P.O. Box 686, 232 East Lake Avenue, Wewahatchka, FL 32465 • (850)639-2644 • Dental (850)639-4414 • Fax (850)639-5934