BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption From Florida Public Service Commission Regulation For Provision of Water Service by Desoto Lanes/Desoto Ford.) DOCKET NO. 950883-WU) ORDER NO. PSC-95-1181-FOF-WU) ISSUED: September 20, 1995

ORDER INDICATING NONJURISDICTIONAL STATUS OF DESOTO LANES/DESOTO FORD AND CLOSING DOCKET

BY THE COMMISSION:

On July 26, 1995, Desoto Lanes and Desoto Ford (Desoto Lanes/Desoto Ford) filed a joint application with this Commission for recognition of the nonjurisdictional status of their system, pursuant to Section 367.021(12), Florida Statutes. Desoto Lanes is a bowling alley. Desoto Ford is a car dealership located adjacent to Desoto Lanes. Both businesses are located on State Road 70, approximately 1.25 miles east of State Road 31 outside of Arcadia, Florida. Mr. Mick Vorbeck and Mr. Mark Schlundt, filed the application on behalf of Desoto Lanes/Desoto Ford. The primary Contact person is Mr. Mick Vorbeck, Post Office Box 270, Ellenton, Florida 34222.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.021(12), Florida Statutes, which states that a "utility means a water or wastewater utility and except as provided in Section 367.022, includes every person, lessee, trustee, or receiver owning, operating, managing or controlling a system, or proposing construction of a system, who is providing or proposes to provide water or wastewater service to the public for compensation."

According to Desoto Lanes/Desoto Ford's application, the water system, which will be located on Desoto Lanes' property, is currently under construction. Desoto Lanes and Desoto Ford have entered into a "Well License Agreement" wherein both share equally in the cost of construction and upkeep of the well. Water service will be provided only to the bowling alley and car dealership located on State Road 70, 1.25 miles east of State Road 31 outside of Arcadia, Florida, there will be no charge for providing the service, and all costs of providing service will be treated or recovered as operational expenses. Wastewater service is provided by septic tank.

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

Based on the facts as represented, we find that Desoto Lanes/Desoto Ford is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. Accordingly, Desoto Lanes/Desoto Ford is not subject to this Commission's jurisdiction. However, should there be any change in circumstances or method of operation, the owners of Desoto Lanes/Desoto Ford or any successors in interest, must inform the Commission within 30 days of such change so that its nonjurisdictional status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Desoto Lanes/Desoto Ford, Post Office Box 270, Ellenton, Florida 34222, is not a water utility subject to this Commission's jurisdiction, pursuant to the provisions of Section 367.021(12), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owners of Desoto Lanes/Desoto Ford or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate its nonjurisdictional status. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 20th day of September, 1995.

BLANCA S. BAYÓ, Director Division of Records and Reporting

Chief, Hureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.