CLASS "C"

WATER AND/CR WASTEWATER UTILITIES

(Gross Revenue of Less Than \$150,000 Each)

ANNUAL REPORT

WU531

Nr. Joe Swiderski, Receiver J Swiderski Utilities INC

Forty-Eight Estates Nater System

9800 U. S. Highway 441. Snite 102 Leesburg, II 34788-3918

498-W

Certificate Number(s)

Submitted To The

STATE OF FLORIDA



PUBLIC SERVICE COMMISSION

FOR THE

YEAR ENDED DECEMBER 31, 19_97

Form PSC/WAW 6 (Rev 05/96)

GENERAL INSTRUCTIONS

- Prepare this report in conformity with the 1984 National Association of Regulatory
 Utility Commissioners (NARUC) Uniform System of Accounts for Water and Wastewater
 Utilities as adopted by Rule 25-30.115 (1), Florida Administrative Code.
- Interpret all accounting words and phrases in accordance with the Uniform System of Accounts (USOA). Commission Rules and the definitions on next page.
- Complete each question fully and accurately, even if it has been answered in a previous annual report. Enter the word "None" where it truly and completely states the fact.
- For any question, section, or page which is not applicable to the respondent enter the words "Not Applicable." Do not omit any pages.
- Where dates are called for, the month and day should be stated as well as the year.
- All schedules requiring dollar entries should be rounded to the nearest dollar.
- Complete this report by means which result in a permanent record. You may use permanent ink or a typewriter. Do not use a pencil.
- 8. If there is not enough room on any schedule, an additional page or pages may be added provided the format of the added schedule matches the format of the schedule in the report. Additional pages should reference the appropriate schedules, state the name of the utility, and state the year of the report.
- 9. If it is necessary or desirable to insert additional statements for the purpose of further explanation of schedules, such statements should be made at the bottom of the page or on an additional page. Any additional pages should state the name of the utility and the year of the report, and reference the appropriate schedule.
- 10. The utility shall file the original and two copies of the report with the Commission at the address below, and keep a copy for itself. Pursuant to Rule 25-30.110 (3), Florida Administrative Code, the utility must submit the report by March 31 for the preceeding year ending December 31.

Florida Public Service Commission Division of Water and Wastewater 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850

11. Pursuant to Rule 25-30.110 (7) (a), Florida Administrative Code, any utility that fails to file its annual report or extension on or before March 31, or within the time specified by any extension approved in writing by the Division of Water and Wastewater, shall be subject to a penalty. The penalty shall be based on the number of calendar days elapsed from March 31, or from an approved extended filing date, until the date of filing. The date of filing shall be included in the days elapsed.

GENERAL DEFINITIONS

ADVANCES FOR CONSTRUCTION - This account shall include advances by or in behalf of customers for construction which are to be refunded either wholly or in part. (USOA)

ALLOWANCE FOR FUNDS USED DURING CONSTRUCTION (AFUDC) - This account shall include concurrent credits for allowance for funds used during construction based upon the net cost of funds used for construction purposes and a reasonable rate upon other funds when so used. Appropriate regulatory approval shall be obtained for "a reasonable rate". (USOA)

AMORTIZATION - The gradual extinguishment of an amount in an account by distributing such amount over a fixed period, over the life of the asset or liability to which it applies, or over the period during which it is anticipated the benefit will be realized. (USOA)

CONTRIBUTIONS IN AID OF CONSTRUCTION (CIAC) - Any amount or item of money, services, or property received by a utility, from any person or governmental agency, any portion of which is provided at no cost to the utility, which represents an addition or transfer to the capital of the utility, and which is utilized to offset the acquisition, improvement, or construction costs of the utility's property, facilities, or equipment used to provide utility services to the public. (Section 367.021 (3), Florida Statutes)

CONSTRUCTION WORK IN PROGRESS (CWIP) - This account shall include the cost of water or wastewater plant in process of construction, but not yet ready for services. (USOA)

DEPRECIATION - The loss in service value not restored by current maintenance, incurred in connection with the consumption or prospective retirement of utility plant in the course of service from causes which are known to be in the current operation and against which the utility is not protected by insurance. (Rule 25-30.140 (i), Florida Administrative Code)

EFFLUENT REUSE - The use of wastewater after the treatment process, generally for reuse as irrigation water or for in plant use. (Section 367.021 (6), Florida Statutes)

EQUIVALENT RESIDENTIAL CONNECTION (ERC) - (WATER) - (Rule 25-30.515 (8), Florida Administrative Code.)

- (a) 350 gallons per day:
- (b) The number of gallons a utility demonstrates in the average daily flow for a single family
- (c) The number of gallons which has been approved by the DEP for a single family residential unit.

EQUIVALENT RESIDENTIAL CONNECTION (ERC) - (WASTEWATER) - Industry standard of 80% of Water ERC or 280 gallons per day for residential use.

GUARANTEED REVENUE CHARGE - A charge designed to cover the utility's costs including, but not limited to the cost of the operation, maintenance, depreciation, and any taxes, and to provide a reasonable return to the utility for facilities, a portion of which may not be used and useful to the utility or its existing customers. (Rule 25-30.515 (9), Florida Administrative Code)

LONG TERM DEBT - All Note anditional Sales Contracts, or other evidences of indebtedness payable more than one year f uate of issue. (USOA)

PROPRIETARY CAPITAL (For proprietorships and partnerships only) - The investment of a sole proprietor, or partners, in an unincorporated utility. (USOA)

RETAINED EARNINGS - This account reflects corporate earnings retained in the business. Credits would include net income or accounting adjustments associated with correction of errors attributable to a prior period. Charges to this account would include net losses, accounting adjustments associated with correction of errors attributable to a prior period or dividends. (USOA)

TABLE OF CONTENTS

FINANCIAL SECTION	PAGE
Identification Income Statement Balance Sheet Net Utility Plant Accumulated Depreciation and Amortization of Utility Plant Capital Stock Retained Earnings Proprietary Capital Long Term Debt Taxes Accrued Payment for Services Rendered by Other Than Employees Contributions in Aid of Construction Cost of Capital Used for AFUDC Calculation AFUDC Capital Structure Adjustments	F-2 F-3 F-5 F-6 F-6 F-6 F-7 F-7 F-9 F-10
JATER OPERATING SECTION	PAGE
Water Utility Plant Accounts Analysis of Accumulated Depreciation by Primary Account - Water Water Operation and Maintenance Expense Water Customers Pumping and Purchased Water Statistics and Mains Wells and Well Pumps, Reservoirs, and High Service Pumping Other Water System Information	W-1 W-2 W-3 W-3 W-4 W-5 W-6
WASTEWATER OPERATING SECTION	PAGE
Wastewater Utility Plant Accounts Analysis of Accumulated Depreciation by Primary Account - Wastewater Wastewater Operation and Maintenance Expense Wastewater Customers Pumping Equipment, Collecting and Force Mains and Manholes Other Wastewater System Information	S-1 S-2 S-3 S-3 S-4 S-5
VERIFICATION SECTION	PAGE
Verification	V-1

FINANCIAL SECTION

REPORT OF

	114			
J SWIDERSKI UTIL	EXACT N	NAME OF UTIL	LITY)	
1	27() 			
9800 US HILHWAY 441 SU Mailing Address	1176 102	LEESE	Street Address	County
Telephone Number 352-326	-8981	Date	Utility First Organized	1990
Check the business entity of the utility as	filed with the Inte	rnal Revenue	Service:	
Individual Sub Chapter S			1120 Corporation	Partnership
Name, Address and phone where records	are located:	9800 US LEESBURG	HIGHWAY 441 - SU	176 102
Name of subdivisions where services are	provided:	48 EST	1765	
	CON	ITACTS:		
			:	Salary
Nome	Title		Principle Business Address	Charged Utility
Name Person to send correspondence:	Pres		9800 45 HWY 441- #102 LEESBURG FL 34788	15200
Person who prepared this report: HUWARO L MARKOWITZ CPA	CPA		9800 45 HWY 441. # 105 LEESBURG FL 34788	300
Officers and Managers:	0		Carl Banaci	\$ 15200

Report every corporation or person owning or holding directly or indirectly 5 percent or more of the voting securities of the reporting utility:

Name	Percent Ownership in Utility	Principle Business Address	Salary Charged Utility \$ 45 A 8000
JOSEPH T SWIDERSKI	50	ABOVE ABOVE	\$ A3 A3000 \$ \$
			\$ \$ \$

J. Swiderski Utilities plac.

UTILITY NAME: 48 ESTATES WATER SYSTEM

YEAR OF REPORT DECEMBER 31, 1997

INCOME STATEMENT

	Ref.				Total
Account Name	Page	Water	Wastewater	Other	Company
Gross Revenue: Residential Commercial Industrial Multiple Family Guaranteed Revenues Other (Specify)		\$_23034	\$	\$	\$ <u>23034</u>
Total Gross Revenue		\$ 23034	\$	\$	\$ 23034
Operation Expense (Must tie to pages W-3 and S-3)	W-3 S-3	\$ 23444	\$	\$	\$ 24548
Depreciation Expense	F-5	266			266
CIAC Amortization Expense_	F-8	_ <74>			<u> </u>
Taxes Other Than Income	F-7	1140			3 <i>b</i>
Income Taxes	F-7		-		0.21/22/
Total Operating Expense		\$ 24776	\$	\$	\$ 24776
Net Operating Income (Loss)		\$ (1742)	\$	\$	\$ (1742)
Other Income: Nonutility Income		\$	\$	\$	\$
Other Deductions: Miscellaneous Nonutility Expenses Interest Expense	9,	\$	\$	\$	\$
					7
Net Income (Loss)		\$ <17427	\$	\$	\$ <u> </u>

COMPARATIVE BALANCE SHEET

	Reference	Current	Previous
ACCOUNT NAME	Page	Year	Year
Assets: Utility Plant in Service (101-105) Accumulated Depreciation and Amortization (108)	F-5,W-1,S-1 F-5,W-2,S-3	\$ <u>48157</u> 16781	\$ 48157
Net Utility Plant		\$24376	\$ 29642
CashCustomer Accounts Receivable (141)Other Assets (Specify):		1786	2449 \$ 32041
Total Assets		\$31890	\$
Liabilities and Capital: Common Stock Issued (201) Preferred Stock Issued (204) Other Paid in Capital (211) Retained Earnings (215) Propietary Capital (Proprietary and partnership only) (218) Total Capital Long Term Debt (224) Accounts Payable (231) Notes Payable (232) Customer Deposits (235) Accrued Taxes (236) Other Liabilities (Specify)	F-6 F-6 F-6 F-6	16502 <1742> \$ 14761 \$ 219	16503 \$ 16503 \$ 16503 \$ 159
Advances for Construction Contributions in Aid of Construction - Net (271-272) Total Liabilities and Capital	F-8	7344 \$ 31890	7418 \$ 31091

UTILITY NAME: 48 ESTATES WATER SYSTEM

YEAR OF REPORT DECEMBER 31, /997

GROSS UTILITY PLANT

Plant Accounts: (101 - 107) inclusive	Water	Wastewater	Plant other Than Reporting Systems	Total
Utility Plant in Service	\$ 47157	\$	\$	\$ <u>47157</u>
Construction Work in Progress (105) Other (Specify)5/6 \ldots	1000			1000
Total Utility Plant	\$ 49157	\$	\$	\$ <u>48157</u>

ACCUMULATED DEPRECIATION (A/D) AND CIAC AMORTIZATION OF UTILITY PLANT

Account 108	Water	Wastewater	A/D & CIAC AM Other Than Reporting Systems	Total
Balance First of Year	\$ 18515	\$	\$	\$ 18515
Add Credits During Year: Accruals charged to depreciation account Salvage Other Credits (specify)	\$	\$	\$	\$ <u>266</u>
Total Credits	\$ 18781	\$	\$	\$ 18781
Deduct Debits During Year: Book cost of plant retired Cost of removal Other debits (specify)	\$	\$	\$	\$
Total Debits	\$	\$	\$	\$
Balance End of Year	\$ 16781	\$	\$	\$

UTILITY NAME: 48 ESTATES WATER SYSTEM

YEAR OF REPORT DECEMBER 31, /997

CAPITAL STOCK (201 - 204)

	Common Stock	Preferred Stock
Par or stated value per shareShares authorizedShares issued and outstanding Total par value of stock issued Dividends declared per share for year		0 0 0 0

RETAINED EARNINGS (215)

	Appropriated	Un- Appropriated
Balance first of yearChanges during the year (Specify): NET LOSS 1997	\$	\$0' _<1742}
Balance end of year	\$	\$ <1742>

PROPRIETARY CAPITAL (218)

	Proprietor Or Partner	Partner
Balance first of year	\$ 16503 (1) (16502) \$ - 0 -	\$ \$

LONG TERM DEBT (224)

Description of Obligation (Including Nominal Date of Issue and Date of Maturity):	# of Pymts	Principal per Balance Sheet Date
and Date of Maturity).		\$
Total		\$

YEAR OF REPORT DECEMBER 31, 1997

TAXES ACCRUED (236)

	Water (b)	Wastewater (c)	Other (d)	Total (e)
(a) Balance first of year	\$ 159	\$	\$	\$ 15-9
Add Accruals charged: State ad valorem tax Local property tax Federal income tax State income tax Regulatory assessment fee		\$	\$	\$
Other (Specify)	\$ 159	\$	\$	\$
Local property tax Federal income tax State income tax Regulatory assessment fee		\$	\$	\$ 159
Other (Specify) Total Taxes Paid Balance end of year	\$ 159 \$ - 0 -	\$ \$	\$ \$	\$ 159

PAYMENTS FOR SERVICES RENDERED BY OTHER THAN EMPLOYEES

Report all information concerning outside rate, management, construction, advertising, labor relations, public relations, or other similiar professional services rendered the respondent for which aggregate payments during the year to any corporation, partnership, individual, or organization of any kind whatever amounting to \$500 or more.

Name of Recipient	Water Amount	Wastewater Amount	Description of Service
VERSIFIED WATER SCRVICES	\$ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	\$	PLANT UPERATIONS READ METERS

CONTRIBUTIONS IN AID OF CONSTRUCTION (271)

and the	(a)	Water (b)	Wastewater (c)	Total (d)
(1) (1) (1) (1) (1)	Balance first of year Add credits during year Total Deduct charges during the year Balance end of year Less Accumulated Amortization	\$ \(\frac{11900}{11900}\) \(\frac{11900}{14556}\)	\$ \$ S	\$ \(\langle 11400\) \$ \(\langle 11400\) \$ \(\langle 11400\) \$ \(\langle 1344\) \$ \(\langle 7344\)
7)	Net CIAC	\$ < 7344 >	,	

ADDITIONS TO CONTRIBUTIONS IN AID OF CONSTRUCTION DURING YEAR (CREDITS)

Report below all developers or co agreements from which cash or p	tuperty was	Indicate "Cash" or "Property"	Water	Wastewater
received during the year.				
Report below all cap extension charges a charges received du	acity charges, main nd customer conne- ring the year.	O410-1	\$	
Description of Charge	Number of Connections	Charge per Connection	\$	\$
		1		

ACCUMULATED AMORTIZATION OF CIAC

	Water	Wastewater	Total
Find of Voor	\$ (4482)	\$	\$ (4487)
Balance First of YearAdd Credits During Year:			74
Deduct Debits During Year:	94		
Balance End of Year (Must agree with line #6 above.)	\$ < 45.56)	\$	\$ 4550/

WATER OPERATING SECTION

WATER UTILITY PLANT ACCOUNTS

Acct. No. (a)	Account Name (b)	Previous Year (c)	Additions (d)	Retirements (e)	Current Year (f)
	Organization	s	\$	\$	\$
301	Organization	*			
302	Franchises Land and Land Rights				
303	Structures and Improvements	41540			41540
304	Collecting and Impounding				
305	Reservoirs				
	Lake, River and Other				
306	Intakes				
307	Wells and Springs				
308	Infiltration Galleries and				
300	Tunnels				
309					
310	Supply Mains Power Generation Equipment				
311	Pumping Equipment				
320	Water Treatment Equipment				
330	Distribution Reservoirs and				STATE OF THE STATE
	Standpipes				
331	Transmission and Distribution				
	Lines				
333	Services Meters and Meter				4200
334	Installations	4200			- 4200
335	Hydrants				
339	Other Plant and				
338	Miscellaneous Equipment				
340	Office Furniture and				
0.0	Equipment				
341	Transportation Equipment				
342	Stores Equipment				
343	Tools, Shop and Garage				
	Equipment				
344	Laboratory Equipment				
345	Power Operated Equipment				
346	Communication Equipment	2412			2417
347	Miscellaneous Equipment	2417			
348	Other Tangible Plant			(1/2 = 7
	Total Water Plant	\$ 48157	\$	\$	\$ 48157
	Total Water Plant				

UTILITY NAME: 48 ESTATES WATER SYSTEM

YEAR OF REPORT
DECEMBER 31, 1647

ANALYSIS OF ACCUMULATED DEPRECIATION BY PRIMARY ACCOUNT - WATER

		ĺ
Accum. Depr. Balance End of Year (f.g+h=i) (i)	318781	
Credits (h)	\$ 266	Accession with the contract of
Debits (g)		
Accumulated Depreciation Balance Previous Year (f)	256 35 18515	
Depr. Rate Applied (e)	* * * * * * * * * * * * * * * * * * *	
Average Salvage in Percent (d)	* ** *** *** * * * * * * * * * * * * *	-
Average Service Life in Years (c)	1	
Account (b)	Structures and Improvements Collecting and Impounding Reservoirs Lake, River and Other Intakes Wells and Springs Infiltration Galleries & Tunnels Supply Mains Power Generating Equipment Pumpling Equipment Distribution Reservoirs & Standpipes Trans. & Dist. Mains Services Meter & Meter Installations Hydrants Other Plant and Miscellaneous Equipment Office Furniture and Equipment Transportation Equipment Tools, Shop and Garage Equipment Tools, Shop and Garage Equipment Tools, Shop and Garage Equipment Communication Equipment Communication Equipment Communication Equipment Communication Equipment Other Tangible Plant	This amount should tie to Sheet F-5
Acct.	304 305 306 307 308 308 311 320 331 331 333 334 344 345 346 347 348 348 348 348 348 348 348 348 348 348	1
THE RESERVE TO THE PERSON NAMED IN		

W-2

YEAR OF REPORT DECEMBER 31, 1997

WATER OPERATION AND MAINTENANCE EXPENSE

Acct. No.	Account Name	Amount
140.		
601	Salaries and Wages - Employees	15200
603	Salaries and Wages - EmployeesSalaries and Wages - Officers, Directors, and Majority Stockholders	1,700
604	Employee Pensions and Benefits	
610	Purchased Water	976
615	Purchased Power	
616	Fuel for Power Production	
618	Chemicals	
620	Materials and Supplies	
630	Contractual Services:	6201
	Operator and Management	
	Testing	
	Other	
640	Poste	15
650	Transportation Expense	437
655		
665	Insurance Expense Regulatory Commission Expenses (Amortized Rate Case Expense)	
670	Bad Debt Expense	615
675	Miscellaneous Expenses	
	tion And Maintenance Evenence	\$ 23444
	Total Water Operation And Maintenance Expense	
	* This amount should tie to Sheet F-3.	

WATER CUSTOMERS

Description (a)	Type of Meter ** (b)	Equivalent Factor (c)	Number of Ac Start of Year (d)	tive Customers End of Year (e)	Total Number of Meter Equivalents (c x e)
5/8" 3/4" 1" 1 1/2" 2" 3" 3" 4" 4" 6" 6" Cother (Specify):	D D D,T D,C,T D,C T D,C T	1.0 1.5 2.5 5.0 8.0 15.0 16.0 17.5 25.0 30.0 50.0 62.5	72		12
D = Displacement C = Compound T = Turbine		Total		72	_72

Adjusted

VTILITY	NAME:	48	ESTATE	=5	WATER	SYSTE	N

YEAR OF REPORT DECEMBER 31, 7997

SYSTEM	NAME:	

PUMPING AND PURCHASED WATER STATISTICS

(a)	Water Purchased For Resale (Omit 000's)	Finished Water From Wells (Omit 000's)	Recorded Accounted For Loss Through Line Flushing Etc. (Omit 000's) (d)	Total Water Pumped And Purchased (Omit 000's) [(b)+(c)-(d)] (e)	Water Sold To Customers (Omit 000's)
January February March April May June July August September October November December Total for Year		587 617 703 723 897 585 637 540 839 618 498 498	104 150 106 153 52 56 119 111 191 104 97 96	483 467 597 570 845 529 518 429 648 514 401 391	483 467 597 570 845 519 518 429 648 314 401 381
If water is purchased for Vendor			nes of such utilities	below:	

MAINS (FEET)

Kind of Pipe (PVC, Cast Iron, Coated Steel, etc.)	Diameter of Pipe	First of Year	Added	Removed or Abandoned	End of Year

UTILITY NAME: 48 6574763 WA	WELLS A	 ID WELL PUMPS Available)	YEAR OF R DECEMBER	EPORT R 31, 799)	
	(b)	(c)	(d)	(e)	
Year Constructed					
RESERVOIRS					
(a)	(b)	(c)	(d)	(e)	
Description (steel, concrete) Capacity of Tank Ground or Elevated					
	HIGH SER\	/ICE PUMPING			
(a)	(b)	(c) ·	(d)	(e)	
Motors Manufacturer Type Rated Horsepower					
Pumps Manufacturer Type Capacity in GPM Average Number of Hours Operated Per Day Auxiliary Power					

YEAR OF REPORT DECEMBER 31, 1997

SOURCE OF SUPPLY

SOURCE OF SUPPLY						
List for each source of supply (Ground, Surface, Purchased Water etc.)						
Gals per day of source						
Gals. per day of source Type of Source						
1,100 01 00 00 00 00 00 00 00 00 00 00 00						
TOTAL TAPATA TAPATA FACILITIES						
WATER TREATMENT FACILITIES						
List for each Water Treatment Facility:						
Type						
Make						
Gals. per day capacity						
High service pumping						
High service pumping Gallons per minute Reverse Osmosis						
Lime Treatment						
Unit Rating						
Filtration						
Pressure Sq. Ft						
Pressure Sq. Ft Gravity GPD/Sq.Ft						
Chlorinator						
Disinfection Chlorinator Ozone Other Auxiliary Power						
Other						
Auxiliary Power						
OTHER WATER SYSTEM INFORMATION A separate						
Furnish information below for each system not physically connected with another facility. A separate page should be supplied where necessary. 1. Present ERCs * now being served 2. Maximum ERCs ** that system can efficiently serve 3. Present system connection capacity (in ERC's) using existing lines 4. Future connection capacity (in ERC's) upon service area buildout 5. Estimated annual increase in ERCs * 6. List fire fighting facilities and capacities (including number of fire hydrants)						
6. List fire fighting facilities and capacities (including management)						
List percent of certificated area where service connections are installed (total for each county)						
What is the current need for system upgrading and/or expansion?						
8. What is the cultern need for system and a second system and a s						
What are plans for future system upgrading and/or expansion?						
g. VIIIos as primited and primi						
if so state name and address)						
10. Have questions 8 and 9 been discussed with an engineer? (if so, state name and address)						
11. Has an application for a construction permit been filed with the DEP? (If so, explain)						
12. Department of Environmental Protection ID #						
Water Management District ID #						
ERC = (Total Gallons Sold / 365 days) / 350 Gallons Per Day						
** Total Hant Capacity / 350 gallons						

WASTEWATER OPERATING SECTION

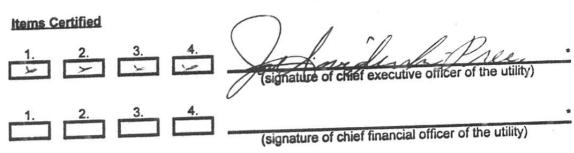
Note:

This utility is a water only service; therefore, Pages S-1 through S-6 have been omitted from this report.

CERTIFICATION OF ANNUAL REPORT

I HEREBY CERTIFY, to the best of my knowledge and belief:

THERED GERTI I TO STATE OF THE					
YES	NO	1.	The utility is in substantial compliance with the Uniform System of Accounts prescribed by the Florida Public Service Commission in Rule 25-30.115 (1), Florida Administrative Code.		
YES	NO	2.	The utility is in substantial compliance with all applicable rules and orders of the Florida Public Service Commission.		
YES	NO	3.	There have been no communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices that could have a material effect on the financial statement of the utility.		
YES	NO	4.	The annual report fairly represents the financial condition and results of operations of the respondent for the period presented and other information and statements presented in the report as to the business affairs of the respondent are true, correct, and complete for the period for which it represents.		



Each of the four items must be certified YES or NO. Each item need not be certified by both offic The items being certified by the officer should be indicated in the appropriate area to the left of th signature.

Notice: Section 837.06, Florida Statutes, provides that any person who knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his duty shall be guilty of a misdemeanor of the second degree.