

ORIGINAL

REQUEST TO ESTABLISH DOCKET  
(Please Type)

|  |   |            |           |
|--|---|------------|-----------|
| Date   | June 14, 2002   | Docket No. | 020520-SU |
| 1. Division Name/Staff Name:   | Economic Regulation, Troy Rendell   |            |           |
| 2. OPR:  | Office of General Counsel   |            |           |
| 3. OCR:  | Division of Economic Regulation, (Rendell) <i>K W Resort Utilities Corp.</i>  |            |           |
| 4. Suggested Docket Title:   | Complaint by Safe Harbor Marina against K.W. Resort Utilities Corporation and request for a new class of service for a bulk wastewater rate in Monroe County<br><i>Monroe</i> |            |           |
| 5. Suggested Docket Mailing List (attach separate sheet if necessary)                      |   |            |           |
| A. Provide NAMES OR ACRONYMS ONLY if a regulated company.                                  |   |            |           |
| B. Provide COMPLETE NAME AND ADDRESS for all others. (Match representatives to companies.) |   |            |           |
| 1. Parties and their representatives (if any):   |   |            |           |
| K.W. Resort Utilities Corporation (SU336)  | Joe O'Connell   |            |           |
|  | Safe Harbor Marina  |            |           |
|  | 6810 Front Street, Stock Island   |            |           |
|  | Key West, FL 33040  |            |           |
|  |   |            |           |
|  |   |            |           |
| 2. Interested persons and their representatives (if any):                                  |   |            |           |
|  | F. Marshall Deterding   |            |           |
|  | Rose, Sundstrom & Bentley, LLP  |            |           |
|  | 2548 Blairstone Pines Drive   |            |           |
|  | Tallahassee, FL 32301   |            |           |
|  |   |            |           |
| 6. Check one:  |   |            |           |
| <input checked="" type="checkbox"/> Documentation is attached.                             |   |            |           |
| <input type="checkbox"/> Documentation will be provided with recommendation.               |   |            |           |

PSC\CCA010-C (Rev 02/02)

DOCUMENT NUMBER - DATE

06206 JUN 14 88

FPSC-COMMISSION CLERK

ATTN: DICK DURBIN  
FROM: JOE O'CONNELL  
(305) 309-0524

ORIGINAL

September 26, 2001

2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Dear Mr. Durbin;

Thank you very much for your response regarding Key West Resort Utilities. We run a marina in Stock Island Florida and were the first in the area to provide sewage pump-out for all the boats in our marina. As a part of this, we are in the state of Florida's clean water program.

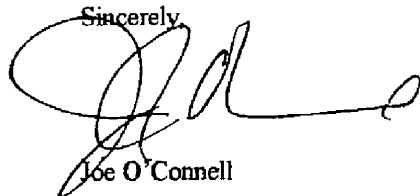
The location of our marina is fifty feet from Key West Resort Utilities property and in 1990 we paid a \$10,000 impact fee to convert one of our septic tank systems into a lift station. From that time on, before the current owners bought Key West Resort Utility, we were charged per gallon of sewage pumped to Key West Resort Utilities by using the hour meter at an agreed upon gallon rate per time. When we wanted to add another lift station and connect our boats, Key West Resort Utilities had us enter into the attached contract.

We are an industrial marina with lift stations that we have built and maintained on our own and none of our slips or apartments are separately metered by the electric or water companies. For eighteen months, we have been charged as if we were a private residence or apartment complex instead of a private lift station owner. There is a mobile home park across the street that is charged as a private lift station.

We have a two-inch line going to our lift station, which all of our sewage flows into, and another two-inch line going directly to our next-door neighbor, Key West Resort Utilities. Attached are the Florida Keys Aqueduct Authority reports for our water usage over the last eighteen months. Even though 30-35% of this water is used to wash boats and never enters our lift stations, our total water consumption was 3,430,700 gallons. Using this figure as if one hundred percent of the water flowed into the lift stations, the cost would be \$8,060.50 plus \$3,534.30 for the base facility charge for a total of \$11,594.80. For eighteen months we paid \$1,565.64 a month for a total of \$28,181.52.

Please note in our contract that we are obligated to install and maintain our own lift stations. We have to believe that the rates are higher for individual homes and apartments because Key West Resort Utilities must maintain all the pipes and mains associated with a municipal sewer system. Item number ten in our contract addresses the way they are currently billing us and mentions PSC Approval. We believe, pertinent to the information we received from you, that the current PSC approval for our facility is under private lift station owners. At this point, we have paid in \$28,181.52 to Key West Resort Utilities. Minus the correct billing of \$11,594.80, Key West Resort Utilities owes us a credit of \$16,586.72.

Sincerely,



Joe O'Connell

CONTRACT FOR WASTEWATER TREATMENT

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WHEREAS, Safe Harbor Marina, Joe J. O'Connell, Jr. and Walter S. Crumbley, (hereinafter referred to as "Owner") is expanding sewer service at Safe Harbor Marina on 6810 Front Street, Stock Island, Key West, Florida; and

WHEREAS, Safe Harbor Marina will consist of: (1) bar and restaurant of 26 seats; (2) 8 residential apartments; (3) 5,550 square foot of storage facilities; (4) 3,850 square foot of commercial retail space; (5) boat slips with 34 permanent residential live aboard boats; and (6) 2 trailerhomes plus 2 RV; and *Other Direct to treatment monthly*  
*LIST to BA provided by owner*

WHEREAS, Safe Harbor Marina desires to hook into the KW Resort Utilities Corp., (hereinafter referred to as "Company") wastewater treatment system and have the wastewater treated by the wastewater treatment plant; and

WHEREAS, KW Resort Utilities Corp. (herein referred to as "Company"), currently has sufficient capacity to treat wastewater from the Safe Harbor Marina; and

WHEREAS, Company's franchise does include Owner's property; and

WHEREAS, the Company's collection system does abut Owner's property; and

WHEREAS, Owner denies to expand his collection system in order for the Company to treat Owner's wastewater.

NOW THEREFORE, based upon the representations stated and the mutual premises covenants and conditions contained herein, the parties agree as follows:

1. The Company agrees to provide service to Owner at Company's Wastewater Treatment Plant by Owner building, at its expense, an onsite expansion of Owner's collection system and connecting to Company's collection system.
2. Owner hereby agrees to install, at its own cost and expense, the domestic wastewater collection lines, pipes, manholes and lift stations, which may be required on its property and off its property, including the engineering cost to

ORIGINAL

connect to the Company's collection system and all other facilities necessary to make it possible for the Company to provide adequate domestic wastewater services. Before Owner commences any construction of the domestic wastewater collection line, Owner agrees to furnish Company evidence satisfactory to the Company that the contractor employed by the Owner has provided the Owner with the following and agreed to the following:

- a. A 100% payment performance bond;
  - b. A guarantee against defects in workmanship and materials in the construction of all of domestic wastewater lines, pipes, manholes and lift station for a period of one year.
  - c. Letter confirming that contractor has been in business for three (3) years.
3. Company agrees to cooperate with the Owner in good faith in making available to the Owner a connection with its existing collection lines or manholes or with the collection lines or manholes over which it exercises control in order to minimize expense and costs to Company as well as the Owner. It is the intent of the parties that the wastewater collection lines, pipes, manholes and lift stations constructed by the Owner as described in paragraph 1 above connect to Company's collection system at the closest point as it practicably available considering existing circumstances and conditions.
  4. Such domestic wastewater collection lines, pipes, manholes and lift stations shall be designed and constructed with plans and specifications prepared by licensed engineers and be approved by the Company's engineers or representatives, and be in accordance with applicable governmental regulations. The cost of inspecting said plans by the Company's engineers shall be paid for by Owner. The Company shall have the right during construction to inspect and reject any work not complying with, the said plans or being in violation of the applicable governmental regulations. The cost of the Company's inspections shall be paid for by the Owner. Salt water intrusion has been a problem in the Stock Island area and the Company has the right to insure that there is no salt water intrusion into the lines so constructed.
  5. After construction, of the said domestic wastewater lines, pipes, manholes and lift stations by Owner on their property and the Owner shall maintain and operate the collection system. As the domestic wastewater systems of the Company are extended into the property, Owner will convey and grant to the Company, without cost to the Company, the following:
    - a. Easement for ingress and egress to all of the water meters, lift stations, pumping stations and collection systems laid and installed by the Owner on the property pursuant to this Agreement; and

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- b. The right to use lift stations by such instruments as designed by the Company; and Owner shall promptly and readily make available to the Company all cost figures, records, and other data requested by the Company.
6. It shall be the responsibility of the Owner to maintain, operate, repair or replace all pumping stations, lift stations, force mains, collection manholes installed by the Owner pursuant to this Agreement, on its property.
7. At all times during the construction of the domestic wastewater lines and related equipment Company shall have access to the construction and the right to inspect the construction to insure that the lines and related equipment are being installed in accordance with the plans and specifications prepared by or approved its engineers. Owner shall construct the domestic wastewater disposal lines in such manner in insure that no water from air conditioning systems or swimming pools shall flow into the domestic wastewater lines. Only domestic residential wastewater in its strictest sense shall be discharged into the domestic wastewater disposal system of the Company. Wastewater from transient boats shall not be discharged into the system.

Certain boat holding tank chemicals are incompatible with the operation of the wastewater treatment plant and in fact can destroy the plant's ability to treat wastewater. In the event of the introduction of said chemicals, the Company will be unable to supply the Key West Golf Course with "gray water" for irrigation purposes. This will cause Company and company's sister companies damages in excess of \$50,000 per month. Owners agree not to pump transient boat holding tanks wastewater into the collection system for Company. Owners agree to engage Davis Water Company or other company licensed to haul wastewater and acceptable to Company to pickup and have all transient wastewater disposed at the Monroe County Cudjoe disposal center. Owners further agree not to pump or transfer any wastewater with chemicals hazardous to the operation of the wastewater treatment plant. Company may monitor this requirement by monitoring the flows of Owners. Company may also inspect the DEP pumpout logs maintained by Owners in the operation of their licensed pumpout station. In the event of breach of this condition as a result of Owner's negligence and inability of Company to operate its wastewater treatment plant for any time and provided said condition is caused by Owners the Owners agree to pay damages to Company and to the Key West Golf Club and any D.E.P. fines or assessments. Owner agrees to add Company and the Key West Golf Club as insureds under its insurance policies and provide copies to Company.

In addition Owners agree to disconnect the transient pumpout station from the collection system that connects Owner's system to Company's system.

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8. The wastewater treatment plant capacity charge of \$2,700.00 per equivalent residential connection is required. Institutions, recreation buildings, swimming pools, commercial or civic units will be reviewed by the Company to determine the number of ERCs. The charges for each component of the development shall be as listed on Exhibit "A" attached hereto. The charges of \$43,068.29 shall be paid as follows:
  - a. \$10,767 upon execution hereof; and
  - b. \$32,301.29 within 120 days after execution hereof.
9. In the event, at a future date, the Company is required to incur costs in order to satisfy a federal, state or county environmental pollution standard or standards, then in such event, Company shall recover such costs from its Owners having requested the plant capacity in accordance with the rules, regulations and approval of the Public Service Commission. It is understood and agreed that rates collected by the Company for wastewater services from the Customer shall be changed only by approval of the Public Service Commission. A copy of the sample application form which must be filled out by each individual Owner is attached hereto and expressly made apart hereof.
10. All residential units including the 8 apartments, 2 trailerhomes and 2 RV's and any other residential units on the property including, approximately 34 residential, houseboat or sailboat totaling 46 units shall be billed at the month residential flat rate currently approved by the PSC which is \$34.25 per apartment per month and which may change based upon PSC approval.
11. Any expansion or change of use on the premises will be reviewed by the utility and the utility reserves the right to adjust the capacity fee and to collect additional capacity charges in the event of an expansion on the premises or a change in use.
12. Company and Owner agree that no addition users of the collection system being constructed by Owner may be hooked into the system without the approval by Company. Company shall be entitled to allow addition users to connect to the connection line provided said new users pay Company the applicable capacity fee and monthly service charges to Company and a pro rata share of the collection line construction cost to Owner. All cost allocations including, line construction cost and capacity fees are to be determined by Company in its sole discretion without the approval of Owner.

09/31/99 14:29

312 939 7765

SMITH HENM BURKE

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13. In the event of breach by Owners of this agreement, Company without notice may disconnect Owner from the collection system and discontinue the treatment of Owner's wastewater.

Dated: 9-31-99, 1999

JOE J. O'CONNELL

By: 

WALTER S. CRUMBLEY

By: 

KW RESORT UTILITIES CORP.

By: 

9/13

**ICS - [UBM200 Account Master Update]**

File Edit Help

Account Number: [REDACTED] Customer: [REDACTED]  
 Name: [REDACTED] Phone: [REDACTED]  
 Service Address: [REDACTED]

Period Range ☐ ☐ Month ☐ Sub Total ☐ Meter Type ☐

| Line | Perk | Rate   | Unit | Usage | Usage | Usage | Usage | Usage | Usage    | Usage | Usage |
|------|------|--------|------|-------|-------|-------|-------|-------|----------|-------|-------|
| 78   | 0109 | 092101 | 31   | I     | 71071 | 72117 | 1045  | WAZV  | 39263902 | 1     |       |
| 78   | 0109 | 092101 | 32   | I     | 69986 | 71071 | 1085  | WAZV  | 39263902 | 1     |       |
| 78   | 0107 | 072001 | 30   | I     | 69061 | 69986 | 935   | WAZV  | 39263902 | 1     |       |
| 78   | 0106 | 062001 | 30   | I     | 68060 | 69061 | 1001  | WAZV  | 39263902 | 1     |       |
| 78   | 0105 | 052101 | 31   | I     | 67013 | 68060 | 1037  | WAZV  | 39263902 | 1     |       |
| 78   | 0104 | 042001 | 30   | I     | 66025 | 67013 | 988   | WAZV  | 39263902 | 1     |       |
| 78   | 0103 | 032101 | 28   | I     | 64623 | 66025 | 1202  | WAZV  | 39263902 | 1     |       |
| 78   | 0102 | 022101 | 30   | I     | 63474 | 64623 | 1349  | WAZV  | 39263902 | 1     |       |
| 78   | 0101 | 012201 | 34   | I     | 62165 | 63474 | 1705  | WAZV  | 39263902 | 1     |       |
| 78   | 0012 | 121900 | 32   | I     | 60923 | 62165 | 1342  | WAZV  | 39263902 | 1     |       |
| 78   | 0011 | 111700 | 29   | I     | 59796 | 60923 | 1029  | WAZV  | 39263902 | 1     |       |
| 78   | 0010 | 101900 | 29   | I     | 58923 | 59796 | 972   | WAZV  | 39263902 | 1     |       |
| 78   | 0009 | 092000 | 33   | I     | 57668 | 58923 | 1156  | WAZV  | 39263902 | 1     |       |
| 78   | 0008 | 081800 | 29   | I     | 56333 | 57668 | 1135  | WAZV  | 39263902 | 1     |       |
| 78   | 0007 | 072000 | 30   | I     | 55261 | 56333 | 1272  | WAZV  | 39263902 | 1     |       |
| 78   | 0006 | 062000 | 33   | I     | 53323 | 55261 | 1932  | WAZV  | 39263902 | 1     |       |
| 78   | 0005 | 051900 | 28   | I     | 52540 | 53323 | 669   | WAZV  | 39263902 | 1     |       |
| 78   | 0004 | 042000 | 31   | I     | 51320 | 52540 | 1320  | WAZV  | 39263902 | 1     |       |

**INQUIRY** Usage Inquiry

NEW YORK

Walter

10/13



ORIGINAL

ICS - [UBM200: Account Master Update]

File Edit Help

Account Number: [REDACTED]

Customer: [REDACTED]

Name: [REDACTED]

Phone: [REDACTED]

Service Address: [REDACTED]

Period Range [ ] [ ]

Month [ ]

Sub Total [ ]

Meter Type [ ]

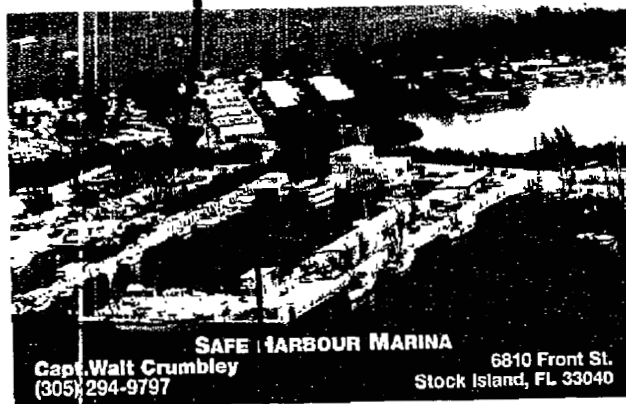
| Line | Code | Account No | Rate | Unit | Usage | Balance | Usage | Usage | Usage    | Usage | Usage |
|------|------|------------|------|------|-------|---------|-------|-------|----------|-------|-------|
|      | CURR | 092101     | 31   | I    | 4395  | 5315    | 920   | WAZY  | 44637888 |       | 1     |
| 48   | 0100 | 002101     | 32   | I    | 3451  | 4396    | 944   | WAZY  | 44637888 |       | 1     |
| 49   | 0107 | 072001     | 31   | Z    | 2176  | 3451    | 975   | WAZY  | 44637888 |       | 1     |
| 48   | 0106 | 061901     | 29   | I    | 1517  | 2476    | 959   | WAZY  | 44637888 |       | 1     |
| 48   | 0105 | 052101     | 31   | I    | 535   | 1817    | 802   | WAZY  | 44637888 |       | 1     |
| 48   | 0104 | 042001     | 30   | I    | 99021 | 635     | 814   | WAZY  | 44637888 |       | 1     |
| 48   | 0103 | 032101     | 28   | I    | 99132 | 99021   | 659   | WAZY  | 44637888 |       | 1     |
| 48   | 0102 | 022101     | 30   | I    | 98525 | 99132   | 627   | WAZY  | 44637888 |       | 1     |
| 48   | 0101 | 012201     | 34   | I    | 97009 | 98525   | 686   | WAZY  | 44637888 |       | 1     |
| 48   | 0012 | 111900     | 32   | I    | 97246 | 97009   | 593   | WAZY  | 44637888 |       | 1     |
| 48   | 0011 | 111700     | 29   | Z    | 96540 | 97246   | 606   | WAZY  | 44637888 |       | 1     |
| 48   | 0010 | 101900     | 29   | I    | 96189 | 96540   | 451   | WAZY  | 44637888 |       | 1     |
| 48   | 0009 | 092000     | 33   | I    | 95430 | 96189   | 789   | WAZY  | 44637888 |       | 1     |
| 48   | 0008 | 081800     | 29   | I    | 94630 | 95430   | 772   | WAZY  | 44637888 |       | 1     |
| 48   | 0007 | 072000     | 30   | I    | 94013 | 94630   | 626   | WAZY  | 44637888 |       | 1     |
| 48   | 0006 | 062000     | 33   | I    | 93066 | 94013   | 947   | WAZY  | 44637888 |       | 1     |
| 48   | 0005 | 051800     | 28   | I    | 92452 | 93066   | 614   | WAZY  | 44637888 |       | 1     |
| 48   | 0004 | 042000     | 31   | I    | 91810 | 92452   | 634   | WAZY  | 44637888 |       | 1     |

INQUIRY

Usage Inquiry

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SEWER TANKS



OUR MARINA

12/13



408218W

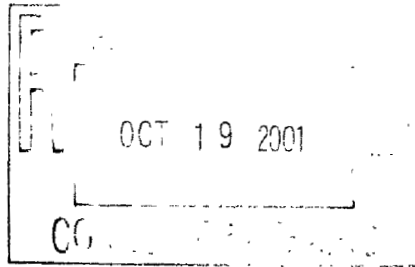
LAW OFFICES

ROSE, SUNDSTROM & BENTLEY, LLP

2548 BLAIRSTONE PINES DRIVE  
TALLAHASSEE, FLORIDA 32301

(850) 877-6555

CHRIS H. BENTLEY, P.A.  
F. MARSHALL DETERDING  
MARTIN S. FRIEDMAN, P.A.  
JOHN R. JENKINS, P.A.  
STEVEN T. MINDLIN, P.A.  
JOSEPH P. PATTON  
DAREN L. SHIPPY, LL.M. TAX  
WILLIAM E. SUNDSTROM, P.A.  
DIANE D. TREMOR, P.A.  
JOHN L. WHARTON



MAILING ADDRESS  
POST OFFICE BOX 1567  
TALLAHASSEE, FLORIDA 32302-1567

TELECOPIER (850) 656-4029

ROBERT M. C. ROSE  
OF COUNSEL

October 17, 2001  
VIA U.S. MAIL

Joe O'Connell  
Safe Harbor Marina  
6810 Front Street, Stock Island  
Key West, Florida 33040

Re: K.W. Resort Utilities Corporation  
Our File No. 20779.04

Dear Mr. O'Connell:

I have been asked by the management of K.W. Resort Utility Corporation to respond to your letter of September 26, 2001 to the Florida Public Service Commission concerning sewer service that Safe Harbor Marina receives from K.W. Resort Utilities Corporation. Your allegation that you are receiving service at an inappropriate rate is inaccurate for several reasons:

1. First, your marina is being provided service in accordance with our Developer Agreement and the specific provisions thereof contained under Paragraph 10.
2. In addition, the method utilized for billing the marina is in accordance with the Utility's tariff, and its standard policy with regard to similarly situated customers. As a prime example, the mobile home park across the street, which you specifically site as obtaining service under a different rate schedule, is in fact serviced under the identical rate schedule that the Safe Harbor Marina is billed, rather than the private lift station tariff which you allege is utilized in their case.

Safe Harbor Marina was provided service under the residential tariff as an accommodation to Safe Harbor Marina to avoid the marina owners having to pay for separate water metering of each and every apartment and permanent boat slip contained within the marina. That alternative would cost the marina, in our estimation, approximately \$50,000 and it was at your request that we entered into the arrangement whereby those units were not required to be separately metered.

As you well know, in addition to the apartments, R.V.s, etc., which are standard residential units within the Safe Harbor property, the remaining units which are billed are house boats and

Mr. Joe O'Connell  
October 17, 2001  
Page 2

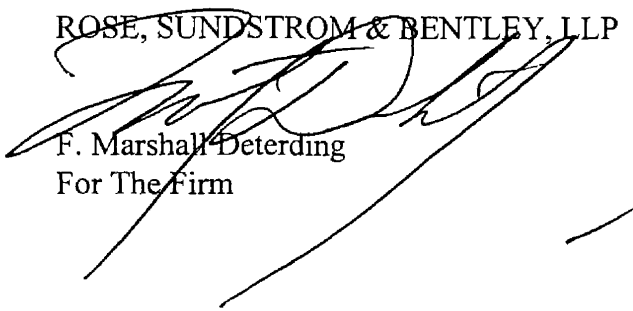
apartment-type barges which are permanent in nature. In fact, the agreement between the Utility and Safe Harbor Marina is that no transient boats of any nature will be allowed to be pumped out to the sewer system, because of the potential for disrupting the treatment process at the sewage treatment plant (the chemicals added to boat sewage systems from other countries will disrupt the treatment process). In the past, Key West Resort Utilities has not billed the marina for transient boats, because of this agreement. Because your letter now suggests that all boats entering the marina are allowed to utilize the pump out facilities, the Utility will have to investigate the situation and determine whether or not the marina is in fact being under billed. In the past, we have relied upon the marina to provide us a monthly count of customers receiving service.

In conclusion, we believe that Safe Harbor Marina is being billed in the appropriate manner in conformance with the Utility's tariff, Florida Public Service Commission rules, and the only reasonable method by which this residential community can reasonably be billed in order to avoid discriminatory practices to the detriment of the Utility's other customers. In addition, the one customer you note as an appropriate example for the proper billing of the marina, is in fact billed in the same exact manner as the marina. The only customers receiving service under the private lift station arrangement that you propose are to commercial mini-warehouse type facilities, which are very different in nature from the marina, both in configuration and type of customers served. The Utility will be investigating whether or not the current method for determining the number of units served is adequate, or whether individual metering of each unit, or additional units of billing need to be added to the Safe Harbor bill for future and back billing purposes.

I believe that the above fully responds to the complaint as filed with the Florida Public Service Commission. To the extent the Utility is forced into utilizing another method of service, we will require separate metering of the marina's customers and billing on that basis. I am forwarding a copy of this letter to the Florida Public Service Commission staff, and believe it adequately addresses the concerns raised in your letter, and fully supports the method by which the marina is billed.

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP



F. Marshall Deterding  
For The Firm

FMD/tms

cc: Mr. Dick Durbin  
Mr. Doug Carter  
Mr. William L. Smith, Jr.

kwresort\oconnell.ltr

ORIGINAL

October 25, 2001

Mr. Dick Durbin, Public Service Commissioner  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399

Dear Mr. Durbin,

This letter is to provide an answer to Key West Resort Utility's response to the complaint that I filed with you.

Item #1: In paragraph it refers to the Public County Service Commissioner approval. We are a private lift station operation and the tariff we should be billed under, is that of a private lift station operation.

Item #2: Upon further inquiry, the lift station providing service to the mobile home park is maintained by Key West Resort Utility, which is not the case of Safe Harbour Marina.

The reference to individually metering each boat at a cost of fifty thousand dollars is not correct. We have two individual water meters, which we could base our sewage rate on. The meter that would go from our final lift station to the sewer company would be a two-inch sewer meter and would cost approximately five to six thousand dollars. If we wished to individually meter each boat for water consumption these bronze water meters are ninety-six dollars a piece and would cost between five and six thousand dollars for the materials and meters. However, we already know what our water consumption is based on the two main meters.

We have four barge-style houseboats in the marina and many sailboats, along with charter boats, buildings, a restaurant, shops and six apartments. We have two bathhouses where people on the boats go to use the facilities. Many people do not use the showers and toilets on their boats, but instead, use the bathhouses. They are charged a full residential unit rate of \$34.25. We have never had a problem with the utility in regards to boat waste. We do not have transient boats in our marina. All of our boats are here on a monthly basis. The residential fee is based on a home or mobile home, two-bedroom, two-bathroom type of usage. A marina is totally different in its units. In a residential situation the utility company is responsible to maintain its lines and the whole delivery system to the treatment plant. The cost of providing that service is included in the \$34.25 a month charge. We provide, as a private lift station operator, the total cost of the delivery of the sewage to the treatment plant. We pay for:

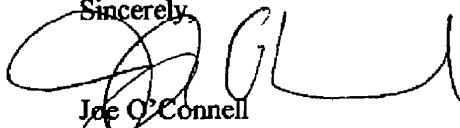
1. The vacuum lines and vacuum pumps to all boats
2. Electricity to run these pumps
3. Two lift stations with four, three phase two horsepower pumps
4. All billing and collection responsibilities from tenants
5. Two stand-by generators to run the lift stations in case of a power outage

ORIGINAL

## 6. The maintenance of this equipment

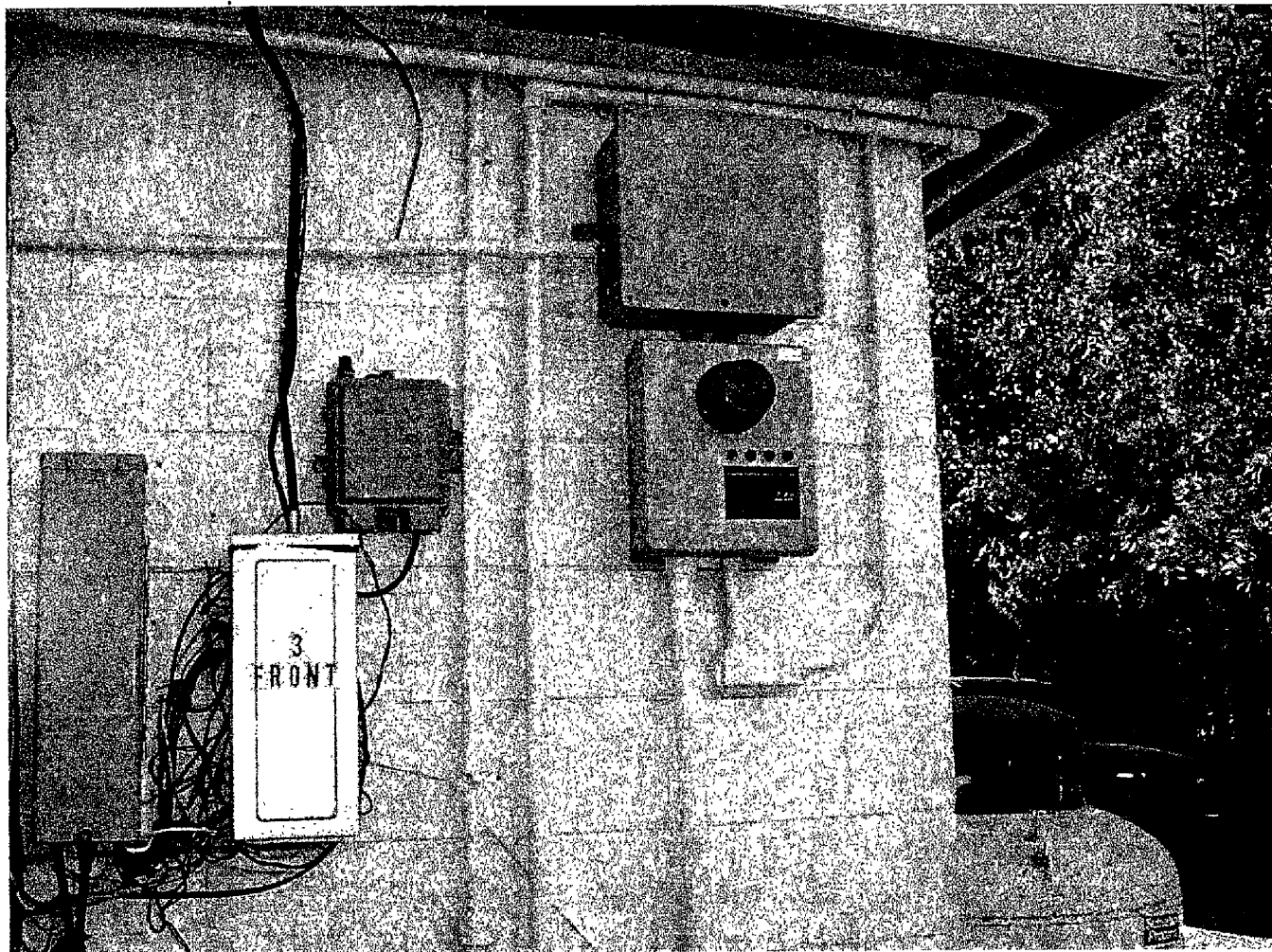
In Conclusion, the above responsibilities would be paid and performed by the utility company using the residential unit charge. I can only assume that when a utility company files for its tariff, the justification for the rate is based upon all the expenses it incurs in collection, treatment, and billing. The reason there is a tariff for a private lift station operator is because the cost of delivery is excluded from the other tariffs and therefore is bulk waste treatment only. If a tariff is needed for a marina operation that is, for some reason, different from a private lift station operator, than the utility needs to file for the tariff and justify the rate.

Sincerely,



Joe O'Connell

PS We will overnight you pictures of the marina along with pictures of the lift station, bathhouses, ect.

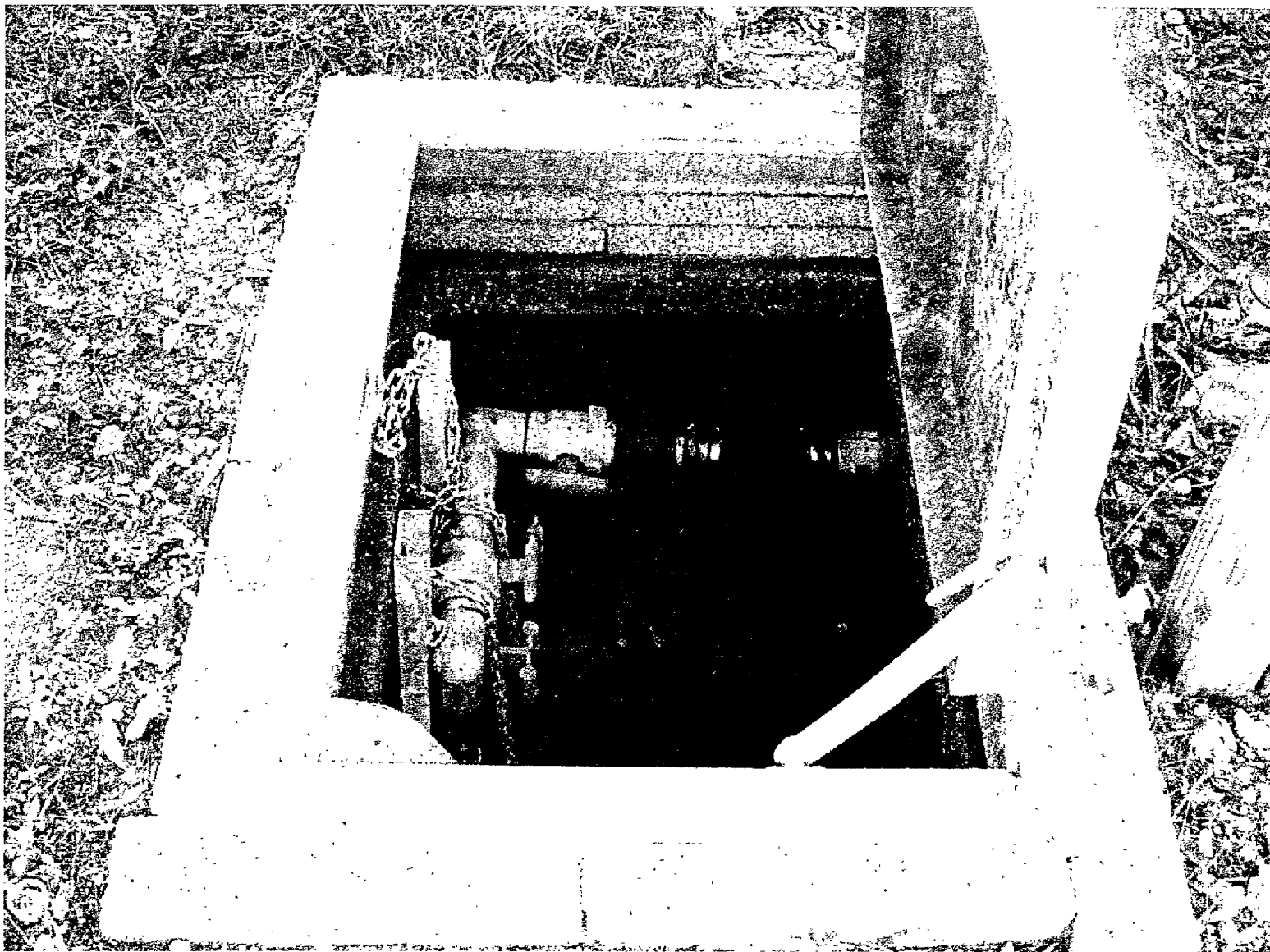


1ST LIFT STATION  
CONTROLS

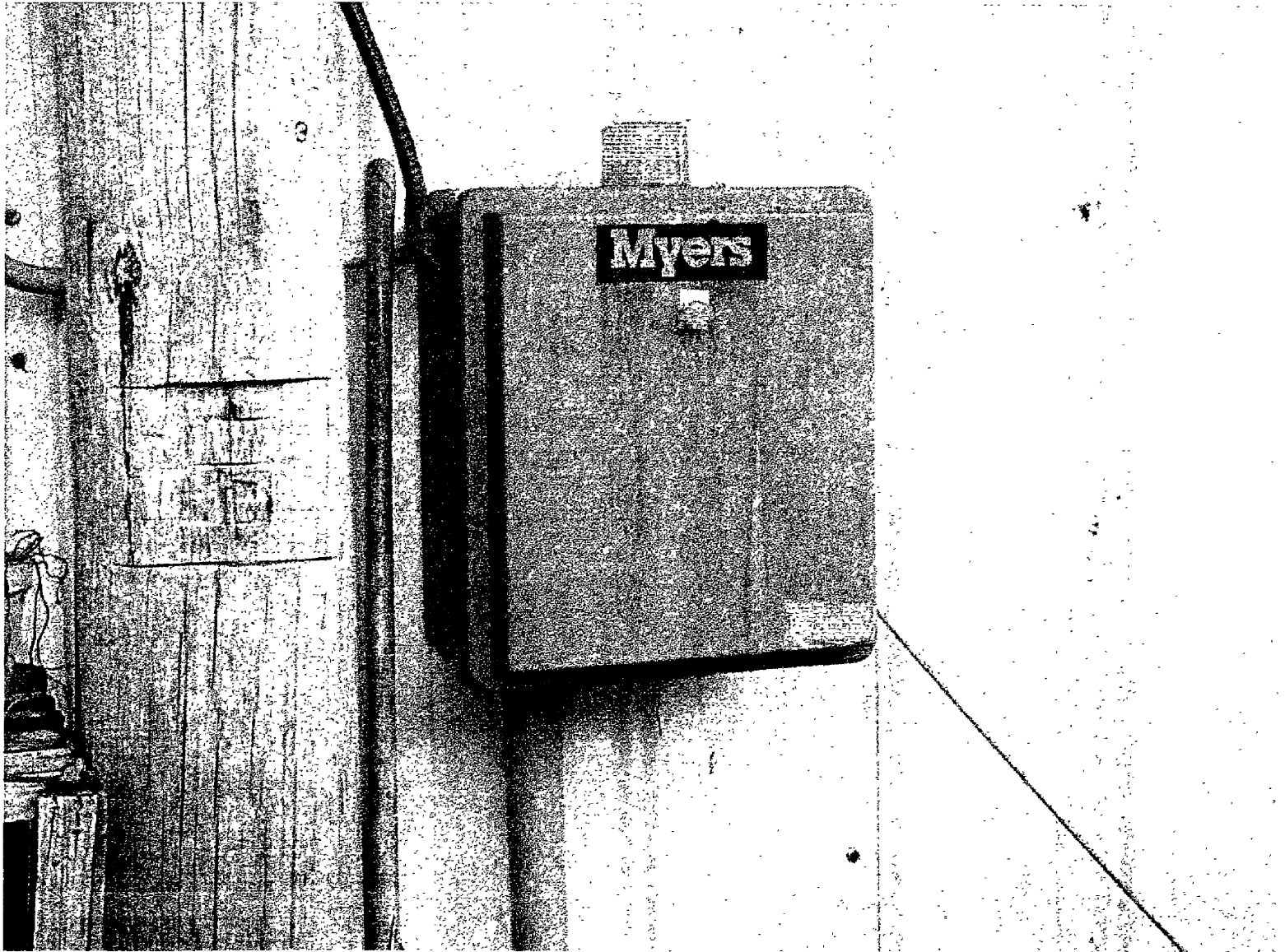


CorelPHOTO-PAINT!  
October 26, 2001, 2:50pm

Driver: HP OfficeJet Series 700 Printer  
mvc-005f.jpg



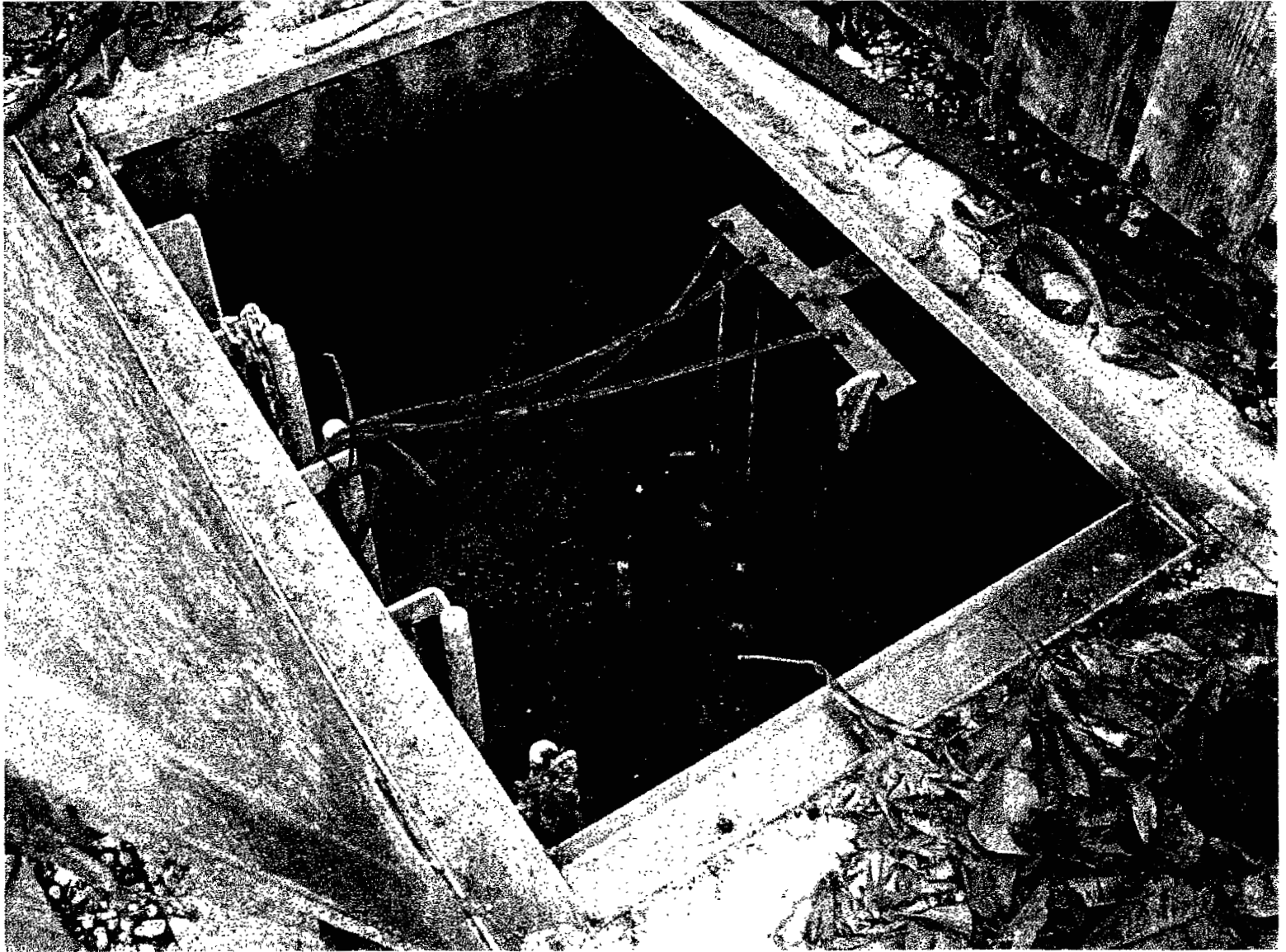
1ST LIFT STATION



2nd LIFT STATION CONTROLS

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October 26, 2001, 11:07am

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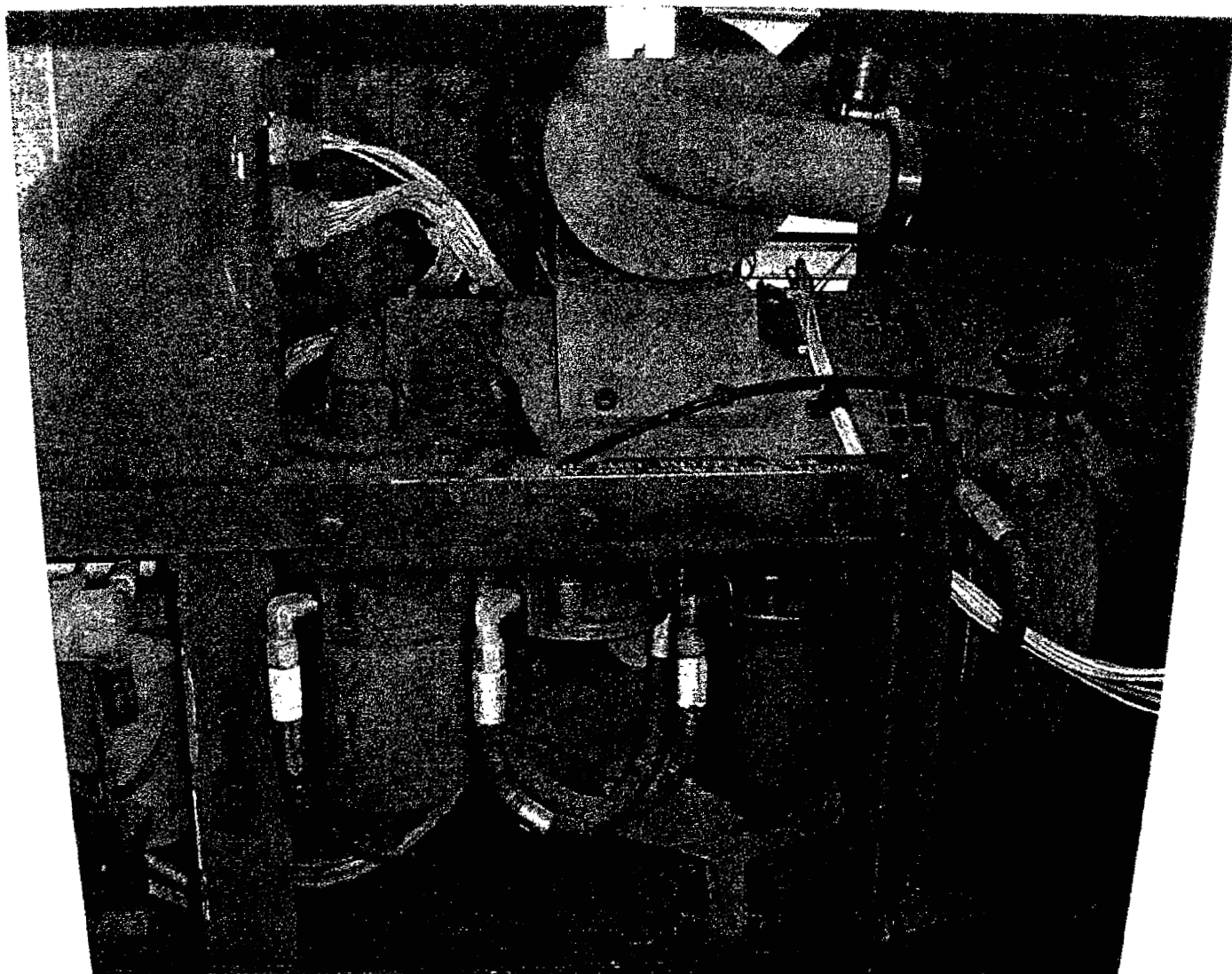


2nd LIFT STATION

COLEPHOTO-PAINT:  
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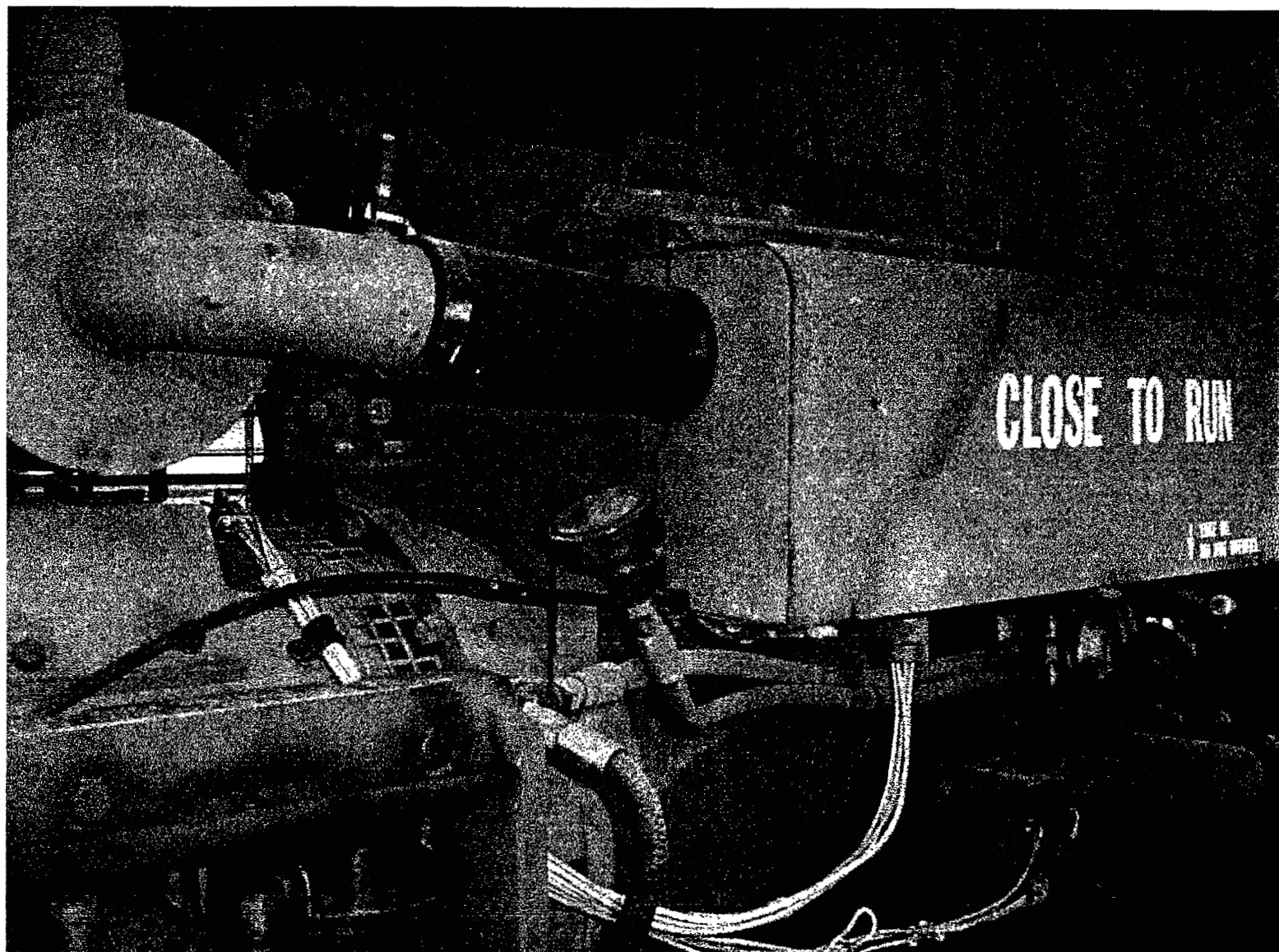
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0001 ML



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October 25, 2001, 7:10 am

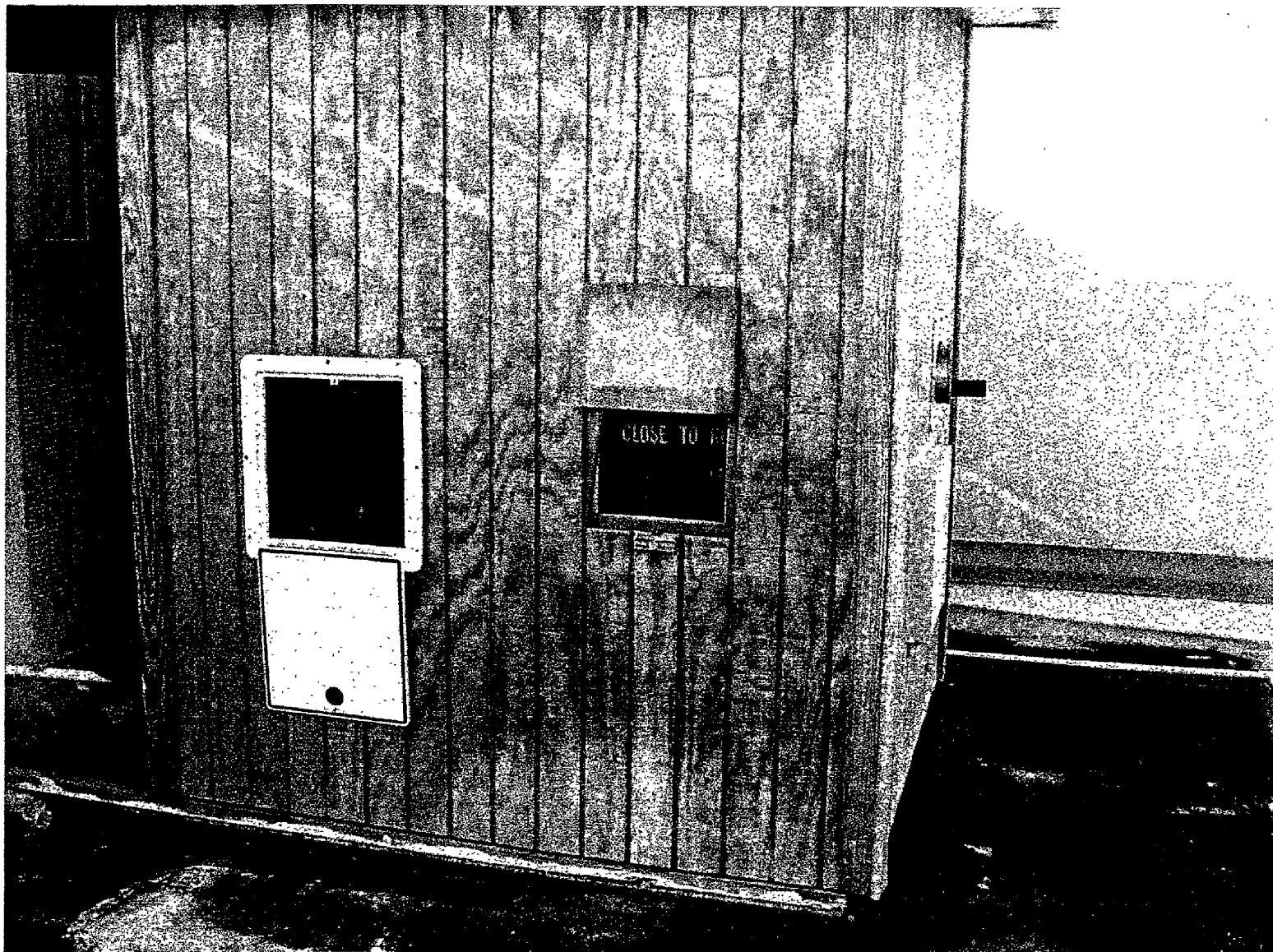
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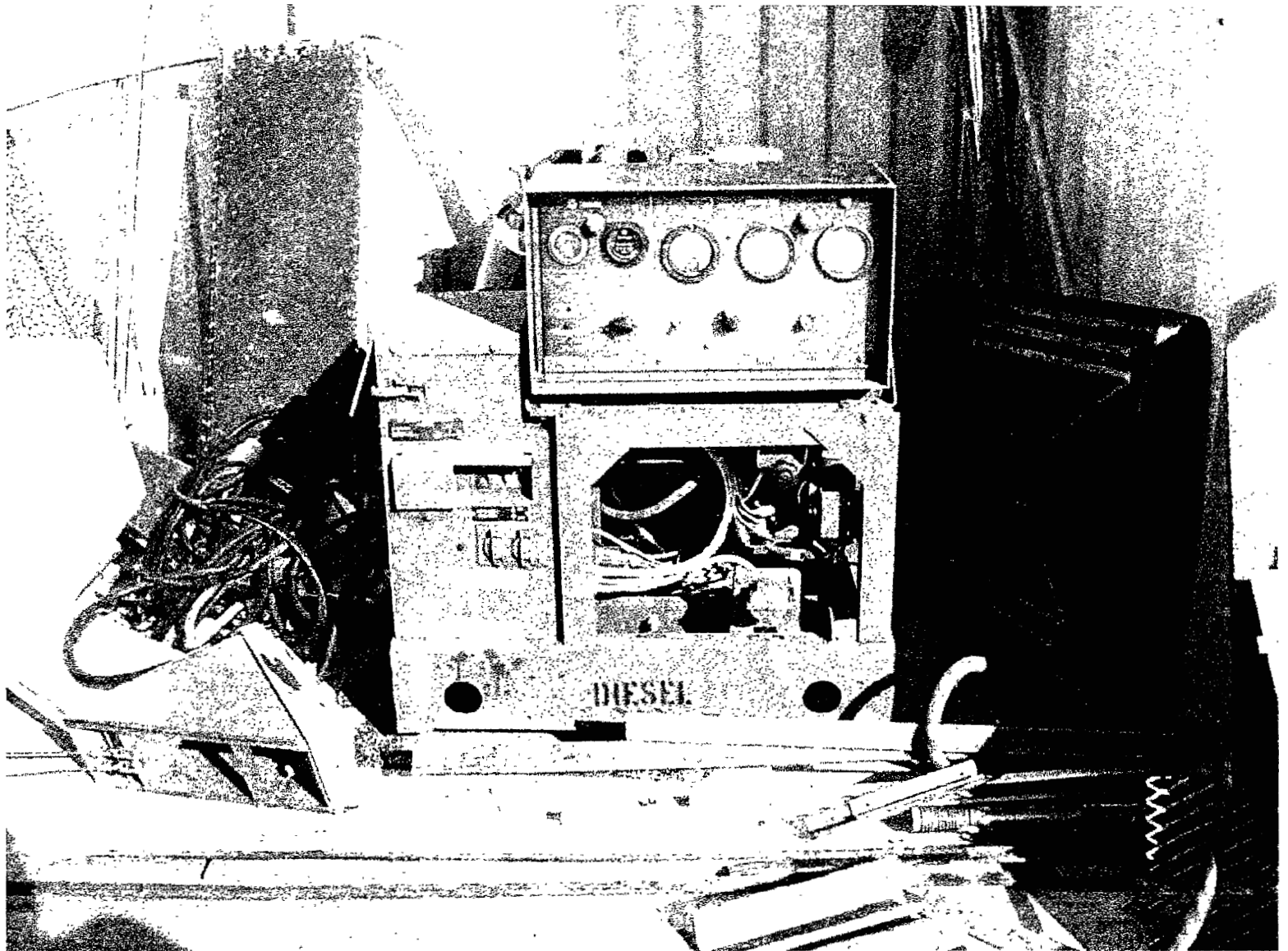




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October 25, 2001, 7:27 am

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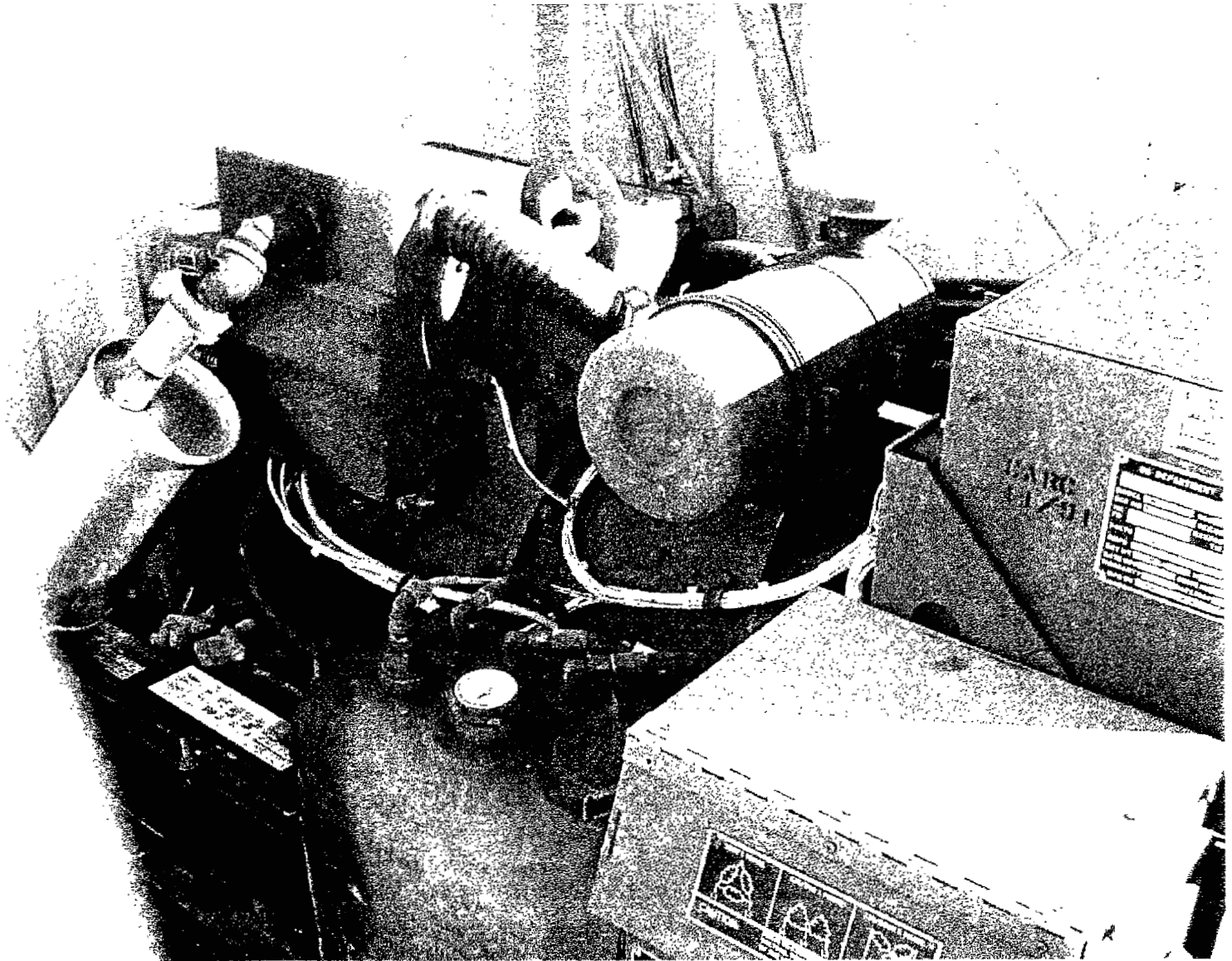




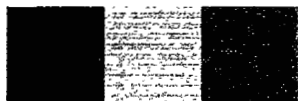
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October 26, 2001, 9:00m

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mvc-002f.jpg







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October 25, 2001, 6:40 am

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mvc-006f.jpg

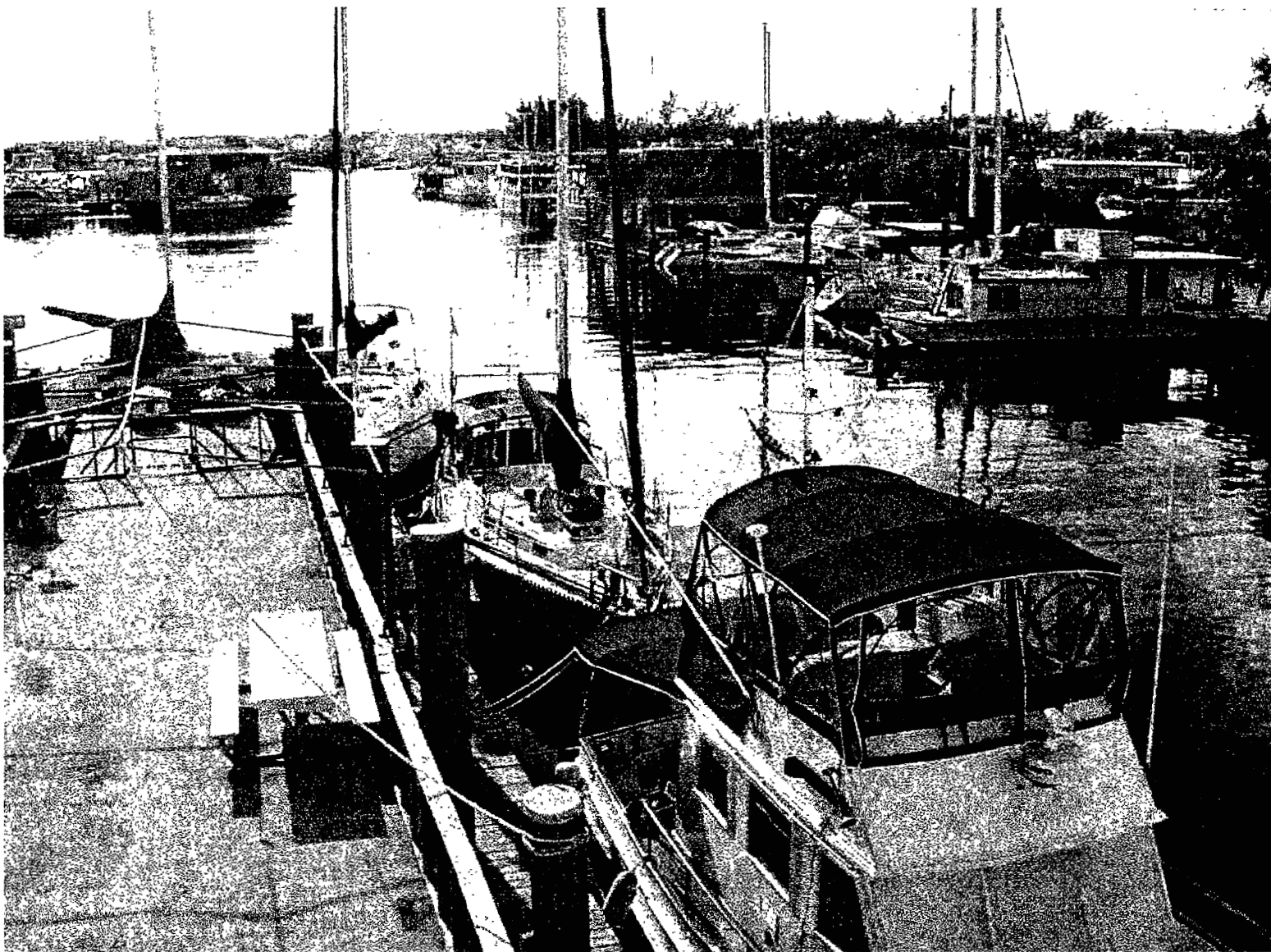


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October 25, 2001, 7:00am

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mvc-003f.jpg



Corel PHOTO-PAINT!  
October 25, 2001, 10:00pm

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CorelPHOTO-PAINT!  
October 26, 2001, 8:am

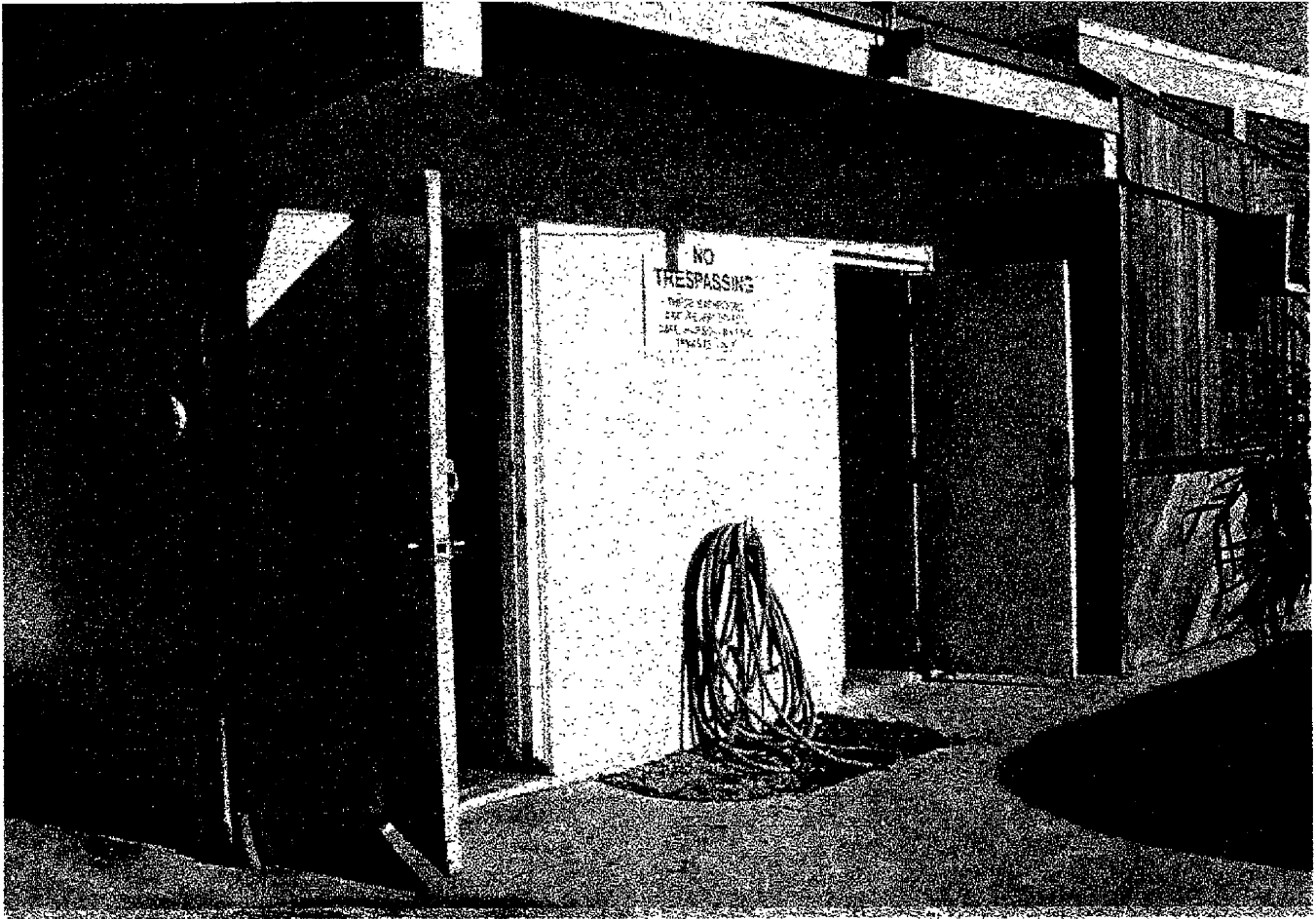
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CorelPHOTO-PAINT!  
October 26, 2001, 8:27am

Driver: HP OfficeJet Series 700 Printer  
mvc-006f.jpg







CorelPHOTO-PAINT!  
October 25, 2001, 6:27 am

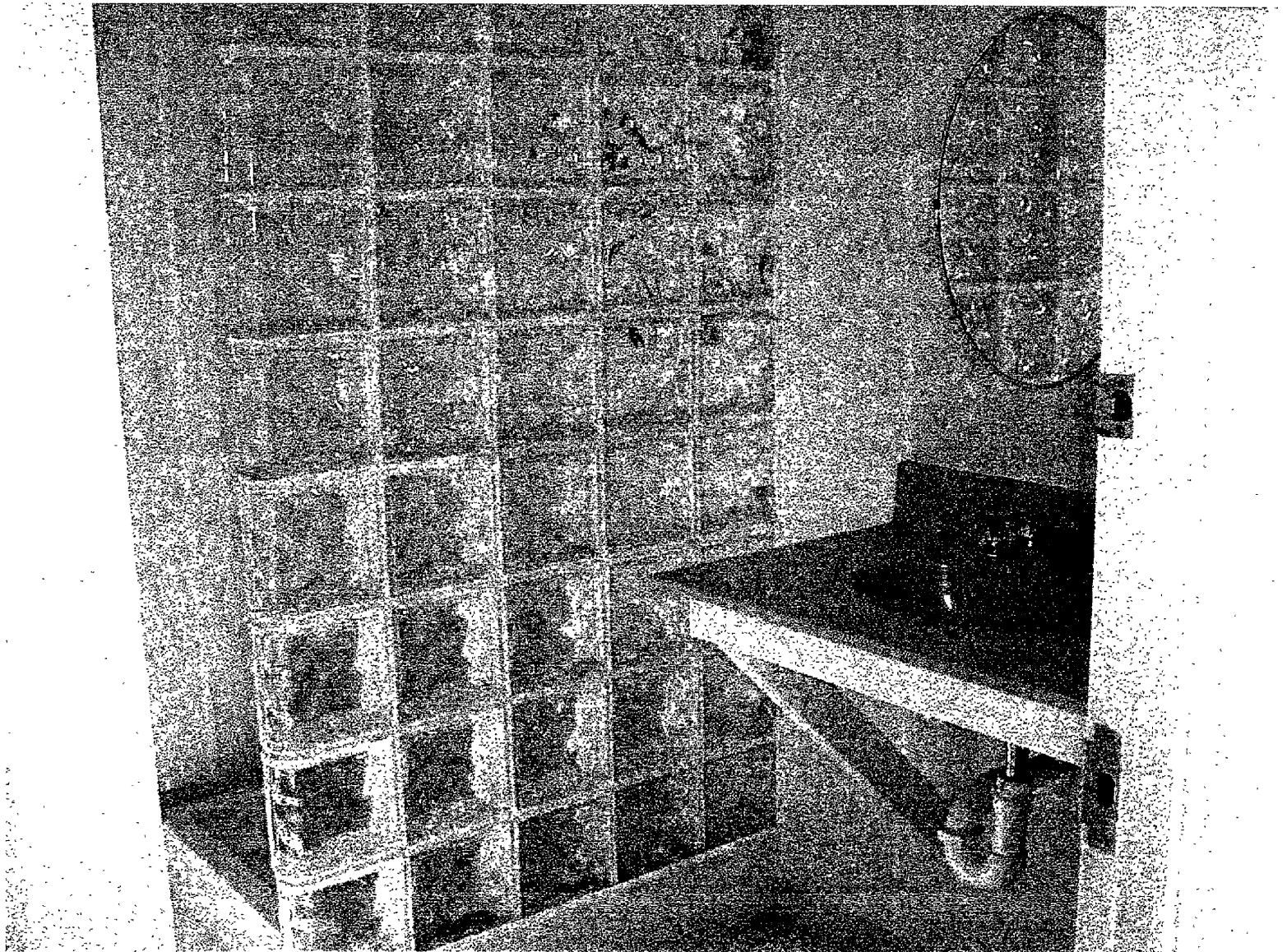
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October 25, 2001, 6:28pm

Driver: HP OfficeJet Series 700 Printer  
mvc-005f.jpg



|   |  |   |  |                           |
|---|--|---|--|---------------------------|
|  <b>SAFE HARBOUR MARINA</b><br>6810 FRONT STREET<br>STOCK ISLAND, FL 33040<br>(305) 294-9797 |  | <b>FIRST STATE BANK</b><br>OF THE FLORIDA KEYS<br>KEY WEST, FL 33040<br>63-4370-4 |  | <b>6403</b><br><br>2/9/00 |
| PAY TO THE ORDER OF <b>K W Resort Utilities</b>   |  | <b>\$ **385.80</b>  |  |                           |
| Three Hundred Eighty-Five and 80/100*****   |  |   |  |                           |
| <b>K W Resort Utilities Corporation</b><br>P. O. Box # 2125<br>Key West, Florida 33045-2125   |  | DOLLARS<br>Security features included.<br>Details on back.                        |  |                           |
| MEMO <u>acct. S001</u>  |  | <b>NOT NEGOTIABLE</b><br><i>Walter Crumbley</i>                                   |  |                           |

119.07(1)(z), Florida Statutes: Bank account numbers or debit, charge, or credit card numbers given to an agency for the purpose of payment of any fee or debt owing are confidential and exempt from subsection (1) and s.24(a), Art. 1 of the State Constitution . . .

SEND PAYMENTS TO:  
 KW RESORT UTILITIES CORP.  
 P.O. BOX 2125  
 KEY WEST, FLORIDA 33045  
 305-294-9578

| ACCOUNT NO.               | SLOT     |
|---------------------------|----------|
| 1001                      | 60107704 |
| TRANSACTION DESCRIPTION   | AMOUNT   |
| PAYMENT THANK YOU         | 636.86   |
| COMMERCIAL RENTAL - 6216  | 27.81    |
| COMM RENTAL PER THRU GALS | 141.47   |
| Previous Balance:         | \$51.50  |
| AMOUNT DUE:               |          |
| 11/21/00                  | 385.80   |

ORIGINAL



**SAFE HARBOUR MARINA**  
6810 FRONT STREET  
STOCK ISLAND, FL 33040  
(305) 294-9797

**FIRST STATE BANK  
OF THE FLORIDA KEYS**  
KEY WEST, FL 33040  
63-43/670 - 4

6413.

1/9/80

K W Resort Utilities

\*\*\$60.25

PAY TO THE  
ORDER OF

Five Hundred Sixty and 25/100\*\*\*\*\*

K W Resort Utilities Corporation  
P. O. Box # 2125  
Key West, Florida 33045-2125

DOLLARS  
Security features  
included.  
Details on back

accl.

MEMO

119.07(1)(z), Florida Statutes: Bank account numbers  
or debit, charge, or credit card numbers given to an  
agency for the purpose of payment of any fee or debt  
owing are confidential and exempt from subsection (1)  
and s.24(a), Art. 1 of the State Constitution . . .

**NOT NEGOTIABLE**

SEND PAYMENTS TO:

KW RESORT UTILITIES CORP.  
P.O. BOX 2125  
KEY WEST, FLORIDA 33045  
305-294-9797

| ACCOUNT NO              | SFCALOT  |
|-------------------------|----------|
| 5001                    | 6810FRON |
| TRANSACTION DESCRIPTION |          |
| COMMERCIAL SEWER - BASE |          |
| COM SEWER PER THOU GALS |          |
| January                 |          |
| Previous Balance:       |          |
| 385.80                  |          |
| 01/31/80                |          |
| AMOUNT DUE              |          |
| 560.25                  |          |

ORIGINAL



# Public Service Commission

## -M-E-M-O-R-A-N-D-U-M-

### CASE REASSIGNMENT

---

DATE: November 13, 2001  
TO: TIM DEVLIN - ECONOMIC REGULATION  
FROM: BEV DEMELLO, DIRECTOR, DIVISION OF CONSUMER AFFAIRS  
RE: CASE NO. - 408218W - SAFE HARBOR MARINA

---

The attached case is being reassigned to:

Division: Economic Regulation

Subject: K W Resort Utilities

Reason: Complaint concerns a technical issue regarding rate schedule.

NOTE: THIS IS A CASE REASSIGNMENT. The materials attached are ORIGINAL DOCUMENTS associated with this matter.

Please confirm your receipt of this material by signing the attached copy of this memo.

NOTE: Upon closure of the case, reroute the case originals back to the Division of Consumer Affairs for filing. Thank you.

01 NOV 14 PM 2:57  
ECONOMIC REGULATION  
DIVISION OF CONSUMER AFFAIRS

**Paul Lowery**

---

**From:** Paul Lowery  
**Sent:** Wednesday, November 14, 2001 12:22 PM  
**To:** Paul Lowery

THIS CASE HAS BEEN REASSIGNED CASE NO:.. 408218W FROM CAF

ORIGINAL

Request No. 408218WName ,Business Name SAFE HARBOR MARINA**Consumer Information**

Name:

Business Name: SAFE HARBOR MARINA

Svc Address: 6810 FRONT STREET

STOCK ISLAND

County: Monroe

Phone: (305)-304-0524

City/Zip: KEY WEST /

Account Number:

Caller's Name: JOE O'CONNELL

Mailing Address: 6810 FRONT STREET

STOCK ISLAND

City/Zip: KEY WEST ,FL

Can Be Reached:

E-Tracking Number:

**Florida Public Service  
Commission - Consumer Request  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
850-413-6100**

**Utility Information**

Company Code: SU336

Company: K W RESORT UTILITIES CORP.

Attn. Doug Carter 408218W

Response Needed From Company? Y

Date Due: 10/19/2001

Fax: 6W1,305-294-1212

B

Interim Report Received: / /

Reply Received: 10/19/2001

Reply Received Timely/Late:

Informal Conf.: N

**PSC Information**

Assigned To: ECR

Entered By: DDURBIN

Date: 09/28/2001

Time: 13:16

Via: FAX

Prelim Type: OTHER

PO:

Disputed Amt: 16586.72

Supmntl Rpt Req'd: / /

Certified Letter Sent: / /

Certified Letter Rec'd: / /

Closed by:

Date: / /

Closeout Type:

Apparent Rule Violation: N

See attached correspondence concerning the customer's billing. Mr. O'Connell believes that he is being billed at an improper rate schedule. He believes that his account should have been established under the rate for private left station owners.

Dick Durbin

10/16/01 FAX TO COMPANY: Customer called and said he has received a disconnect notice. Please be advised that while a PSC complaint is pending, no disconnection of service may take place. The response to the complaint is due on October 19, 2001. I will follow up as soon as I receive that response. Dick Durbin

10/19/2001 Report received via hand delivery. AHashisho

10/24/01 Customer called and said he had received a letter from the company. He will send me a written

Request No. 408218WName ,Business Name SAFE HARBOR MARINA

PAGE NO: 1

**ORIGINAL**

response to the company's letter. Dick Durbin

10/25/01 Received letter from customer and a phone call. He will send me some photographs to go along with his rebuttal letter. Dick Durbin

10/30/01 Received letter and photographs from customer. Dick Durbin

11/6/01 Customer called and said that he found that, in the past, he was billed as a private lift station. He will fax a copy of his bills from that period. Dick Durbin

11/13/01 Reviewed file, it appears the complaint is regarding a rate schedule the customer is being billed by the company. Case forwarded to ECR. rmchargue

11/14/2001 Case reassigned to the Division of Economic Regulation. P.Lowery

ORIGINAL

---

Request No. 408218W Name , Business Name SAFE HARBOR MARINA

Request No. 408218W

Name ,

Business Name SAFE HARBOR MARINA

**Consumer Information**

Name:

Business Name:SAFE HARBOR MARINA

Svc Address: 6810 FRONT STREET

STOCK ISLAND

County: Monroe Phone: (305)-304-0524

City/Zip: KEY WEST /

Account Number:

Caller's Name: JOE O'CONNELL

Mailing Address: 6810 FRONT STREET

STOCK ISLAND

City/Zip:KEY WEST ,FL

Can Be Reached:

E-Tracking Number:

**Florida Public Service**  
**Commission - Consumer Request**  
**2540 Shumard Oak Boulevard**  
**Tallahassee, Florida 32399**  
**850-413-6100**

**Utility Information**

Company Code: SU336

Company: K W RESORT UTILITIES CORP.

Attn. Doug Carter408218W

Response Needed From Company? Y

Date Due: 10/19/2001

Fax: 6W1,305-294-1212

B

Interim Report Received: / /

Reply Received: 10/19/2001

Reply Received Timely/Late:

Informal Conf.: N

**PSC Information**

Assigned To: ECR

Entered By: DDURBIN

Date: 09/28/2001

Time: 13:16

Via: FAX

Prelim Type: OTHER

PO:

Disputed Amt: 16586.72

Supmntl Rpt Req'd: / /

Certified Letter Sent: / /

Certified Letter Rec'd: / /

Closed by:

Date: / /

Closeout Type:

Apparent Rule Violation: N

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Request No. 408218W

Name ,

Business Name SAFE HARBOR MARINA



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11/14/2001 Case reassigned to the Division of Economic Regulation. P.Lowery

11/14/01 received by Richard Tudor and referred to Marshall Willis for assignment.

---

Request No. 408218W      Name ,      Business Name SAFE HARBOR MARINA

COMMISSIONERS:  
E. LEON JACOBS, JR., CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI

STATE OF FLORIDA



Mat  
TIMOTHY DEVLIN, DIRECTOR  
DIVISION OF ECONOMIC REGULATION  
(850) 413-6900

## Public Service Commission

November 28, 2001

Mr. F. Marshall Deterding  
Rose, Sundstrum, Bentley, LLP  
2548 Blairstone Pines Drive  
Tallahassee, FL 32301

**Re: Complaint by Mr. Joe O'Connell of Safe Harbor Marina against K.W. Resort Utilities Corporation**

Dear Mr. Deterding:

We are in receipt of the above complaint. In order to process this complaint, staff submits the following requests:

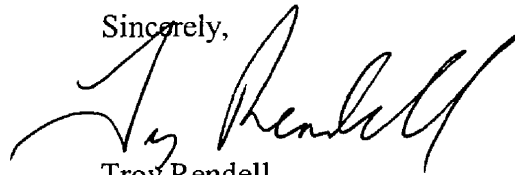
1. Mr. O'Connell states, in a letter dated September 26, 2001, that for the past 18 months, he has paid \$1,565.64 per month for a total of \$28,181.52. In the utility's contract for wastewater treatment, paragraph 10 states, "All residential units... totaling 46 units shall be billed at the monthly flat rate currently approved by the PSC which is \$34.25 per apartment per month and which may change based upon PSC approval." Using the contracted amount, total monthly billing should be \$1,575.50 (\$34.25 x 46) per month for a total of \$28,359 over 18 months. The tariffed rate effective September 30, 1999 requires that all residential customers shall be charged \$34.56 flat rate per month. This tariffed amount would provide monthly billing of \$1,589.76 (\$34.56 x 46) per month and a total of \$28,615.68 per 18 months. Was Mr. O'Connell charged \$1,565.64 per month for an 18 month period? If so, why was he not charged the tariffed amount?
2. Is K.W. Resort Utility Corp. opposed to placing a 2" flow meter on the lift station owned by Safe Harbor Marina, to register wastewater gallonage being sent to the wastewater treatment system? If so, why?
3. Mr. O'Connell stated in a letter to the Commission, dated October 25, 2001, that the utility broke its contract by refusing to bill "direct to tenants monthly." Is this true? Please explain.

KW utilities  
Page 2  
November 28, 2001

4. Is Safe Harbor Marina, which owns its own lift station and collection lines, is treated differently than other customers currently being billed under the "lift station" rate schedule? If so, please justify why.

In order to process this complaint in a timely fashion, please provide this information by December 19, 2001. Please address your correspondence to me. If you have any questions, please feel free to contact Mr. Matthew Costner at (850) 413-6690.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy Rendell". The signature is fluid and cursive, with a large initial "T" and "R".

Troy Rendell  
Public Utilities Supervisor

TR:mc

cc: Division of Economic Regulation (Tudor, Willis, Costner)  
Division of Consumer Affairs (DeMello, Durbin)  
K.W. Resort Utilities  
Mr. Joe O'Connell

SAFE HARBOUR MARINA  
DISTRIBUTION CENTER

01 DEC 19 AM 9:56

December 17, 2001

Troy Rendell, Public Utilities Supervisor  
Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0865

re: K W Resort Utilities Corp. billing complaint

Dear Mr. Rendell:

This is in response to your letter of November 28, requesting further information concerning my complaint. Because I am neither a lawyer nor a utilities expert, I am not familiar with some of the terminology used by KW Resort Utilities' attorney, but your questions are clear and to the point, which I appreciate.

Your first question concerns how I arrived at the conclusion that we were being billed at the wrong rate. Frankly, I am not certain what the monthly bill should be, but it could be readily calculated once it is determined whether we should be billed as 46 residential units at the Utility's "Residential Rate" (as set forth in its current tariff, "Second Revised Sheet No. 13.0", effective Sept. 30, 1999) or as a private lift station operator. We signed the original service contract in ignorance of the PSC and of the concept of an approved tariff, and because we were told that we had to sign it if we wanted sewer service (I understand that lawyers call this a contract of adhesion). The Utility broke the contract almost immediately, by refusing to bill each boat owner individually, as agreed. We believe that we are a private lift station operator because we collect and pump, through lines and lift stations that we purchased, installed, and maintain, all of the sewage generated on our property. We do not believe that the 35 sailboats docked at our facility are properly characterized as Residences under the Utility's Residential Rate tariff, which by its terms includes only "single family homes, mobile homes, and individually metered apartment units," and makes no provision for boats. We disagree with the Utility's contention that a sailboat with a 15-gallon holding tank, pumped out on a weekly basis, is an Equivalent Residential Connection. What we have at the Marina (13 residential units, one bar, two bathhouses and 35 sailboats) is a mixed-use

SECOND REVISION

01 DEC 19 PM 12:50

RECEIVED  
PUBLIC SERVICE  
DEC 19 1999

December 17, 2001

property that collects and pumps its own sewage to the Utility's line, and which receives one bill from the Utility. We are, in short, a private lift station operator, and should be billed as such.

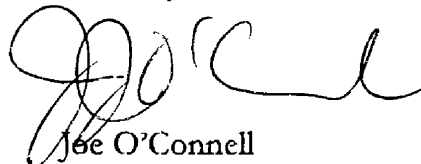
Question 2: Yes, we would pay for a 2-inch flow meter to register wastewater gallonage delivered from our lift station to the Utility for treatment.

Question 3: Yes, we installed and maintain our own collection lines and lift stations, currently in use at the Marina.

Question 4: Yes, boats at the Marina pump waste from holding tanks for treatment by the Utility. This was a condition of the Clean Water Act grant awarded by the State of Florida to defray the cost of installing the additional lift station and central pump-out system needed to serve the boats. The Utility signed off on the DEP permit, agreeing to accept that sewage, and charged us impact fees for the additional demand on their system.

Thank you for your continued attention to this matter.

Sincerely,



Joe O'Connell  
for Safe Harbour Marina

LAW OFFICES

ROSE, SUNDSTROM & BENTLEY, LLP

2548 BLAIRSTONE PINES DRIVE  
TALLAHASSEE, FLORIDA 32301

(850) 877-6555

02 JAN -3 AM 11:05

ECONOMIC REGULATION

MAILING ADDRESS  
POST OFFICE BOX 1567  
TALLAHASSEE, FLORIDA 32302-1567

TELECOPIER (850) 656-4029

CHRIS H. BENTLEY, P.A.  
F. MARSHALL DETERDING  
MARTIN S. FRIEDMAN, P.A.  
JOHN R. JENKINS, P.A.  
STEVEN T. MINDLIN, P.A.  
JOSEPH P. PATTON  
DAREN L. SHIPPY, LL.M. TAX  
WILLIAM E. SUNDSTROM, P.A.  
DIANE D. TREMOR, P.A.  
JOHN L. WHARTON

ROBERT M. C. ROSE  
OF COUNSEL

January 2, 2002  
VIA HAND DELIVERY

Mr. Troy Rendell  
Division of Economic Regulation  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: K.W. Resort Utilities Corporation  
Complaint of Mr. Joe O'Connell of Safe Harbor Marina  
Our File No. 34000.02

Dear Mr. Rendell:

I am writing in response to your November 28, 2001 letter. First of all, let me apologize for the delay in getting back to you. It was an oversight on my part. I have tried to address, separately below, each of the questions raised in your letter:

1. As to the rate charged to Safe Harbor Marina, the Utility has charged this customer for 46 residential units times the then in effect rate (\$34.25 at one point in time and \$34.56 currently), plus \$45 for one unmetered commercial connection (a bar at the Marina). The Utility has charged its tariff rate throughout the period of time pertinent to this complaint.
2. K.W. Resort Utility Corporation is very much opposed to placing a 2" flow meter on the liftstation owned by Safe Harbor Marina to register wastewater gallonage being sent to the wastewater treatment plant. First of all, the Utility has no rate currently established for "sewage meters." Instead, as with the great majority of utilities in this state, the billing is based upon water usage.

Mr. Troy Rendell

January 2, 2002

Page 2

There is no tariff provision for use of a sewage flow meter. When the Utility first agreed to service this customer during negotiations, there were really two alternatives offered. Either separately meter each and every customer for water usage within the Marina property so that the customers could be separately serviced and billed based upon water usage, and cut off if need be for non-payment. Alternatively, the Utility would bill them based upon the flat rate and bill directly to the Marina. The alternative of billing the customers directly was a physical impossibility because the Utility would be forced to cut off the entire Safe Harbor Marina for the failure of one customer to pay. The Marina owner and the Utility did not want this latter possibility and as such, agreed with the proposal for billing these customers based upon the residential flat rate. In addition, the character of the development is very much like a residential community.

The Utility has been working, in recent years, toward connecting new areas currently on septic tanks or on small treatment arrangements, in order to bring sewage treatment services to much of the lower Keys, who are currently on much more environmentally damaging systems. We have received encouragement from many environmental regulatory and governmental authorities. However, most of these potential customers will be serviced in a very similar way to the way the Marina is serviced. For the most part, these additional services are trailer parks. If this customer is allowed to force the Utility into a bulk type service arrangement when it is really residential in character, all of those other trailer parks and marinas will have a similar argument. If that is done, the Utility will have no choice but to immediately seek rate relief from the Commission, because this change in character of the service provided will force the Utility into a major loss situation immediately, as well as discriminating against other customers who are residential in character as is the Marina.

3. Mr. O'Connell's statement to Commission that the Utility broke its contract by refusing to bill the tenants directly, is totally untrue. The parties have agreed and have operated for many months under our agreement, that the Marina owner is to tell us the number of occupied units within the Marina area for each month, and then we bill him accordingly. That was always what was agreed to between the parties, and there was never a proposal to directly bill the tenants. As noted above, such a billing arrangement would be an impossibility for the Utility and for the Marina owner, because the Utility would be forced to cut off the entire Marina, based upon nonpayment by one customer. The Utility only agreed to service this Marina based upon the rate arrangement and interpretation of tariffs that were and have continued to be utilized since service was begun. Any change in the character of that by Commission Order, effectively forces this Utility into not only a rate proceeding, but into a desire to discontinue service to this customer, as it is not economically feasible to continue, nor do we believe in accordance with our contract arrangement, our tariff, or the provision of service on a nondiscriminatory basis.
4. Safe Harbor Marina is being treated the same as are the only other entities receiving similar service. There are no residential type customers within a development being billed any differently than the Marina. The only entity with its own liftstation being billed as this customer is asking to be billed, is a mini warehouse that has no occupied buildings on a regular basis. Because the Marina is very much residential in character, it must be treated like all other residential customers of the Utility, which was the basis upon which the Utility agreed to serve this customer.

I cannot emphasize enough our concern with the customer's proposal. Not only is it contrary to a plain reading of our agreement with this customer, but also any reasonable reading of our tariff and what type of customer this Marina represents. If the Utility is forced to begin providing service to this customer based upon the size of his sewer line (rather than water lines or the character of the customer) or in any way materially modified



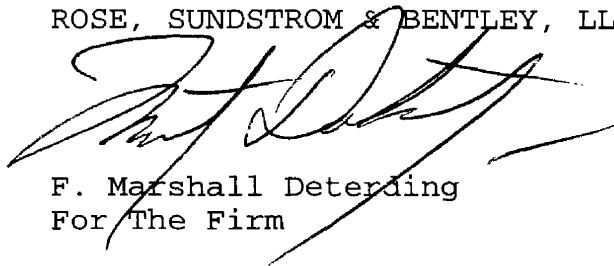
Mr. Troy Rendell  
January 2, 2002  
Page 4

from the current arrangement, the Utility will have no choice but to seek immediate rate relief from all of its customers and a total rate restructuring to ensure that this customer is not subsidized by the customer's remaining residential and commercial customers, and to ensure that the Utility is able to meet its expenses with regard to both its existing and all future customers that it hopes to tie into the central sewer system.

I trust this answers all of your questions. If you need any further information, please do not hesitate to contact me.

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP

A handwritten signature in black ink, appearing to read 'F. Marshall Deterding', is written over the typed name and firm name.

F. Marshall Deterding  
For The Firm

FMD/tms

cc: Mr. Doug Carter  
William Smith, Esq.

STATE OF FLORIDA

COMMISSIONERS:

LILA A. JABER, CHAIRMAN  
J. TERRY DEASON  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY



TIMOTHY DEVLIN, DIRECTOR  
DIVISION OF ECONOMIC REGULATION  
(850) 413-6900

## Public Service Commission

February 7, 2002

Mr. Joe O'Connell  
Safe Harbor Marina  
6810 Front Street  
Stock Island, Florida 33040

Mr. F. Marshall Deterding  
Rose, Sundstrum, Bentley, LLP  
2548 Blaiirstone Pines Drive  
Tallahassee, Florida 32301

**Re: Complaint by Mr. Joe O'Connell of Safe Harbor Marina against K.W. Resort Utilities Corporation**

Dear Messrs. O'Connell and Deterding:

On September 26, 2001, Joe O'Connell sent a letter to this Commission addressing his concern of K.W. Resort Utilities billing. In that letter, Mr. O'Connell stated that Safe Harbor Marina owns its own lift stations, and that upon research, believes that the marina should be billed the private lift station owner tariff rate. Currently, the Marina is being billed a residential rate. On October 17, 2001, K.W. Resort Utilities (K.W. Resort) responded to Mr. O'Connell's letter stating that "Safe Harbor Marina was provided service under the residential tariff as an accommodation to the Safe Harbor Marina..." The utility also made reference to paragraph 10 in the "Contract for Wastewater Treatment" in which the Utility and Marina both signed on August 31, 1999. Paragraph 10 of the contract states, "All residential units...shall be billed at the month residential flat rate currently approved by the PSC...and which may change based upon PSC approval."

Section 367.081 (2)(a)1, Florida Statutes states, "The commission shall, either upon request or upon its own motion, fix rates which are just, reasonable, compensatory, and not unfairly discriminatory..." Upon staff investigation, staff believes K.W. Resort is billing discriminatory rates to Safe Harbor Marina for the reasons listed below.

First, staff believes the utility is billing discriminatory rates since Safe Harbor Marina owns its own lift stations. However, the utility is billing Safe Harbor Marina a residential rate. Since Safe Harbor Marina owns its own lift stations, it should be billed under the private lift station owner tariff rate.

Second, staff has reviewed documentation prepared by the utility in another formerly docketed complaint. In Docket No. 000079-SU, K.W. Resort billed service availability charges to Sunset Ventures for its 103 boat slips at the marina for a total of 20.6 ERCs [(103 boats x 50 gpd) divided by 250 gpd]. Dividing Sunset Ventures total boats (103) by total ERCs (20.6), the total per boat equals 1/5 ERC. Currently, K.W. Resort is billing Safe Harbor Marina 1 ERC per boat. Staff believes that it is evident, based upon the utility's documentation, that the utility is treating two similar customers in a very different manner.

With the above facts, Staff believes there are two scenarios to resolve this complaint.

**Scenario 1:**

Staff believes one effective solution to this complaint would be to switch Safe Harbor Marina from the residential tariff rate to a private lift station owner tariff rate. For a customer of a utility to be billed under the private lift station owner tariff rate, it must own and maintain the lift station, which Safe Harbor Marina does. Staff believes there are two alternatives to this scenario.

In Order No. 13862, Docket No. 830388-S, issued November 19, 1984, Application of Stock Island Utility Company, Inc., for increased sewer rates to its customers in Monroe County, Florida, the Commission stated that private lift station (PLS) customers are charged the same base facility charge (BFC) as the other service classes, but are charged 80% of the other service classes' gallonage charge to recognize reduced costs of service to PLS owners. The reduced cost of service stems from the PLS owners paying for their own electrical pumping power and maintenance of the lift station. Staff acknowledges that this Order was protested; however, a subsequent settlement was approved by Order No. 14620, issued July 23, 1985. In the stipulation, the Privately Owned Lift Station Rates were approved with the same reduced gallonage charge. Further, the stipulation indicates that the flat rate would be used for the residential class of customers. In the first alternative, K.W. Resort would bill lift station owner tariff rates on the existing two, 3/4" water meters.

In the second alternative, K.W. Resort would place a flow meter on the last lift station in line to the utility. Staff believes this is an accurate measure of reading the wastewater primarily because the other water is used for washing down boats, boat docks, etc. and will not return directly to the wastewater system. A flow meter would also capture pumped out waste from the boats, whereas staff is unsure on how the capturing of this wastewater is accomplished now. The complainant has agreed to either of these alternatives and has agreed to pay the cost of the flow meter.

**Scenario 2:**

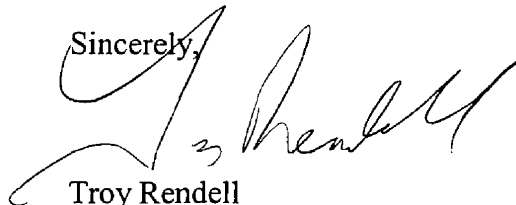
Staff believes that another effective solution to this complaint would be for K.W. Resort to take over the two lift stations, which would include the maintenance and upkeep of the two lift stations. This would entitle it to keep charging the current rates for the eight apartments, two modular homes, and two RV's, and a different rate for the bar, bathhouses, and boat slips. Safe Harbor Marina is currently being billed for 13 residential units, 1 bar, 2 bathhouses, and 35 sailboats, all under the residential tariff rate. Staff believes an appropriate way to bill these units is a flat rate

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February 7, 2002

for the 13 residential units, a general service flat rate for the bar and 2 bathhouses, and 1/5 the residential flat rate for the boat slips. This would recognize the fact that the majority of these boats have a 15 gallon holding tank that are pumped out weekly. The other usage by boat owners would be reflected in the bathhouse general service flat rate. Under Scenario No. 2, the utility would file a tariff filing for both the general service flat rate and the marina boat slip flat rate.

Further, the complainant requested a refund of alleged overpayments. Staff does not believe that a refund is warranted. The parties entered into the contract mutually and paid the agreed upon rate. Staff believes that the new rates should be changed prospectively.

Please be aware that the opinions contained in this letter are those of the Commission staff and are in no way binding on the Commission. Please indicate within 30 days which solution, if any, has been worked out, and if this complaint has been resolved. If the parties do not agree with staff's proposed resolution, either party may file for further determination pursuant to Rule 25-22.032 Florida Administrative Code. If you have any questions regarding this letter, please contact Mr. Matthew Costner at (850) 413-6690.

Sincerely,  
  
Troy Rendell  
Public Utilities Supervisor

TR:mc

cc: Division of Economic Regulation (Devlin, Jenkins, Willis, Costner, Sapp)  
Office of General Counsel (Harris)  
K.W. Resort Utilities Corporation

Safe Harbour Marina  
6810 Front Street  
Stock Island, Florida 33040

Phone (305) 294-9797  
Facsimile (305) 294-7023

March 7, 2002

Troy Rendell  
Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399

02 MAR 11 AM 11:15  
RECEIVED  
PUBLIC SERVICE  
COMMISSION

Dear Mr. Rendell;

I would like, very much, for you to come to Key West so that you may look at our facility on Stock Island to verify our usage and help settle our current situation with Key West Resort Utility. Only by observing the different types of usage, will you be able to understand the proper classification of our facility.

Sincerely,

Joe O'Connell  
(305) 304-0524

## LAW OFFICES

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ROBERT M. C. ROSE  
OF COUNSEL

March 11, 2002  
VIA TELECOPY

Mr. Troy Rendell  
Division of Economic Regulation  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: K.W. Resort Utilities Corporation  
Complaint of Mr. Joe O'Connell of Safe Harbor Marina  
Our File No. 34000.02

Dear Mr. Rendell:

After reviewing your letter of February 7, 2002 I am writing as a follow up on your proposals. While we do not immediately agree with either of the two proposals outlined in your letter, we might be willing to consider something along the lines of Scenario 2 with some modification or clarification. However, we still maintain that the Safe Harbor Marina is a substantially different customer in character than the Sunset Ventures Marina, which you reference as a similar customer. We believe it is important that you come and visit the service area and specifically the location of this customer and the situation that they are in, as well as the terms under which we agreed to serve them, before rendering your final decision in this regard.

However, as this is a customer complaint, under Commission rules, in order to effectuate further discussion on these issues; and to obtain your input; to further demonstrate to you the appropriateness of our position; and even to possibly discuss further settlement; we are hereby requesting an informal conference as provided for under Commission Rule 25-22.032(4), Florida Administrative Code. We are certainly willing to discuss alternatives with you, but we do believe your onsite review of the situation is imperative.

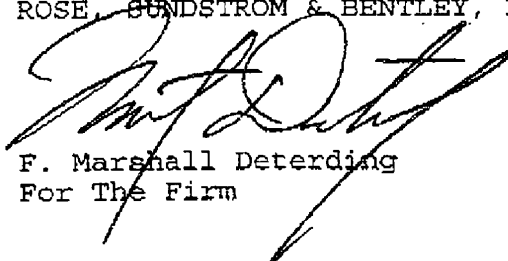
Mr. Troy Rendell  
March 11, 2002  
Page 2

I will be getting back with you in the next few days concerning dates when the management of the Utility is available onsite for your visit, in late May or early June.

If you have any questions in this regard, please let me know.

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP



F. Marshall Deterding  
For The Firm

FMD/tms

cc: Mr. Doug Carter  
William Smith, Esq.

STATE OF FLORIDA

COMMISSIONERS:

LILA A. JABER, CHAIRMAN  
J. TERRY DEASON  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY



TIMOTHY DEVLIN, DIRECTOR  
DIVISION OF ECONOMIC REGULATION  
(850) 413-6900

Public Service Commission

March 29, 2002

Mr. Doug Carter  
K.W. Resort Utility  
P.O. Box 2125  
Key West, FL 33045-2125

**Re: Complaint by Safe Harbor Marina against K.W. Resort Utility**

Dear Mr. Carter:

This is to confirm our meeting concerning the complaint by Safe Harbor Marina against K.W. Resort Utility. I will be arriving on June 10, 2002. As discussed, I would like to take a tour of the utility's entire service area, including both the Safe Harbor Marina and Sunset Ventures of Key West, Inc.'s marina on the afternoon of June 10, 2002.

Our settlement conference will be held on June 11, 2002 beginning at 9:00 a.m. at the Key West Golf Club clubhouse. Please be prepared to discuss possible solutions to the complaint that has been filed with the Public Service Commission. Also, bring any documentation that you believe would be necessary to accomplish a resolution to this issue.

I look forward to meeting with you and want to once again commend you on agreeing to meet and discuss possible settlement options with your valuable customer. If you have any questions, please do not hesitate to contact me at (850) 413-6934 or via e-mail at [trendell@psc.state.fl.us](mailto:trendell@psc.state.fl.us).

Sincerely,

A handwritten signature in black ink, appearing to read "W. Rendell".

William Troy Rendell  
Public Utilities Supervisor

cc: Mr. Joe O'Connell, Safe Harbor Marina



COMMISSIONERS:  
LILA A. JABER, CHAIRMAN  
J. TERRY DEASON  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY

STATE OF FLORIDA



TIMOTHY DEVLIN, DIRECTOR  
DIVISION OF ECONOMIC REGULATION  
(850) 413-6900

## Public Service Commission

March 29, 2002

Mr. Joe O'Connell  
Safe Harbour Marina  
6810 Front Street  
Stock Island, FL 33040

**Re: Complaint by Safe Harbor Marina against K.W. Resort Utility**

Dear Mr. O'Connell:

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In addition, I will be taking a tour of the utility's entire service area, including both the Safe Harbor Marina and Sunset Ventures of Key West, Inc.'s marina on the afternoon of June 10, 2002.

I look forward to meeting with you and want to once again commend you on agreeing to meet and discuss possible settlement options with your utility service provider. If you have any questions, please do not hesitate to contact me at (850) 413-6934 or via e-mail at [trendell@psc.state.fl.us](mailto:trendell@psc.state.fl.us).

Sincerely,

A handwritten signature in black ink, appearing to read "W. Rendell".

William Troy Rendell  
Public Utilities Supervisor

cc: Mr. Doug Carter, K.W. Resort Utility