

Ruth Nettles

From: Samuel Gilbert [samuelgilbert@yahoo.com]
Sent: Friday, May 15, 2009 2:16 PM
To: Filings@psc.state.fl.us
Cc: marsha@reuphlaw.com; Anna Williams; reilly.steve@leg.state.fl.us
Subject: Docket No. 090189-SU
Attachments: Objection and Petition for Formal Hearing.pdf

See attached file: Objection and Petition for Formal Hearing - Docket No. 090189-SU

*Dme
5/21/09
RJN:*

5/15/2009

DOCUMENT NUMBER-DATE

04751 MAY 15 8

FPSC-COMMISSION CLERK

Electronic Filing

a. Person responsible for this electronic filing:

Walter J. Armistead
224 Franklin Boulevard
St. George Island, Florida 32328
850-927-2282

b. Docket No. 090189-SU

In re: Application for Original Certificate for a Proposed Wastewater System and Request for Bifurcation by Water Management Services, Inc.

c. Document being filed on behalf of Walter J. Armistead.

d. There are a total of ten pages.

e. The document attached for electronic filing: **Objection and Petition for Formal Hearing**

Thank you for your attention and cooperation to this request.

DOCUMENT NUMBER-DATE

04751 MAY 15 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Original
Certificate for a Proposed Wastewater
System and Request for Bifurcation by
Water Management Services, Inc.

Docket No. 090189-SU

Filed: May 15, 2009

OBJECTION AND PETITION FOR FORMAL HEARING

I, Walter J. Armistead, ("Petitioner") hereby object to the application by Water Management Services Inc. ("Water Management") for an original Certificate for a wastewater system to serve the central business district located on St. George Island, Florida, and I request a formal evidentiary hearing on this matter, and allege the following:

1. The name and address of the agency affected and the agency's file number:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Docket No. 090189-SU

2. The name, address and telephone number of the Petitioner:

Walter J. Armistead
224 Franklin Boulevard
St. George Island, Florida 32328
850-927-2282

3. An explanation of how the Petitioner's substantial interests will be affected by the application:

The Petitioner is one of the principal owners and spokesperson for 100% of the ownership of the following businesses and properties located in the proposed initial service territory that lies between Third Street east and Third Street west on St. George Island, Florida:

DOCUMENT NUMBER-DATE

04751 MAY 15 09

FPSC-COMMISSION CLERK

Armistead Properties

Mini Convenience Store (includes only gas station on the Island)

244 Franklin Boulevard

Unit 1-W, Lots 10, 11, 12

29-09S-06W-7311-001W-0100

Buccaneer Realty, LTD (Vacant between Mini & Offices)

232 Franklin Boulevard

Unit 1-W, Lot 13

29-09S-06W-7311-001W-0130

St. George Island Trailer Park (offices of Suncoast Realty)

220, 224, 222, 220 Franklin Boulevard

Unit 1-W, Block 1, Lots 14, 15, 16, 17 & 10' of lot 18

29-09S-06W-7311-001W-0140

29-09S-06W-7311-001W-0150

29-09S-06W-7311-001W-0160

The Veronica Armistead Family Trust (Vacant Block)

25 East Pine/Franklin Boulevard

Unit 1-E, Block 1, Lots 10-21

29-09S-06W-001E-0100

Buccaneer Inn of St. George, Inc. (sole beach front motel)

172 W Gorrie Drive

Unit 1-W, Block 10, Lots 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33

29-09S-06W-7311-010W-0170

Buccaneer Inn of St. George, Inc. (Parking/Sewer)

163 W Gorrie Drive

Unit 1-W, Block 8, Lots 1, 2, 3, 4, 5

29-09S-06W-7311-008W-0010

Island Car Wash, Inc.

143 W Gorrie Drive

Unit 1-W, Block 1B, Lot 6

29-09S-06W-7311-008W-0060

Walter J. Armistead

& Joann A. Shiver as Trustees of The Veronica Armistead Family Trust.

(Castaway/Retail Space)

139, 135, 131, 127 W Gorrie Drive

Unit 1-W, Block 8, Lots 7, 8, 9, 10

29-09S-06W-7311-008W-0070

29-09S-06W-7311-008W-0080

29-09S-06W-7311-008W-0090

29-09S-06W-7311-008W-0100

See location of properties on map attached as Exhibit "A".

The substantial interests of the Petitioner will be affected because if the Commission approves the application the method and cost of providing wastewater services to the above businesses and properties will materially change. If the application is approved, the above businesses and properties will ultimately be required to make substantial payments to Water Management for service availability charges upon connecting to the system, to help defray the capital costs to construct both the proposed treatment facilities and collection system. While there is insufficient information provided in the application to quantify estimated operating costs, it seems likely that those costs will increase for each of the above businesses and properties if the application is approved.

4. A statement of when and how the Petitioner received notice of the application:
The Petitioner received notice by mail shortly after April 15, 2009.

5. A concise statement of the ultimate facts alleged including specific facts that the Petitioner contends warrant denial of the application:

- a. In its application Water Management alleges that:

"The need for a targeted wastewater treatment system on St. George Island has been recognized for many years, but has now become critical. In recent years, the adjacent waters have been closed numerous times due to high bacteria counts."

If the term "targeted" means "central," the application has provided no documentation that the need for a central wastewater system for St. George Island has been required or even recommended by any governmental agency responsible for the water quality of the state. The application does not identify who has recognized the need for many years to establish a central wastewater system for any portion of this barrier island. While there have been occasional closures of the bay because of high bacteria counts, the application provides no documentation that those closures have anything to do with the several recent

failures of certain businesses to meet effluent quality and disposal standards. Also, while there have been a number of beach advisories there have been no beach closures as a result of high bacteria counts.

b. The application provides no documented evidence that establishing a central wastewater system for the business district of St. George Island will have any effect on the beach advisories that have occurred at the four different sampling stations located on the island. In short, the beach advisory problem *needs to be carefully studied and understood* before a multi-million dollar solution is constructed to solve it.

c. Introducing a central sewer system to this fragile barrier island eliminates probably the single greatest obstacle to higher and denser development for St. George Island. It would be ironic and unfortunate if introducing central sewer to the island would have little or no affect on the beach advisories, but ultimately unleash financial forces that would lobby for and achieve higher and denser development on the island, with all of the attending negative environmental impacts, including stormwater run-off, upon the waters surrounding the island.

d. Transporting raw sewage under pressure greater distances through pipes laid throughout the business district to a single treatment facility probably presents more opportunities for wastewater contamination of the waters under and around the island, rather than transporting fully treated wastewater effluent to disposal facilities located relatively close to the treatment facilities serving each business.

e. The failure of a few businesses on St. George Island to meet effluent quality and disposal standards does not constitute the "critical" emergency alleged by Water Management, which requires all of the other businesses on St. George Island to abandon their properly working systems in favor of a central sewer system.

f. Each of the businesses that have had compliance problems can resolve their problems after making modifications to their systems. Most of the businesses having compliance problems listed in the application have already begun that process.

g. This docket presents one of the most important policy questions that will face St. George Island and the waters around it for many years. Should a certificate be granted to Water Management to provide central wastewater service to the center of the Island? Approving this exclusive certificate to provide a central wastewater system will forever preclude implementing other potentially superior alternative wastewater treatment and disposal solutions that are available for the proposed initial service territory between Third Street east and Third Street west. The Commission should not find that it is in the public interest to grant Water Management's application, if the preponderance of the evidence presented at the requested formal hearing establishes that there are one or more superior (environmentally, financially, both capital and operating costs and even esthetically) wastewater treatment and disposal solutions readily available for St. George Island.

h. One alternative solution that needs to be considered by the Commission before approving an exclusive certificate to establish a central sewer system on St. George Island is the establishment of a greenway to receive and dispose of aerobically treated wastewater effluent. The "T" shaped greenway could be established on the County owned right-of-way beginning at the foot of the bridge and extending east and west on Gulf Beach Drive. The greenway comprised of palm trees, bushes and other native vegetation would not only provide land to dispose of treated wastewater effluent, but also provide attractive landscaping to compliment the lighthouse park, beautify the business district (helping to attract customers to shop and eat in the district) and provide a more shaded, attractive and usable bike and roller blade path along Gulf Beach Drive. An authority could be created (publically or cooperatively owned) that could build and operate the improvements to create the greenway. Each

business in the district would continue to be responsible for treating their own wastewater, and the collection and disposal lines would be engineered to assure that the treated effluent produced by each business met certain standards before it could be received by the disposal greenway. Such a solution would not only help resolve current problems of some businesses in the district to meet compliance standards for wastewater treatment and disposal, but it would also free up valuable land currently devoted to effluent disposal, while also making the greenspace in the business district more attractive and usable.

i. The application fails to establish that Water Management has the financial and technical capabilities to construct and operate the proposed central wastewater system.

j. The application fails to provide detailed information concerning the number of Equivalent Residential Connections, (ERC's) proposed to be served, by meter size and customer class.

k. The application fails to provide evidence in the form of a warranty deed, that the utility owns the land upon which the utility treatment facilities are or will be located, or a copy of an agreement which provides for the continued use of the land, such as a 99-year lease. Providing a one page letter granting an option to purchase a tract of land for a yet to be agreed price, which will expire on November 13, 2009, does not constitute adequate assurance of the availability or cost of the land needed to accommodate wastewater treatment facilities.

l. The application fails to provide detailed information concerning exactly what wastewater treatment and collection facilities are proposed to be built and exactly where these facilities will be located, so that the costs of construction can be verified. More detailed information concerning exactly what will be built together with more detailed information furnished about who will be served

(paragraph j) will help the Petitioner and other affected parties to better estimate the operating costs of the proposed system.

m. The application fails to provide detailed information concerning the separate capacities of the proposed wastewater lines and treatment facilities in terms of ERC's and gallons per day.

n. The application fails to provide detailed information concerning Water Management's efforts to secure financing to construct the proposed facilities, including requirements that potential customers be required to connect to the system within one year of it being made available.

o. The application fails to provide any indication of what service available charges or rates or the other charges will be imposed upon the customers if the Commission grants Water Management an exclusive monopoly to provide wastewater service to this initial service territory. There is no way the Petitioner or any other person or business in the proposed initial service territory can determine if this application is in our interest or in the general public interest until we discover what it will cost to connect to the proposed system and what it will cost to treat and dispose of our wastewater.

p. The application fails to provide a cost study, including customer growth projections, supporting proposed rates, charges and service availability charges, which as discussed above are not even disclosed.

q. The application fails to provide information showing the projected operating expenses of the proposed system when 80% of the designed capacity of the system is being utilized.

r. The application discloses that Water Management intends to provide no equity to the proposed project, but intends to finance the entire project with debt, supported by Contributions-In-Aid-Of-Construction (CIAC) for up to 75% of the project's cost. All of the CIAC shall be collected from the customers who will be required to use this central wastewater system once it is built. The

application fails to provide a schedule showing the method of financing the operation of the central system until the utility reaches 80 percent of the design capacity of the system.

s. Each of the forgoing allegations involve disputed issues of material fact.

6. A statement of the specific rules or statutes the Petitioner contends require denial or modification of the application:

The application should be denied because of Commission Rule 25-30.033 (1),(h), (j),(k),(m),(o),(s),(t),(u),(v), and (w), Florida Administrative Code, and Section 367.045, Florida Statutes.

WHEREFORE, for the reasons stated above, the Petitioner objects to the above application and requests the Commission to conduct a formal evidentiary hearing, pursuant to the provisions of Section 120.57 (1), Florida Statutes, and further petitions that such hearing be scheduled at a convenient time within or as close as practical to the initial service territory of the proposed wastewater system.

Respectfully submitted,



Walter J. Armistead

CERTIFICATE OF SERVICE
DOCKET NO. 090189-SU

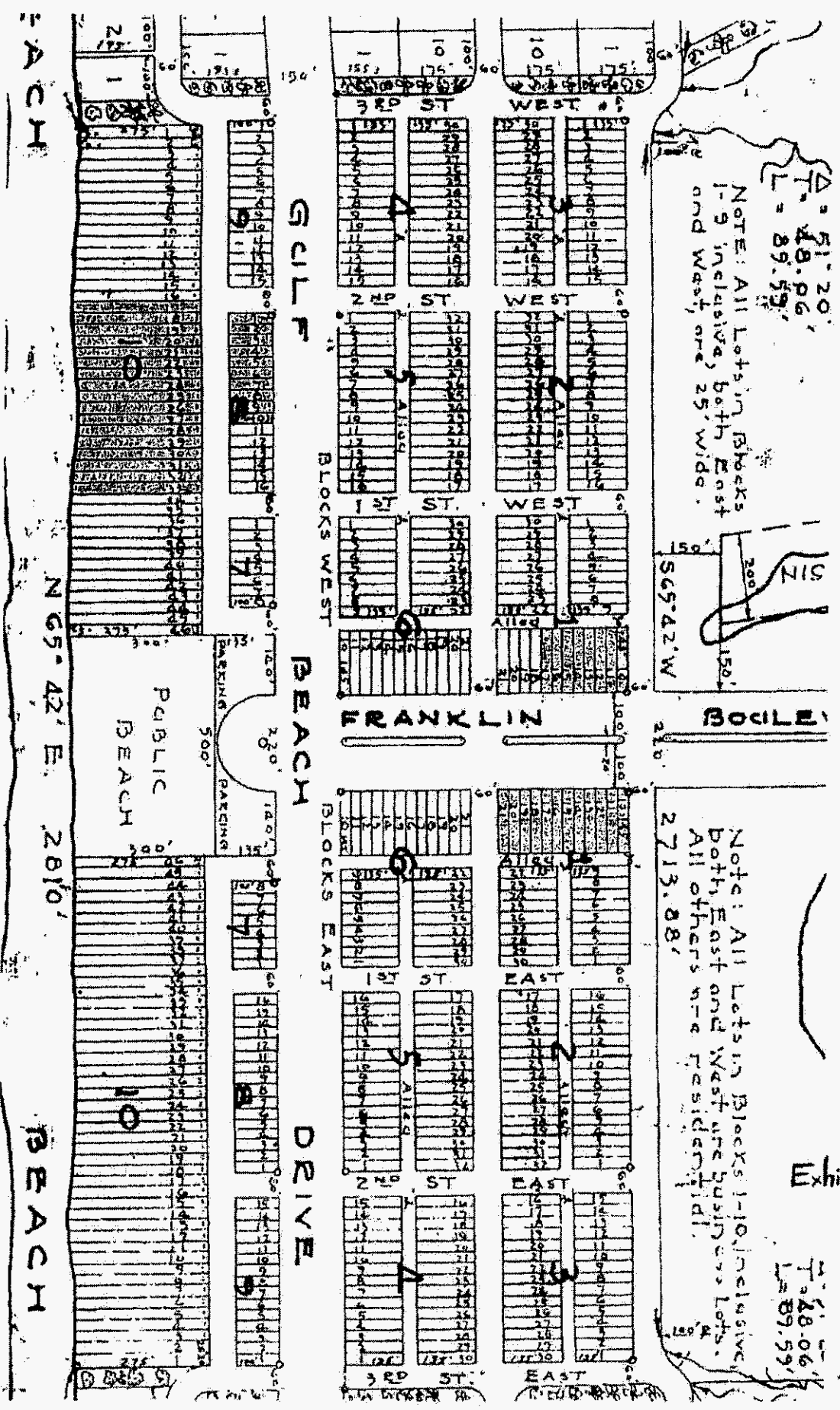
I HEREBY CERTIFY that this petition was electronically filed with the Florida Public Service Commission, Director, Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850 this 15th day of May, 2009, and true and correct copies of the above and foregoing have been furnished by U. S. mail and electronic mail this 15th day of May, 2009 to the following:

Marsha E. Rule, Esq.
Rutledge, Ecenia & Purnell, P.A.
119 South Monroe Street, Suite 202
Tallahassee, FL 32303

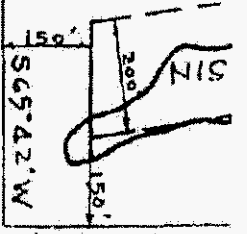
Ana Williams, Esq.
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Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Stephen C. Reilly, Esq.
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400


Walter J. Armistead



T = 51° 20'
 L = 89.96'
 L = 89.59'
 NOTE: All Lots in Blocks 1-9 inclusive, both East and West, are 25' wide.



NOTE: All Lots in Blocks 1-10 inclusive, both East and West are 25' wide. All others are Residential.
 2713.88'
 T = 48.06'
 L = 89.59'

Exhibit 'A'