

REQUEST TO ESTABLISH DOCKET  
(PLEASE TYPE)

Date April 28, 1998

Docket No. 980586-WS

1. Division Name/Staff Name Division of Legal Services (J. Brubaker) *JB JJ*

2. OPR Division of Legal Services (J. Brubaker)

3. OCR Division of Water and Wastewater (B. Messer, J. Chase)

4. Suggested Docket Title Initiation of Show Cause Proceeding Against Tropical Mobile Home Park in Polk County for Violation of Section 367.171, Florida Statutes, and Rule

25-30.035, Florida Administrative Code, Application For Grandfather Certificate

5. Suggested Docket Mailing List (attach separate sheet if necessary)

- A. Provide NAMES ONLY for regulated companies or ACRONYMS ONLY regulated industries, as shown in Rule 25-22.104, F.A.C.
- B. Provide COMPLETE name and address for all others. (Match representatives to clients.)

1. Parties and their representatives (if any)

Tropical Mobile Home Park (WS806)

Mr. Don Gugel (owner and representative of the utility)

118 Village Road

Winter Haven, FL 33880-6144

2. Interested Persons and their representatives (if any)


6. Check one:

Documentation is attached.

Documentation will be provided with the recommendation.

Commissioners:  
JULIA L. JOHNSON, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
DIANE K. KIESLING  
JOE GARCIA



*Billie*  
DIVISION OF WATER &  
WASTEWATER  
CHARLES HILL  
DIRECTOR  
(850) 413-6900

## Public Service Commission

December 22, 1997

CERTIFIED MAIL NO. P406090941

Mr. Don Gugel  
118 Village Road  
Winter Haven, FL 33880

Dear Mr. Gugel:

On August 15, 1996, Travis Coker, a former Commission staff member, met with you to discuss the jurisdictional status of your utility. At that time he reviewed the filing requirements for a grandfather certificate application pursuant to Rule 25-30.035, Florida Administrative Code. In October 1997, another staff member, Billie Messer, inquired about the status of the filing and again advised you that a certificate application must be filed. After volunteering to contact your attorney directly on this matter, you requested the opportunity to first make this contact. To date the Commission has not received your application.

This is to inform you that if the Commission does not receive your certificate application by January 16, 1998, staff will seek authority to initiate enforcement proceedings against your utility, requiring it to show cause why substantial fines should not be assessed for operating in violation of this Commission's certification requirements.


Additionally, staff has been informed that you refused to provide service to Valentin Barajas, who is attempting to lease a commercial establishment on Riflerange Road from Daniel Carmichael. Staff understands that the utility has provided water and wastewater service to a different customer at this location in the past; therefore, a service connection already exists at this location.

Mr. Don Gugel  
December 22, 1997  
Page 2

Pursuant to Commission Rules, it is the responsibility of the utility to provide service to applicants within its territory. Therefore, Should Mr. Barajas still desire service, staff is requesting that you provide him service by January 2, 1998. Should you fail to comply with this deadline, staff will seek authority to initiate enforcement proceedings against your utility, including fines of up to \$5,000 per day, for violation of Commission Rules, pursuant to Section 367.161, Florida Statutes.

Should you have any questions about these matters, please contact Richard Redemann at (850)413-6999, or Billie Messer at (850)413-6990.

Sincerely,

  
John D. Williams  
Bureau Chief

JDW/NB

cc: Division of Legal Services (Jaber, Gervasi)  
Division of Water and Wastewater (Hill, Messer, Bethea,  
Redemann)

Ms. Billie Messer  
Public Service Commission  
Division of Water & Wastewater  
Capitol Circle Office Center  
2540 Shnard Oak Blvd.  
Tallahassee, Fl 32399-0850

**RECEIVED**  
**JAN 16 1998**

Florida Public Service Commission  
Division of Water and Wastewater

January 13, 1998

Dear Ms. Messer,

Please find enclosed copy of letter to the County referring to the same ongoing problems.

The County has allowed expansion on this same property which we are denying and now will not give me a permit for the waste system, which then cause me to have a denied park permit.

I purchased a mobile home park for a living and now cannot fully expand my business. I am liscensed for 46 trailers and only have 42 due to the overload placed on me of Carmicheals business and a Mexican Restaurant, which have been allowed since I have been the owner. This property only had a Mexican Grocery at the time of my purchase, which was only open during winter.

Mr. Carmicheal has a full line of cooked food and is the largest user of the water and sewer. The former Mexican Grocery did not use 5000 gals per month.

The water connection denied is on the same property and has not been connected in over ten years.

Mr. Carmicheal and the Mexican Restaurant are just as financial able as my business to put in a septic system.

Mr. Coker had agreeded with this situation, and had veiwed the property.

We would like to know why a few homeowners, cannot be put on Wahneta Water, which runs directly across the street from their homes, and has agreeded to take them.

The County is saying one thing and you are trying to force another. We have always tryed to do what was needed however, at 25,000 a year the funds simply are not here, plus the lost revenue from the trailers I cannot put on my own property.

I have spoken to legal counsel and engieers and they agree that the park and the water are two seperate entities, and this is harming me financially.

I have paid engineers to inspect the system, which they state is adequate for my park.

Obviously, we cannot comply with both agencies. We additionally, have had no support in collecting monies due and increases in rates and have interference by incorrect persons at your agency.

It is time for the correct thing to be done on this system by your agency and the County, and realize that I cannot support other business's and home's.

We will be contacting our engineer and attorney for further advice.

Sincerely,

  
Donald Gugel

Donald Gugel  
118 Village Rd.  
Winter Haven, Fl  
33880

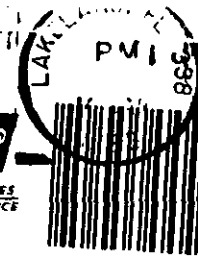
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**MAIL**



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USE ZIP CODE  
LAKELAND, FL 33880  
U.S. POSTAGE PAID  
WINTER HAVEN, FL 33880  
JAN 14 '98  
AMOUNT  
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Ms. Billie Messer  
Public Service Commission  
Division of Water & Wastewater  
Capitol Circle Office Center  
2540 Shumard Oak Blvd.  
Tallahassee, Fl 32399-0850

**RETURN RECEIPT  
REQUESTED**

**State of Florida**

**Commissioners:**  
JULIA L. JOHNSON, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.



**DIVISION OF WATER &  
WASTEWATER  
CHARLES HILL  
DIRECTOR  
(850) 413-6900**

**Public Service Commission**

**February 12, 1998**

**Mr. Don Gugel  
Tropical Mobile Home Park  
118 Village Road  
Winter Haven, FL 33880**

**Re: Grandfather Certificate**

**Dear Mr. Gugel:**

The purpose of this letter is to instruct you of the necessity for your completion and submission to the Commission of the grandfather certificate application received by you on January 12, 1998. I understand that the Park's jurisdictional status was unclear for a period of time after the Commission received jurisdiction in Polk County in 1996. However, a site visit in August 1997 clarified that Tropical Mobile Home Park should file for a grandfather certificate. A phone conversation in October 1997 further discussed the necessity for this application. In December 1997, you received a certified receipt letter, stating that the staff would seek enforcement action if an application was not received by January 16, 1998. The application was not sent. The staff contacted you again in February 1998, by phone, to verify your understanding of the importance of your filing the application.

Please be advised that the Commission has the authority to require utilities to file for an original certificate instead of a grandfather certificate, where a utility has not registered with the Commission within 30 days of the transfer of jurisdiction by the county. The filing requirements are much more rigorous under the original certificate parameters, than those for a grandfather certificate. In addition, the Commission may issue a show cause action due to the delay in the utility's response. Section 367.161, Florida Statutes, authorizes the Commission to fine utilities up to \$5,000 per day for such offenses.

Mr. Don Gugal  
February 12, 1998  
page 2

I strongly suggest that you focus your efforts on completing the grandfather certificate application. My staff will help answer any questions you might have to assist in this matter. The application should be filed with the Commission by March 6, 1998, or the staff will file a recommendation for the April 7, 1998 Agenda Conference, suggesting the actions discussed above.

Please govern yourself accordingly.

Sincerely,

  
John D. Williams  
Bureau Chief

cc: Division of Water and Wastewater (Messer, Redemann)  
Division of Legal Services (Gervasi)



State of Florida

Commissioners:  
SUSAN F. CLARK, CHAIRMAN  
J. TERRY DEASON  
JULIA L. JOHNSON  
DIANE K. KIESLING  
JOE GARCIA



DIVISION OF WATER &  
WASTEWATER  
CHARLES HILL  
DIRECTOR  
(904) 413-6900

## Public Service Commission

January 6, 1998

VIA CERTIFICATE MAIL  
NO. P 406 090 942

Mr. Don Gugel  
118 Village Road  
Winter Haven, FL 33880

Re: Application for Grandfather Water and Wastewater  
Certificates for Tropical Mobile Home Park in Polk  
County, Florida.

Dear Mr. Gugel:

Enclosed with this letter is an application package for a grandfather certificate to operate a water and/or wastewater utility which is already in existence and charging for service. Included in this package are:

1. Application for certificate pursuant to Section 367.171, Florida Statutes.
2. Chapter 367, Florida Statutes, contains the Commission's jurisdiction over private water and wastewater utilities in Florida. A copy of Section 367.171, regarding applications for grandfather certificates is enclosed for your information.
3. Chapter 25-30, Florida Administrative Code, details the rules promulgated to carry out the jurisdiction of the Commission over private water and wastewater utilities. Copies of Rules 25-30.020, .025, .030, .032 and .035 regarding an application for a grandfather certificate are enclosed for your information.
4. Sample publication/legal notice format and a list of utilities and governmental/regulatory agencies that must be notified in accordance with Commission Rule 25-30.030, Florida Administrative Code. Please note the expiration date on the list. If you have not performed the noticing by this date, you must request an updated list by contacting the undersigned.

Mr. Don Gugel  
January 6, 1998  
Page 2

5. Format for territorial descriptions and maps.
6. Model water and wastewater tariffs which will contain all of the utility's rules, regulations, rates and charges.

The original and five copies of the application and supporting documentation, one copy of the maps and the original and two copies of the tariff(s) must be filed with:

Director, Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

If you have any questions concerning this material, please feel free to contact Mrs. Billie Messer, a member of my staff, at 850/413-6990.

Sincerely,

*John D. Williams*  
BBM

John D. Williams  
Chief of Industry Structure  
and Policy Development

JDW/BBM/jn  
Enclosures

Chase

STATE OF FLORIDA

Commissioners:  
JULIA L. JOHNSON, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.



DIVISION OF WATER & WASTEWATER  
CHARLES H. HILL  
DIRECTOR  
(850) 413-6900

**Public Service Commission**

April 10, 1998

Mr. Don Gugel  
Tropical Mobile Home Park  
118 Village Road  
Winter Haven, Florida 33880

**Re: Annual Report and Regulatory Assessment Fees**

Dear Mr. Gugel:

As you are aware, on May 14, 1996, the Board of County Commissioners of Polk County adopted a resolution pursuant to Section 367.171, Florida Statutes, declaring that water and wastewater utilities in Polk County are subject to regulation by the Public Service Commission. According to our records, Tropical Mobile Home Park is a water and wastewater utility operating in Polk County. Florida Statutes and Commission Rules require that each utility subject to Commission regulation must file an annual report each year and pay regulatory assessment fees based upon its operating revenue. (Copies of Section 367.145, Florida Statutes, is enclosed for your reference, along with Commission Rules 25-30.110 and 25-30.120, Florida Administrative Code.) These items are due on or before March 31 each year for the previous calendar year for every utility subject to the jurisdiction of the Commission, whether or not the utility has received a certificate from the Commission.

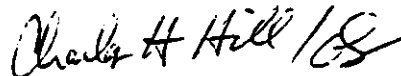
Tropical Mobile Home Park has not yet filed its application for grandfather certificates; however, the utility has the obligation to remit regulatory assessment fees and file an annual report from the jurisdictional date, May 14, 1996, for the calendar year 1996. According to our records, the utility has not yet filed the 1996 annual report. It is imperative that you comply with the requirements of the statute and rules. Therefore, we request that you file the 1996 report within thirty days of the date of this letter. I am enclosing a copy of a Class C annual report form for your convenience. Please complete this form and mail it to: Charles H. Hill, Director, Division of Water and Wastewater, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850. If the utility does not comply with this request, this matter will be referred to the Division of Legal Services for initiation of a show cause proceeding and assessment of appropriate fines.

Mr. Don Gugel  
Page 2  
April 10, 1998

Earlier this calendar year, you were sent the appropriate forms for filing the 1997 annual report. This report was due March 31, 1998, and our records indicate that you have not yet complied with this requirement. Penalties and interest will accrue until compliance is achieved. Failure to promptly file the 1997 annual report will result in a show cause proceeding and possible assessment of further fines.

If you have any questions concerning the annual report, please feel free to contact JoAnn Chase at (850) 413-7003. If you have any questions regarding your obligation to file for a certificate, please contact Billie Messer at (850) 413-6990. Thank you for your prompt attention to this matter.

Sincerely,



Charles H. Hill  
Director

cc: JoAnn Chase, Division of Water and Wastewater  
Billie Messer, Division of Water and Wastewater  
Lila Jaber, Division of Legal Services  
Mike Lake, Division of Administration



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98 OCT 16 PM 3:45

# Public Service Commission

RECORDS AND REPORTING

October 15, 1998

TO: DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER AND WASTEWATER (MESSER) *BAM*  
DIVISION OF LEGAL SERVICES (BRUBAKER) *SB*

RE: DOCKET NO. **980586-WS** - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST TROPICAL MOBILE HOME PARK IN POLK COUNTY FOR VIOLATION OF SECTION 377.171, F.S. AND RULE 25-30.035, F.A.C., APPLICATION FOR GRANDFATHER CERTIFICATE

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Attached are two letters, one dated October 1, 1998 to Mr. Doug Zahm, and a preliminary response from Mr. Zahm dated October 9, 1998. Please include this correspondence into the docket file.

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STATE OF FLORIDA

Commissioners:  
JULIA L. JOHNSON, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.



DIVISION OF WATER & WASTEWATER  
CHARLES H. HILL  
DIRECTOR  
(850) 413-6900

## Public Service Commission

October 1, 1998

Mr. Douglas C. Zahm, P. A.  
18830 U.S. Hwy. 19 N.  
Suite 300  
Clearwater, FL 33764

Re: Docket No. 980586-WS - Initiation of show cause proceedings against Tropical Mobile Home Park in Polk County for violation of Section 367.171, F.S. and Rule 25-30.035, F.A.C., application for grandfather certificate

Dear Mr. Zahm:

The purpose of this letter is to summarize the outcome of our meeting Friday September 18, 1998, with your clients who represent the mortgage holders of Tropical Mobile Home Park (Tropical or utility), and the representatives of the Polk County Health Department. Our meeting was to discuss and hopefully resolve the various concerns of the Commission, your clients and the Polk County Health officials with respect to the utility's operations. Tropical was serving a mobile home park where utility service was included in the rent, and also eighteen customers outside of the park, which created the necessity for a certificate from the Public Service Commission. Further, since that meeting there have been some new events of which you may not be aware, which will be of interest to your clients.

At our meeting, it became clear that the continued operations of both water and wastewater service by Tropical's existing plant were in jeopardy. The well is located outside of the mobile home park itself, but is not currently providing service to anyone. The provision of water service was being handled by a nearby community-owned system, Wahneta Water. The wastewater treatment facility is located within the mobile home park property, but is subject to serious fines and penalties by the Department of Environmental Protection and the Polk County Environmental Health Department. The treatment plant appears to be in need of an estimated \$100,000 in improvements. One question at the conclusion of our meeting was exactly how many of the utility's customers received wastewater service from Tropical's treatment plant.

The plant operator of the Wahneta system, Mr. Bob Descalso, has since told me that eighteen customers are served outside of the park. Wahneta Water has been providing emergency water service to these customers. Sixteen of them are residential and two are commercial. Two of the

Mr. Douglas C. Zahm, P.A.  
October 1, 1998  
Page 2

residential and the two commercial customers receive wastewater service from Tropical. The other sixteen residential customers have a septic tank. The mobile home park itself is used as housing for migrant labor and is empty at this time.

In further conversations with Mr. Descalso this week, he indicated that Wahneta Water System would be willing to connect the eighteen customers outside of the park to its system on a permanent basis. In fact, it is arranging for that at this time, although it is concerned about its ability to collect payment from these customers since they had been considered Tropical's customers. In this respect, staff would probably recommend to the Commission that, in light of the fact that no certificate has yet issued to Tropical, it would be in the best interest of the customers that they receive service from Wahneta.

With respect to wastewater service, it appears that Tropical was actually providing service to four customers. Mr. Descalso indicated that the two residential locations were rental property owned by the same person. This leaves the two businesses, which have been contacted about the necessity to install a septic tank. At our meeting, we had ended with the understanding that, if Tropical continued to provide wastewater service, it would not charge for such service, and that an affidavit to that effect would be filed with the Commission by your clients.

Provided that the above-mentioned conditions are met, the combination of having water service provided by an exempt entity pursuant to Section 367.022(7), Florida Statutes (non-profit), and wastewater service provided pursuant to Section 367.022(5), Florida Statutes (landlord/tenant, if the mobile home park service is continued) and Section 367.021(12), Florida Statutes (non-jurisdictional service), would allow the staff to consider the utility to be exempt. Under such circumstances, it appears that the Commission would no longer require certification for this utility system and the Commission staff would recommend to the Commissioners that the pending show cause be closed. This would also be the case if the wastewater customers install septic tanks, since the Commission does not regulate the use of septic tanks.

In order to resolve the issues with respect to the Commission's regulation of Tropical, there are still some points that should be addressed prior to the staff presenting a recommendation to the Commission. Staff therefore requests that Tropical provide the following information:

1. When will your clients receive the actual court-approved authority in the foreclosure proceedings to claim ownership of the utility?

2. What property will your clients actually own? Does it include the park, the wastewater treatment facilities, the water treatment facilities and/or the area including the customers served outside of the park? If it does include the area outside the park, it might be appropriate to provide some type of "release" of those customers to the Wahneta system management.

Mr. Douglas C. Zahm. P.A.  
October 1, 1998  
Page 3

3. Is there anyone located within the park receiving utility service at this time? There was mention of possibly one person within the park but it was unclear whether they received utility service.

4. Do your clients intend on eliminating the mobile home park, or continuing its operations?

5. Will the County authorize the installation of septic tanks for the four customers still receiving wastewater service from Tropical, and if so, will that be the solution sought by the customers? If not, staff will require an affidavit from your clients affirming that there will be no charge for wastewater utility service.

I believe this covers the various points identified in our meeting. If you believe anything has been misstated or misrepresented, please feel free to correct it in your response. The follow-up information is necessary for us to finally resolve this docket and prepare a recommendation. Therefore, I would appreciate a response by October 30, 1998 or as soon as possible. It was a pleasure to meet you, and I look forward to hearing from you soon.

Sincerely,



Billie B. Messer  
Supervisor

cc: Mr. Bob Descalso, Chief Water Plant Operator  
Mr. Roland Reis, Polk County Health Department  
Division of Water and Wastewater (Hill, Lowe, Williams, Chase)  
Division of Legal Services (Jaber, Brubaker)



Mr. Douglas C. Zahm, P.A.  
October 1, 1998  
Page 4

Mr. Bob Descalso  
Chief Water Plant Operator  
Wahneta Water System  
106 8th Street East  
Winter Haven, Fl 33880-6003

Mr. Roland Reis, Esquire  
Polk County Health Department  
1290 Golfview Avenue, 4th Floor  
Bartow, Florida 33830-6740

LAW OFFICES

**DOUGLAS C. ZAHM, P.A.**

18830 U.S. HIGHWAY 19 NORTH, SUITE 300

CLEARWATER, FLORIDA 33764

(727) 536-4911 FAX (727) 539-1094 e-mail - dcz@dczahm.com

October 9, 1998

Billie B. Messer  
Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

**RECEIVED**  
**OCT 14 1998**  
Florida Public Service Commission  
Division of Water and Wastewater

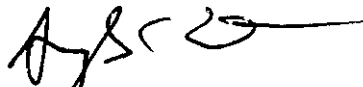
Re: TROPICAL, A JOINT VENTURE vs.  
GUGEL WEST COAST LIMITED PARTNERSHIP, et al.  
Case #98-1607-07

Dear Billie:

Thank you for your letter of October 1, 1998. I have immediately passed it on to my client and will respond to you as soon as we have answers to your questions. Thank you for traveling to Polk County for the meeting. Hopefully this matter can be resolved in the very near future.

Very truly yours,

DOUGLAS C. ZAHM, P. A.



Douglas C. Zahm, Esquire

DCZ/jms