

Commissioners:
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DIVISION OF LEGAL SERVICES
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Public Service Commission

May 12, 1999

David B. Erwin, Esquire
127 Riversink Road
Crawfordville, Florida 32327

990000

RE: Gulf Aire Wastewater Treatment Facility's April 21, 1999 Request for Assistance

Dear Mr. Erwin:

Your letter dated April 21, 1999 has been forwarded from Chairman Garcia's Office to the Legal Division in order to provide you an informal legal opinion in the above-referenced matter. You have requested assistance from the Florida Public Service Commission in dealing with the Gulf County Commission's amendment of its comprehensive plan which increased the number of gallons per day that would constitute adequate capacity for wastewater treatment plant services in Gulf County. Your letter indicates that you believe such an amendment infringes upon the Commission's jurisdiction.

It is the Commission staff's informal opinion that the Commission does not have jurisdiction over the situation you describe. The Florida Department of Environmental Protection (FDEP) determines the level of treatment capacity of a given wastewater treatment plant. The Commission merely evaluates capacity in its determination to grant or deny territory in which the utility requests to serve. Chapter 367, Florida Statutes, does not grant the Commission authority with respect to the County's permitting and comprehensive plan process. Therefore, the Commission's jurisdiction is neither affected by these amendments to the County's comprehensive plan nor by its suggestion that the above-referenced utility does not have adequate of capacity to serve. Please be advised that staff's opinion is not binding on the Commission.

- AFA _____
- APP _____
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- LEG _____
- MAS _____
- OPC _____
- RRR _____
- SEC _____
- WAW _____
- OTH _____

Staff suggests that you may wish to address this matter in the circuit court of Gulf County and call a member of FDEP to act as your witness. If you have further questions, please do not hesitate to call me at (850) 413-6181.

Sincerely,

Tim Vaccaro
Senior Attorney

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06065 MAY 12 99
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