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May 10, 2001

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Room 110
Tallahassee, Florida 32399-0850

HAND DELIVERY

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01 MAY 10 PM 4:17
RECORDS AND REPORTING

Re: Docket No. 991666-WU

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Florida Water Services Corporation ("Florida Water") are the following documents:

1. Original and fifteen copies of Florida Water's Motion for Summary Final Order; and
2. A formatted disk containing the Motion as a Word Perfect 6.0 document.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me. Thank you for your assistance with this filing.

Sincerely,

Kenneth A. Hoffman

APP _____
CAF _____
CMP _____
COM 5KAH/rl
CTR Enclosures
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PAI _____
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PPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
05875 MAY 10 2001
PPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application for amendment of)
Certificate No. 106-W to add territory)
in Lake County by Florida Water Services)
Corporation.)
_____ /

Docket No. 991666-WU

Filed: May 10 , 2001

**FLORIDA WATER SERVICES CORPORATION'S
MOTION FOR SUMMARY FINAL ORDER**

Florida Water Services Corporation ("Florida Water"), by and through its undersigned counsel, and pursuant to Rule 28-106.204(4), Florida Administrative Code, hereby moves for a summary final order dismissing the Objection filed by the City of Groveland ("City") and granting the Application filed by Florida Water to expand its certificated water service territory in Lake County, Florida. In support of this Motion, Florida Water states as follows:

BACKGROUND FACTS

1. On November 3, 1999, Florida Water filed an Application for Amendment of Certificate No. 106-W to add territory in Lake County. It is important to note that Florida Water's application was limited to water services and did not include wastewater service. On November 24, 1999, the City filed an Objection to Florida Water's application. The City is the only party that has objected to Florida Water's application.

2. A copy of the City's Objection is attached as Exhibit "A". The City's Objection is brief and raises only a limited number of issues. First, the City objects to Florida Water's application on the ground that the City adopted Ordinance No. 99-05-07 purporting to establish, pursuant to Section 180.02(3), Florida Statutes (1989), a Utilities Service District for the provision of water and wastewater services within a zone up to five miles outside of the corporate limits of the City, and that the territory proposed to be served by Florida Water is included within the City's

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FPSC - RECORDS/REPORTING

purported Utilities Service District. Second, the City claims that it has the capacity to serve the new territory requested by Florida Water in its Application.

3. The City developed the basic positions in its Objection through the prefiled direct testimony of two witnesses, Jason L. Yarborough and Joseph A. Mittauer. Copies of the testimony of Messrs. Yarborough and Mittauer are attached hereto as Exhibit "B". These two witnesses limit their testimony to a discussion of the City's Utilities Services District and the ability of the City to provide water (and wastewater) service to the territory requested by Florida Water in this docket. No testimony was filed by the City challenging Florida Water's ability to provide water service to the new territory consistent with its Application.

4. As confirmed by the City's Prehearing Statement, a copy of which is attached hereto as Exhibit "C", the City's basic position is that it has established its Utilities Service District by ordinance and has the prior right to serve the territory at issue. The City further claims in its basic position that service by Florida Water would duplicate existing utility services in violation of Section 367.045(5)(a), Florida Statutes. In addition, according to the City's Prehearing Statement, there is a need for service in the territory at issue; Florida Water has the financial ability to serve the territory; Florida Water has the technical ability to serve the requested territory; and the City does not dispute (and has filed no testimony disputing) that Florida Water has the capacity to serve the territory.

ARGUMENT

5. The four corners of the City's one page Objection and its supporting prefiled direct testimony confirm that the City's Objection to Florida Water's Application is limited to the City's contention that it has a preexisting right to serve pursuant to its 1999 Ordinance and that it has the

ability to provide service to the territory requested by Florida Water. Based on the applicable statutes and Commission precedent, the City's Objection does not provide a basis for denial of Florida Water's application and accordingly, the Objection must be dismissed.

6. First, Section 180.02(3) does not grant a city the right to establish an exclusive five mile service area for the provision of retail water services. The statute allowing municipalities to create exclusive service zones has been in effect since 1935.¹ It has always authorized a municipality to establish an exclusive five mile zone outside the corporate limits of the municipality for sewer services. In 1995, the statute was amended to allow an exclusive service area to be established for an "alternative water supply, including, but not limited to, reclaimed water, aquifer storage and recovery, and desalination systems" [emphasis added]. Had the Legislature intended to include retail water systems or services within the statutory five mile zone authority for municipalities, it would have been easy enough to do so. See Sumner v. Department of Professional Regulation, Board of Psychological Examiners, 555 So.2d 919, 921 (Fla. 1st DCA 1990). Because the Legislature chose not to take such action, and based on the plain language of the statute, it must be concluded that the City of Groveland's 1999 ordinance is not enforceable to the extent it purports to establish a five mile exclusive zone for the provision of retail water services (which is all that is involved in this docket). On this basis alone the City's Objection should be dismissed. An additional basis for dismissal is found in Commission precedent that correctly recognizes that the scope and effect of municipal actions under Chapter 180 are not within the Commission's jurisdiction.

¹See s. 1, ch. 17118, Laws of Florida (1935).

7. In Docket No. 940091-WS (the Lake Utilities proceeding),² the City considered an application filed by Florida Water's predecessor, Southern States Utilities, Inc. ("SSU"), for the transfer of facilities of Lake Utilities, Ltd. to SSU, the corresponding cancellation of Lake Utilities' water and wastewater certificates in Citrus and Lake Counties, and the amendment of SSU's water and wastewater certificates in Citrus and Lake Counties to add the former Lake Utilities territory. In that case, the City of Fruitland Park filed an objection to the transfer request. SSU moved to dismiss the objection. SSU's motion to dismiss was granted. The ruling in Lake Utilities is controlling precedent that compels dismissal of the City's Objection in the present case.

8. In the Lake Utilities proceeding, the City of Fruitland Park, like the City of Groveland in the instant case, did not dispute SSU's ability - - managerial, financial, technical or otherwise - - to meet the obligations of the transferor, Lake Utilities, to provide water and wastewater services to existing and future customers within the certificated area. Instead, like the City of Groveland in the instant case, the City of Fruitland Park focused its objection on the fact that the area being transferred to SSU fell within the City of Fruitland Park's Chapter 180 Utility District.

9. The Commission agreed with SSU that the appropriate test to be applied to determine whether the City of Fruitland Park was substantially affected by SSU's application is set forth in Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2nd DCA 1981) ("Agrico"). The Agrico test, which has become a staple of Chapter 120, Florida

²In re: Application for transfer of facilities of LAKE UTILITIES, LTD. To SOUTHERN STATES UTILITIES, INC.; amendment of Certificates Nos. 189-W and 134-S, cancellation of Certificates Nos. 442-W and 372-S in Citrus County; amendment of Certificates Nos. 106-W and 120-S, and cancellation of Certificates Nos. 205-W and 150-S in Lake County, Order No. PSC-95-0062-FOF-WS, issued January 11, 1995.

Statutes, jurisprudence, requires a person who wishes to challenge preliminary or proposed agency action to demonstrate:

(1) that he will suffer injury in fact which is of sufficient immediacy to entitle him to a section 120.57 hearing;³ and (2) that his substantial injury is of a type or nature which the proceeding is designed to protect.

467 So.2d at 482.

10. In Lake Utilities, the Commission held that the City of Fruitland Park had failed to meet the Agrico test because the Commission found that the City of Fruitland Park had not shown an injury in fact arising out of the transfer of the certificates from Lake Utilities to SSU. In reaching this conclusion, the Commission noted that the City of Fruitland Park was not an SSU customer and had created a Chapter 180 utilities district encompassing the Lake Utilities service area after the transfer application had been filed. Because Lake Utilities had always served the customers who were being transferred to SSU and who were in the City's newly established service area, the requested transfer had no impact on the City of Fruitland Park.

11. In this case, the City of Groveland passed its ordinance purporting to establish its Chapter 180 water and wastewater service district prior to the filing by Florida Water of its application. That, however, is a distinction of no legal significance.

12. In the Lake Utilities proceeding, the Commission concluded that it did not have jurisdiction to remedy any violation of Chapter 180, Florida Statutes. The Commission noted that in transfer proceedings (as in certificate amendment proceedings), the Commission analyzes a

³The right of a person whose substantial interests are affected by agency action to seek a formal administrative hearing under Section 120.57(1), Florida Statutes, when Agrico was decided in 1981 is now codified in Section 120.569(1), Florida Statutes (2001).

utility's financial and technical ability to determine whether the proposed transfer is in the public interest. The Commission also found it significant that the City of Fruitland Park - - like the City of Groveland in the instant case - - did not dispute SSU' technical and financial ability to provide the service. As the Commission concluded:

Section 367.045, Florida Statutes, does not require us to address or attempt to remedy a Chapter 180 concern. Accordingly, we find that the City has not met the second part of Agrico.⁴

Thus, applying the zone of protection prong of the Agrico test, the Commission refused to engage in an analysis or interpretation of the scope of a municipality's claims under Chapter 180.

13. While not specifically mentioned in its Objection, the City also takes the position in its Prehearing Statement that the expansion of Florida Water's certificate in Lake County "will constitute a duplication of existing utility services and is prohibited by §367.045(5)(a), Florida Statutes." Based on the facts of this case and Commission precedent, this contention lacks merit as a matter of both fact and law.

14. None of the evidence presented by the City through the direct testimony of Mr. Yarborough or Mr. Mittauer or through the rebuttal testimony of Mr. Beliveau even address an allegation or contention that service by Florida Water would duplicate existing facilities or services provided by the City. That is, of course, because sworn testimony to that effect could not be made in good faith. The City does not have existing lines adjacent to the development at issue and, based on information and belief, the terminus of the existing system of the City remains some two and a half to five miles away from the Summit Development that has requested service from Florida

⁴Order No. PSC-95-0062-FOF-WS, at 7.

Water. As a matter of law, this Commission has found on more than one occasion that Section 367.045(5)(a), Florida Statutes (or its predecessor, Section 367.051(3)(a)), prohibits only the duplication of an existing water or wastewater system - - not duplication of or competition with a proposed system.⁵

CONCLUSION AND REQUEST FOR RELIEF

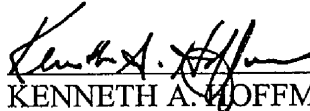
15. The Objection, prefiled testimony and prehearing statement of the City of Groveland confirm that the City's Objection to Florida Water's Application is limited to the City's contention that it has preexisting service rights under Chapter 180, Florida Statutes, and the ability to fulfill those service rights. That is an issue which the Commission has previously and properly decided to be outside of its jurisdiction. Under the Agrico test, this not the type of proceeding designed to protect the City of Groveland's alleged Chapter 180 rights because the Commission has no jurisdiction to interpret or enforce such rights. In addition, the bare bones allegation in the City's prehearing statement that service by Florida Water would duplicate the City's existing facilities is not supported by the testimony of record and cannot be remedied or cured under Commission precedent which has repeatedly determined that Section 367.045(5)(a), Florida Statutes (or its predecessor) prohibits the granting of a certificate amendment only when the granting of such an amendment would trigger duplication of an existing system - - not a proposed system which remains to be constructed as is the case with the City of Groveland.

⁵See In re: Objection of Palm Beach County to Notice by Seacoast Utilities, Inc., to Amend Water and Sewer Certificates in Palm Beach County, Florida, 87 F.P.S.C. 2:34 at 35, Order No. 17158 issued February 5, 1987; In re: Application of East Central Florida Services, Inc., for an Original Certificate in Brevard, Orange and Osceola Counties, 92 F.P.S.C. 3:374 at 395, Order No. PSC-92-0104-FOF-WU issued March 27, 1992.

WHEREFORE, for the foregoing reasons, Florida Water respectfully requests that the Commission enter a summary final order dismissing the City of Groveland's Objection and granting Florida Water's Application to amend its water certificate in Lake County.

Dated this 10th day of May, 2001.

Respectfully submitted,



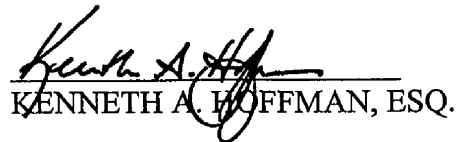
KENNETH A. HOFFMAN, ESQ.
J. STEPHEN MENTON, ESQ.
RUTLEDGE, ECENIA, PURNELL
& HOFFMAN, P.A.
P. O. Box 551
Tallahassee, Florida 32302-0551
(850) 681-6788

CERTIFICATE OF SERVICE

I HEREBY certify that a copy of the foregoing was furnished by hand delivery this 10th day of May, 2001 to:

Patricia Christensen, Esq.
Senior Attorney
Florida Public Service Commission
2540 Shumard Oak Blvd.
Room 370
Tallahassee, FL 32399-0850

Suzanne Brownless, Esq.
1311-B Paul Russell Road
Suite 201
Tallahassee, FL 32301



KENNETH A. HOFFMAN, ESQ.

City of Groveland
156 S. Lake Ave.
Groveland, FL 34736

ORIGINAL

(352) 429-2141

FAX: (352) 429-3852

(email) oartown@maglnet.net

Doris Thompson, Mayor

Jason L. Yarborough, City Manager

November 23, 1999

CERTIFIED MAIL

Ms. Blanca Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED
FLORIDA PUBLIC
SERVICE COMMISSION
99 NOV 24 AM 10:36
MAIL ROOM

RE: Docket No. 991666-WU
Application for Amendment of Certificate No. 106-W in Lake County
By Florida Water Services

Dear Ms. Bayo:

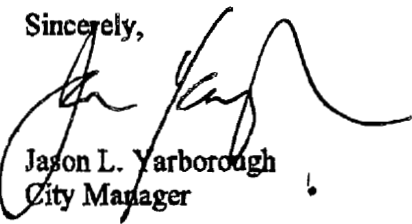
Pursuant to Section 367.045, Florida Statutes, the City of Groveland hereby objects to the application filed by Florida Water Services to expand their system into the City of Groveland's Utility Service Area. The city adopted this utility service area on May 17, 1999 (copy provided).

The City of Groveland has ample capacity to serve the site proposed in Florida Water Services' application without drilling another well in three years.

Florida Water Services did provide the City with a copy of the application to the Public Service Commission, unfortunately Exhibits L-1 and M-1 were excluded from the packet. These were the Territory Map and the System Map required by the Commission. The City believes that it can get the water lines in place in a more timely manner to service the proposed development.

The City of Groveland appreciates the opportunity to respond to the application filed by Florida Water Services. Should you have any questions, please do not hesitate to call.

Sincerely,


Jason L. Yarborough
City Manager

C: Matthew J. Feil, Florida Water Services
Greg A. Beliveau, AICP, LPG Urban and Regional Planners

- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
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- LEG /
- MAS _____
- OPC _____
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- SEC /
- WAW /
- OTH /



DOCUMENT NUMBER-DATE
14511 NOV 24 99

Done 11/29/99

ORDINANCE NO. 89-05-07

AN ORDINANCE PURSUANT TO CHAPTER 180, FLORIDA STATUTES (1989) CREATING A CITY OF GROVELAND UTILITIES SERVICE DISTRICT; ESTABLISHING THE BOUNDARIES OF THE DISTRICT; AUTHORIZING THE EXTENSION OF MUNICIPAL UTILITIES WITHIN THE DISTRICT BASED ON THE CITY OF GROVELAND UTILITY CODE, CHAPTER 102; REQUIRING ALL PERSONS OR CORPORATIONS LIVING OR DOING BUSINESS WITHIN THE DISTRICT TO CONNECT TO THE CITY WATER AND WASTEWATER SYSTEM WHEN AVAILABLE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Groveland owns and operates a central water distribution system and a central wastewater collection system and treatment facility; and

WHEREAS, the City's utility systems are capable of delivering water and wastewater utility service to areas outside the municipal limits of the City; and

WHEREAS, Chapter 180, Florida Statutes (1989) authorizes municipalities to extend their water and wastewater utilities beyond their municipal limits to provide utility services to unincorporated areas within the general vicinity of the municipality; and

WHEREAS, Section 180.03(3), Florida Statutes (1989) authorizes municipalities to create a utility zone for up to five (5) miles from the corporate limits of the municipality; and further authorizes municipalities to require customers in that area to connect to the municipal water and wastewater system, when available; and

WHEREAS, the extension of water and wastewater systems by the City of Groveland within the subject utility district is environmentally sound and avoids costly duplication of infrastructure.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GROVELAND, FLORIDA, AS FOLLOWS:

Section 1. Creation of District. There is hereby created the City of Groveland Utilities Service District (hereinafter referred to as the "District").

Section 2. District Boundaries. The District shall have the following boundaries:

Begin at the Northeast corner of Section 14, Township 21 South, Range 25 East, Lake County, Florida; thence run South along the East line of Sections 14, 23, 26, and 35, Township 21 South, Range 25 East and the East line of Section 2, Township 22 South, Range 25 East to the Southeast corner of said Section 2; thence run West along the South line of Sections 2 and 3, Township 22 South, Range 25 East to the Northeast corner of Section 9, Township 22 South, Range 25 East; thence run South along the East line of Sections 9, 16, 21, 28, and 33, Township 22 South, Range 25 East, and the East line of Sections 4, 9, and 16, Township 23 South, Range 25 East, to the Southeast corner of said Section 16; thence run West along the South line of Sections 16 and 17, Township 23 South, Range 25 East to the Northeast corner of Section 19, Township 23 South, Range 25 East; thence run South along the East line of said Section 19 to the

Southeast corner of said Section 19; thence run West along the South line of said Section 19, Township 23 South, Range 25 East, and the South line of Sections 24 and 23, Township 23 South, Range 24 East to the Southwest corner of said Section 23; thence run North along the West line of said Section 23 to the Southeast corner of Section 15, Township 23 South, Range 24 East; thence run West along the South line of Sections 15 and 16, Township 23 South, Range 24 East to the Southwest corner of said Section 16; thence run North along the West line of said Section 16 to the Southeast corner of Section 8, Township 23 South, Range 24 East; thence run West along the South line of said Section 8, Township 23 South, Range 24 East, to the Southwest corner of said Section 8; thence run North along the West line of said Section 8 to the Southeast corner of Section 6, Township 23 South, Range 24 East; thence run West along the South line of said Section 6 to the Southwest corner of said Section 6 and the West line of Township 23 South, Range 24 East; thence run North along the West line of Section 6, Township 23 South, Range 24 East and the West line of Sections 31 and 30, Township 22 South, Range 24 East to the Northwest corner of said Section 30; thence run East along the North line of Sections 30 and 29 to the Southwest corner of Section 21, Township 22 South, Range 24 East; thence run North along the West line of said Section 21 to the Northwest corner of said Section 21; thence run East along the North line of Sections 21, 22, and 23, Township 22 South, Range 24 East, to the Southwest corner of Section 13, Township 22 South, Range 24 East; thence run North along the West line of Sections 13 and 12, Township 22 South, Range 24 East to the Southeast corner of Section 2, Township 22 South, Range 24 East; thence run West along the South line of Sections 2 and 3, Township 22 South, Range 24 East to the Southwest corner of said Section 3; thence run North along the West line of said Section 3, Township 22 South, Range 24 East, and the West line of Sections 34, 27, 22, and 15, Township 21 South, Range 24 East to the Northwest corner of said Section 15; thence run East along the North line of Sections 15, 14 and 13, Township 21 South, Range 24 East and the North line of Sections 18, 17, 16, 15, and 14, Township 21 South, Range 25 East to the Northeast corner of said Section 14 and the Point of Beginning.

A map of the District is attached hereto and made a part hereof.

Section 3. Extension of Utilities Authorized. The City is authorized and empowered to extend its water and wastewater utilities, including utility lines, lift stations, booster pumps, wells, and storage tanks, to all areas within the District. All such utility extensions shall be governed by and pursuant to the City of Groveland Utility Code, Chapter 102.

Section 4. Connection to Water and Wastewater System Required. All persons or corporations developing property (either commercial, industrial, or residential) after the effective date of this Ordinance within the District shall be required to immediately connect to the City water and wastewater system within 365 days of when it becomes available. For purposes of this Ordinance, wastewater shall be deemed "available" as provided in Section 10D-6.42(7), F.A.C., which Section is hereby incorporated by reference.

Section 5. Utilities of Similar Character Prohibited. No private or public utility shall be authorized to construct within the District any system, work, project or utility of a

similar character to that being operated in the District by the City unless the City consents to such construction.

Section 8. Effective Date. This Ordinance shall take effect immediately upon its final adoption by City Council.

PASSED, ORDAINED AND APPROVED In Regular Session of the City Council of the City of Groveland, Florida, this 17 day of May, 1999.

CITY COUNCIL OF THE CITY OF GROVELAND

Doris Thompson
DORIS THOMPSON, Mayor

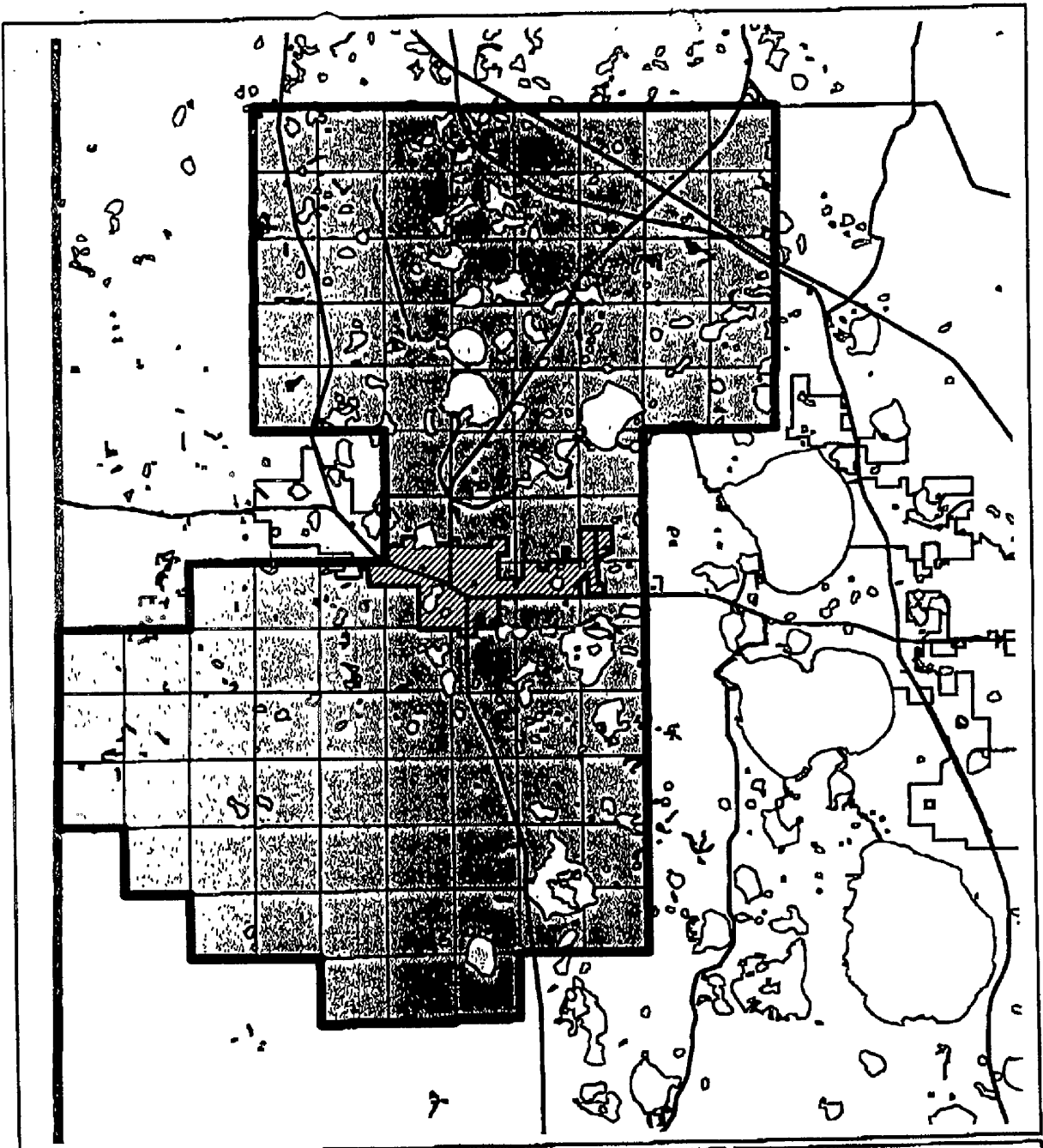
ATTEST:

Jason Yarbrough
JASON YARBROUGH, City Manager

Passed First Reading 5/3/1999

Passed Second Reading 5/17/1999

Julia B. Law
Approved as to form:
City Attorney



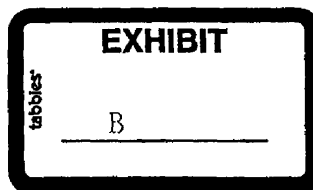
**Proposed Utility Service Area
for the
City of Groveland
Lake County, Florida**



LPC
**LPC Urban &
 Regional Planners, Inc.**
 201 Old U.S. Highway 91, Suite 1 / (352) 262-1444
 Royal Palm Beach, Florida 33411 / Fax: (352) 262-9777

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DIRECT INTERVENOR TESTIMONY OF
JASON L. YARBOROUGH
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
ON BEHALF OF
THE CITY OF GROVELAND, FLORIDA
DOCKET NO. 991666-WU



1 Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?

2 A. My name is Jason L. Yarborough and my business address
3 is 156 South Lake Avenue, Groveland, Florida 34736.

4 Q. WHAT IS YOUR POSITION WITH THE CITY OF GROVELAND?

5 A. My position is City Manager for the City of Groveland,
6 Florida (City), a municipal corporation organized
7 under the laws of the State of Florida.

8 Q. WHAT IS YOUR EDUCATIONAL BACKGROUND AND WORK
9 EXPERIENCE?

10 A. I am a graduate of Loyola University in New Orleans,
11 Louisiana receiving my B.A. degree in 1992. In 1994
12 I received my M.A. in Public Administration from the
13 University of West Florida. From 1994 until 1996 I
14 was a computer consultant for Dotson Enterprises of
15 Pensacola, Florida. In that position I provided market
16 support for a specialty software and hardware company.
17 From 1996 until 1998 I was the Clerk and then
18 Assistant City Manager for the City of Mary Esther,
19 Florida. In that position I administered the City's
20 grant projects, drafted RFPs and evaluated all bid
21 responses, assisted in the preparation of the City's
22 annual budget and five year Capital Improvement Plan
23 and secured \$2.66 million in grants to implement
24 stormwater, emergency management, park and law
25 enforcement programs. From 1998 to date I have been
26 the City Manager of the City of Groveland. My resume

1 is attached as Exhibit (_____) JLY-1 to this
2 testimony.

3 Q. WHAT ARE YOUR PRESENT DUTIES AS CITY MANAGER FOR THE
4 CITY OF GROVELAND?

5 A. I am the chief executive officer of the City
6 responsible to the City Council for the administration
7 of all of the day to day operations of the City and
8 the supervision of all departments, offices and
9 agencies of the City.

10 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS
11 PROCEEDING?

12 A. To provide testimony that the City of Groveland has
13 the financial, technical and managerial ability to
14 provide water and wastewater services to the water
15 territory service area requested by Florida Water
16 Services Corporation (Florida Water) in this docket,
17 an area included within the City's current Utility
18 Service District, and that it is in the best interests
19 of the citizens of Lake County that the City be
20 allowed to provide that service.

21 Q. PLEASE DESCRIBE THE SERVICE TERRITORY FOR THE CITY OF
22 GROVELAND.

23 A. Pursuant to §180.02(3), Florida Statutes, the City
24 adopted Ordinance 99-05-07, effective May 17, 1999,
25 creating the City of Groveland Utility Service
26 District (District). Ordinance 99-05-07 (Ordinance)

1 is attached to this testimony as Exhibit (_____) JLY-
2 2. The District is exclusive with any private or
3 public utility prohibited from constructing any
4 system, work, project or utility of a similar
5 character to that being operated in the District by
6 the City without the City's prior consent.
7 [Ordinance, §5].

8 Q. DOES THE SERVICE AREA WHICH FLORIDA WATER IS SEEKING
9 TO ADD IN THIS PROCEEDING FALL WITHIN THE DISTRICT'S
10 BOUNDARIES?

11 A. Yes, the service area requested by Florida Water in
12 this proceeding falls completely within the District.

13 Q. DID THE CITY OF GROVELAND GIVE FLORIDA WATER OR THE
14 DEVELOPER OF THE SUMMIT, THE SUMMIT LAND TRUST,
15 PERMISSION FOR FLORIDA WATER TO PROVIDE WATER OR
16 WASTEWATER UTILITY SERVICES TO THE SUMMIT PROJECT?

17 A. No. As of this date, neither the developer of the
18 Summit, the Summit Land Trust, nor Florida Water has
19 requested permission from the City for Florida Water
20 to provide water or wastewater service to this area.

21 Q. IS THE CITY READY, WILLING AND ABLE TO PROVIDE WATER
22 AND WASTEWATER SERVICES TO THE SUMMIT DEVELOPMENT?

23 A. Yes. As will be testified to in more detail by the
24 City's Engineer, Joseph A. Mittauer, P.E., the City is
25 currently constructing a 12 inch water line along
26 Cherry Lake Road/CR 478 pursuant to a grant from the

1 Department of Environmental Protection. The Cherry
2 Lake Road extension construction will be complete by
3 February, 2001. Extension of this line approximately
4 13,000 feet to the Summit Development will take
5 approximately five months from the date service is
6 requested.

7 Q. DOES THE CITY HAVE EXISTING CAPACITY TO PROVIDE WATER
8 SERVICE TO THE SUMMIT?

9 A. Yes, the City currently has three wells totalling 2.18
10 million gallons per day permitted capacity of which
11 1.6 million gallons per day is available to serve the
12 proposed potable and fireflow needs of the Summit
13 development. Unlike Florida Water, the City would not
14 have to permit other wells within three years to meet
15 the projected needs of the Summit development.

16 Q. DOES THE CITY HAVE EXISTING CAPACITY TO PROVIDE
17 WASTEWATER SERVICES TO THE SUMMIT?

18 A. Yes, although the Summit development as currently
19 proposed would utilize septic tanks, not a centralized
20 wastewater treatment system, the City could provide
21 wastewater treatment to the development from its
22 existing wastewater treatment plants within twelve
23 months of the request for service.

24 Q. DOES THE CITY HAVE THE MANAGERIAL ABILITY TO SERVE THE
25 SUMMIT?

26 A. Yes, the City has one Class "C" water operator as well

1 as two water operator technicians who are in training
2 for their Class "C" license. The City has had one
3 non-operational violation for its water system within
4 the last five years which will be discussed in more
5 detail by Mr. Mittauer, the City Engineer. The City
6 is currently in compliance with all Department of
7 Environmental Protection (DEP), St. John's Water
8 Management District and EPA permit requirements.

9 With regard to its wastewater system, the City
10 has two Class "C" wastewater operators and one Class
11 "B" and two Class "C" wastewater collections
12 operators. The City has had no violations or fines as
13 a result of operating its wastewater facilities and is
14 currently in compliance with all DEP, St. Johns Water
15 Management District and EPA permit requirements.

16 Q. DOES THE CITY HAVE THE CURRENT FINANCIAL ABILITY TO
17 PROVIDE SERVICE TO THE SUMMIT?

18 A. Yes, the City is in a strong financial condition as is
19 shown by the City's Annual Financial Report dated
20 September 30, 1999 (Exhibit (_____) JLY-3) and can
21 fund its share of expansion costs to the Summit
22 Development from the City's existing financial
23 resources.

24 Q. WHY WOULD IT BE IN THE BEST PUBLIC INTEREST FOR THE
25 CITY RATHER THAN FLORIDA WATER TO PROVIDE WATER AND/OR
26 WASTEWATER SERVICE TO THE DISPUTED SERVICE TERRITORY?

1 A. There are several reasons why it would be in the best
2 public interest for the City to provide water and
3 wastewater services to the disputed service territory.

4 First, the territory is totally located within
5 the Utilities Service District legally created by the
6 City pursuant to §180.02(3), Florida Statutes, six
7 months prior to the request by Florida Water to expand
8 its service territory. The establishment of service
9 territories is intended to insure the orderly and
10 efficient development of utility services in any given
11 area by eliminating wasteful, duplicative utility
12 systems. Allowing the developer of the Summit to
13 select the provider of water and wastewater services
14 to his development by filing a request for services
15 with Florida Water, while ignoring the prior vested
16 territorial rights of the City is contrary to existing
17 Florida case law and common sense. The City can
18 provide adequate and timely water service to the
19 Summit and should be allowed to do so.

20 Second, service by the City will result in the
21 residents of the Summit development paying lower
22 monthly service rates as well as connection fees. A
23 comparison of the City's rates and Florida Water's
24 rates applicable to this proposed territory are found
25 in Exhibit () JLY-4. As can be seen, the City's
26 monthly water charge for the consumption of 5,000

1 gallons of water through a 5/8" x 3/4" meter is \$16.57
2 compared to Florida Water's charge of \$19.69, or 15.8%
3 less than the amount charged by Florida Water.
4 Likewise, the total of the current connection charges
5 for the City for a 5/8" x 3/4" meter are \$1,505.00
6 compared to Florida Water's charges of \$1,623.90, or
7 7.3% less than that charged by Florida Water. The
8 City intends to submit a rate increase request to the
9 City Council for service availability charges
10 effective October 1, 2000. However, even should that
11 increase be approved, the City's total connection
12 charges for a 5/8" x 3/4" meter will be \$1,568.65 or
13 3.4% less than those of Florida Water.

14 Third, the City of Groveland has the ability to
15 provide both water and wastewater service to the
16 Summit in a timely fashion. The Summit has been
17 approved as a Planned Unit Development (PUD) whose
18 density under the Lake County Comprehensive Land Use
19 Plan (Comprehensive Plan) and associated Land
20 Development Regulations does not require the
21 installation of a centralized wastewater system.
22 However, it has long been recognized that the
23 inevitable degradation of septic systems over time,
24 and the public's resistance to connect with an
25 available central sewer system after a septic system
26 has been installed, even though operating poorly,

1 contributes to the erosion of water quality in surface
2 and underground water resources. In short, a
3 centralized sewer system is environmentally more sound
4 over the long term than the installation of septic
5 systems. The City can provide for the installation of
6 a centralized wastewater system within a reasonable
7 period of time. Florida Water cannot.

8 Further, it has been the Commission's policy to
9 award, where possible, unified service territories for
10 both water and wastewater services on the rationale
11 that this action results in more efficient utility
12 operations. Such is the case here. Florida Water
13 does not currently have wastewater treatment
14 facilities in its existing Palisades service area nor
15 the current ability to provide wastewater service to
16 the requested service territory. Allowing the City to
17 serve the disputed territory furthers the Commission
18 policy of unified water and wastewater service
19 territories.

20 Fourth, the addition of the customers in the
21 proposed service area will enable the City to expand
22 its customer base, spread its costs of operation, take
23 advantage of the economies of scale associated with
24 its existing water and wastewater treatment facilities
25 and thereby grow in an efficient and cost effective
26 manner throughout the City's Utility Service District.

1 Such expansion will benefit not only the City's
2 residents but will result in lower rates for all of
3 the City's water and wastewater customers. In the
4 last three years, due to expansion of the City's
5 customer base, the City has reduced its water
6 gallonage rates by 26.6%, resulting in total water
7 charges for both City and NonCity residents for 5,000
8 gallons usage being reduced by 7%. The availability
9 of lower financing costs for municipal utilities
10 coupled with sound utility management will enable the
11 City to continue to offer low rates while maintaining
12 its high level of service.

13 Finally, expansion of the City's water and/or
14 wastewater system to the Summit PUD will comport with
15 Lake County's Comprehensive Plan Objectives 6D-2 and
16 6A-2 of the Potable Water Sub-Element and Sanitary
17 Sewer Sub-Element, respectively, of Chapter VI, Public
18 Facilities Element, which state as follows:

19
20 OBJECTIVE 6D-2: MAXIMIZE THE USE OF EXISTING
21 FACILITIES. Lake County Shall Guide the
22 Orderly Growth and Development Of the County
23 By Coordinating Water Service Availability
24 With the Municipalities, Private Enterprise
25 and Individuals. The Coordination Of Service
26 Delivery Shall Be In A Manner That Provides
27 Maximum Use of Existing Facilities.
28

29 OBJECTIVE 6A-2: MAXIMIZE THE USE OF EXISTING
30 FACILITIES. Lake County Shall Guide the
31 Orderly Growth and Development Of the County
32 By Coordinating Service Delivery With the
33 Municipalities, Private Enterprise and
34 Individuals. The Coordination Of Service

1 Delivery Shall Be In A Manner That Provides
2 Maximum Use of Existing Facilities.

3 Q. GIVEN THE FACTS PRESENTED ABOVE, WHAT ACTION SHOULD
4 THE COMMISSION TAKE REGARDING FLORIDA WATER'S
5 APPLICATION AT ISSUE IN THIS PROCEEDING?

6 A. The Commission should deny the application of Florida
7 Water Services Corporation to expand its service
8 territory in Lake County.

9 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

10 A. Yes.

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26 c: 3207

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing testimony has been furnished by U.S. Mail or Hand Delivery (*) this 7th day of September, 2000 to the following:

(*)Patricia Christensen, Esq.
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156 South Lake Avenue
Groveland, FL 34736

Suzanne Brownless
Suzanne Brownless, Esq.

c: 3208

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DIRECT INTERVENOR TESTIMONY OF
JOSEPH A. MITTAUER, P.E.
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
ON BEHALF OF
THE CITY OF GROVELAND, FLORIDA
DOCKET NO. 991666-WU

1 Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?

2 A. My name is Joseph A. Mittauer and my business address
3 is 4611-4 U.S. Highway 17, Orange Park, Florida 32003.

4 Q. WHAT IS YOUR POSITION WITH THE CITY OF GROVELAND?

5 A. Mittauer & Associates, Inc. is the City Engineer for
6 the City of Groveland, Florida (City), a municipal
7 corporation organized under the laws of the State of
8 Florida.

9 Q. WHAT IS YOUR EDUCATIONAL BACKGROUND AND WORK
10 EXPERIENCE?

11 A. I am a graduate of the University of Florida earning
12 a Bachelor of Science in Civil Engineering in 1976.
13 I am a licensed professional engineer in the States of
14 Florida, Georgia, South Carolina, Kentucky and
15 Alabama. From 1976 until 1981, I was project manager
16 with Florida Rock Industries designing plants,
17 including pumping systems, structural components and
18 preparing permit applications. From 1981 until 1985,
19 I was with Smith & Gillespie Engineers as a project
20 manager designing large scale wastewater treatment
21 facilities and water/wastewater systems for small
22 communities. Between 1985 and 1989, I was an
23 Assistant Regional Manager with Gee & Jenson Engineers
24 designing all facets of water and wastewater systems
25 for small to mid-size municipalities and industries.
26 In 1989, I formed my own consulting engineering firm,

1 Mittauer & Associates, Inc. and am the president and
2 principal-in-charge of the firm personally overseeing
3 all of the firm's projects. My resume is attached as
4 Exhibit (_____) JAM-1 to this testimony.

5 Q. ARE YOU A MEMBER OF ANY TRADE OR PROFESSIONAL
6 ORGANIZATIONS?

7 A. Yes, I am a member of the Florida League of Cities.

8 Q. HAVE YOU EVER TESTIFIED BEFORE A COURT OR REGULATORY
9 AGENCY?

10 A. Yes. I testified in Duval County circuit court as an
11 expert structural engineer on behalf of a marine
12 contractor regarding the construction of a bulkhead.

13 Q. WHAT ARE YOUR PRESENT DUTIES AS CITY ENGINEER FOR THE
14 CITY OF GROVELAND?

15 A. Our firm performs all necessary engineering services
16 including updating the water and sewer system maps,
17 designing new construction projects, performing
18 feasibility studies, reviewing subdivision development
19 designs and other related engineering services.

20 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS
21 PROCEEDING?

22 A. To provide testimony that the City of Groveland has
23 the technical ability to provide water and wastewater
24 services to the water territory service area requested
25 by Florida Water Services Corporation (Florida Water)
26 in this docket, an area included within the City's

1 current Utility Service District, within a reasonable
2 period of time.

3 Q. PLEASE DESCRIBE THE SERVICE TERRITORY FOR THE CITY OF
4 GROVELAND.

5 A. Pursuant to §180.02(3), Florida Statutes, the City
6 adopted Ordinance 99-05-07, effective May 17, 1999,
7 creating the City of Groveland Utility Service
8 District (District). The service area requested by
9 Florida Water in this proceeding falls completely
10 within the District. Exhibit (_____) JAM-2, prepared
11 under my supervision and control, is a map showing the
12 relationship of the District, Florida Water's
13 additional requested service area and the Summit
14 Planned Unit Development.

15 Q. HOW WILL THE CITY PROVIDE WATER SERVICES TO THE SUMMIT
16 DEVELOPMENT?

17 A. The City is currently constructing a 12 inch water
18 line along Cherry Lake Road/CR 478 pursuant to a grant
19 from the Department of Environmental Protection. The
20 location of the Summit Planned Unit Development (PUD)
21 in relation to the Cherry Lake Road/CR 478 extension,
22 and planned connection by the City to the Summit PUD
23 is diagramed in Exhibit (_____) JAM-3. Final plans
24 for the Cherry Lake Road extension construction have
25 been completed and the project is now in the
26 permitting stage. The project will be released for

1 construction bids as soon as the permitting is secure
2 with construction to follow immediately thereafter.
3 Construction of the 12 inch line to the Garden City
4 subdivision is expected to be complete in February,
5 2001. Extension of this line approximately 13,000
6 feet to the Summit Development will take approximately
7 5 to 6 months from the date service is requested and
8 will cost approximately \$275,000. Both of these
9 projects can be constructed simultaneously as soon as
10 authorization for the Summit PUD project is issued.

11 Q. DOES THE CITY HAVE EXISTING CAPACITY TO PROVIDE WATER
12 SERVICE TO THE SUMMIT?

13 A. Yes, the City currently has two water plants served by
14 three wells with the following rated capacities: Well
15 # 1, 550 gallons per minute and 792,000 gallons per
16 day; Well # 3a, 503 gallons per minute and 724,320
17 gallons per day; and Well # 5, 462 gallons per minute
18 and 665,280 gallons per day. The average daily flow
19 for each water treatment plant is approximately
20 110,000 and 320,000 gallons per day, respectively. Of
21 this permitted capacity, the City has approximately
22 1.6 million gallons per day of remaining capacity
23 available to serve the Summit as of June, 2000. This
24 amount will easily meet the 38,400 gallons per day of
25 water capacity which the Summit has requested be
26 reserved for its use in its application with Florida

1 Water.

2 Q. HAVE YOU SEPARATELY CALCULATED THE AMOUNT OF WATER
3 CAPACITY NEEDED TO MEET THE SUMMIT'S POTABLE WATER
4 NEEDS?

5 A. Yes. Using the flow design standards set forth in
6 Chapter VI-D, Policy 6D-1.3, Potable Water Sub-
7 Element, Public Facilities Element 9J-5.011(2) of Lake
8 County's Comprehensive Plan, and Florida Water's
9 calculation of 148.23 ERCs for the Summit PUD found in
10 Exhibit "B" of the Florida Water/Summit Water Service
11 Agreement, the Average Day Water Demand for the Summit
12 PUD is 51,880 gallons per day or 36 gallons per
13 minute. This amount of water capacity is
14 significantly greater than that requested by the
15 Summit but is also easily met by the City.

16 Q. CAN THE CITY PROVIDE THE SUMMIT'S FIRE FLOW DEMAND?

17 A. Yes. Again using 148.23 ERCs for the demand for the
18 Summit PUD, and Lake County's minimum criteria for
19 fire demand of 750 gallons per minute found in Lake
20 County Ordinance No. 96-42, the total peak hour demand
21 will be 894 gallons per minute for the Summit PUD.
22 Thus, the City will have sufficient capacity to meet
23 the fire flow demands of the Summit.

24 Q. HAVE YOU CALCULATED THE WASTEWATER CAPACITY DEMAND
25 ASSOCIATED WITH THE SUMMIT PUD?

26 A. Yes. Using 148.23 ERCs and the criteria for

1 wastewater design found in Chapter VI-A, Policy 6A-
2 1.6, Sanitary Sewer Sub-Element, Public Facilities
3 Element 9J-5.011(2) of Lake County's Comprehensive
4 Plan, I have calculated an average day wastewater
5 demand for the Summit PUD of 44,469 gallons per day or
6 31 gallons per minute.

7 Q. DOES THE CITY HAVE EXISTING CAPACITY TO PROVIDE
8 WASTEWATER SERVICES TO THE SUMMIT?

9 A. Yes. The Groveland Wastewater Treatment Plant has
10 capacity of 250,000 gallons per day with average day
11 wastewater demand of approximately 110,000 gallons per
12 day. Although the Summit development as currently
13 proposed would utilize septic tanks, not a centralized
14 wastewater treatment system, the City could provide
15 wastewater treatment to the development from its
16 existing Groveland wastewater treatment plant within
17 12 months of the request for service at a cost of
18 approximately \$500,000.

19 Q. DOES THE CITY HAVE THE MANAGERIAL ABILITY TO SERVE THE
20 SUMMIT?

21 A. Yes, the City currently meets all of the personnel
22 requirements for both water and wastewater systems of
23 its size and is currently in compliance with all
24 Department of Environmental Protection (DEP), St.
25 John's Water Management District and EPA permit
26 requirements.

1 Q. HAS THE CITY HAD A VIOLATION CONCERNING ITS WATER
2 SYSTEM IN THE LAST FIVE YEARS?

3 A. Yes. On or about November 4, 1996, McDonald's
4 completed construction of a restaurant in Groveland.
5 The McDonald's was connected to the City's water
6 systems via a 1 1/2" inch line and meters were set.
7 The Department of Environmental Protection's (DEP)
8 Central District Office has an internal, unwritten
9 policy that lines 1 1/2 inches or greater constitute
10 main extensions. Since the 1 1/2 inch service line
11 was considered a main extension by DEP, DEP issued
12 Warning Letter OWL-PW-96-0083 on December 10, 1996,
13 indicating that bacterial sampling should have been
14 conducted prior to connection of the line consistent
15 with written DEP rules and regulations. This Warning
16 Letter is attached to my testimony as Exhibit ____
17 (JAM-4). On January 16, 1997, DEP offered a proposed
18 settlement, attached as Exhibit _____ (JAM-5), in
19 which the City was fined a total of \$2,050.00 and
20 corrective actions were required (bacterial sampling
21 of the line) to be completed. DEP also fined
22 McDonald's for this violation. Subsequent to payment
23 of the fine and completion of all corrective actions
24 this case was closed by DEP on February 5, 1997.
25 [Exhibit ____ (JAM-6)]

26 Q. DO YOU CONSIDER THIS VIOLATION AN INDICATION THAT THE

1 CITY DOES NOT HAVE THE MANAGERIAL OR TECHNICAL ABILITY
2 TO PROVIDE SAFE, RELIABLE WATER AND WASTEWATER
3 SERVICES?

4 A. No. I consider this to be a highly technical
5 violation of somewhat dubious legality due to the fact
6 that the classification of 1 1/2 inch water lines as
7 main extensions was not included in DEP's written
8 rules and regulations and is, apparently, unique to
9 DEP's Central District Office. I would note that the
10 engineering firm involved in this project, Conklin,
11 Porter and Holmes Engineers, Inc. of Sanford, Florida,
12 was also not aware of this classification or the need
13 for bacterial sampling prior to connection with the
14 City's water system.

15 Q. WILL THE CITY BE ABLE TO FURNISH WATER TO THE SUMMIT
16 IN A TIMELY FASHION?

17 A. Yes. As the Florida Water application indicates, the
18 Summit originally requested service by July 1, 2000.
19 Obviously, this date has passed. The Summit secured
20 its Planned Unit Development zoning from Lake County
21 in December of 1999, however, the Summit has taken no
22 further action to implement the development of its
23 project as of the date of this filing, i.e., it has
24 not submitted a plat of the project or a construction
25 plan to Lake County for review and approval, the next
26 steps in the construction of the project.

1 Further, the current schedule in this docket will
2 not result in a written order from the Commission
3 until March, 2001. By that time, the Cherry Lake
4 project is expected to be completed and connection of
5 the Summit PUD to the City's system could also be
6 complete if authorization to start the project was
7 given this month.

8 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

9 A. Yes.

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25 c: 3209

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing testimony has been furnished by U.S. Mail or Hand Delivery (*) this 7th day of September, 2000 to the following:

(*)Patricia Christensen, Esq.
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Jason L. Yarborough
City of Groveland
156 South Lake Avenue
Groveland, FL 34736

Suzanne Brownless
Suzanne Brownless, Esq.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application for amendment of)
Certificate No. 106-W to add territory) DOCKET NO. 991666-WU
in Lake County by Florida Water)
Services Corporation.)
_____)

CITY OF GROVELAND'S PREHEARING STATEMENT

Pursuant to Order No. PSC-00-2096-PCO-WU and Rule 28-106.211, Florida Administrative Code, the City of Groveland, Florida files its Prehearing Statement in this docket and states as follows:

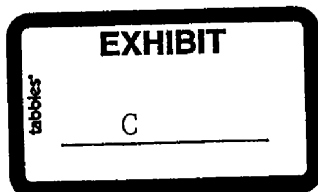
I. WITNESSES

Jason L. Yarborough	Direct	Issues 6, 7, 9, 10, 11A, 11B, 12
Joseph A. Mittauer	Direct	Issues 4, 7, 10, 11A, 11B, 12
Greg A. Beliveau	Rebuttal	Issues 5, 8, 10, 12

*The City of Groveland reserves the right to call additional witnesses, witnesses to respond to Commission inquiries not addressed in direct or rebuttal testimony and witnesses to address issues not presently designated but that may be designated by the Prehearing Officer at the prehearing conference on March 2, 2001.

II. EXHIBITS

Jason L. Yarborough	JLY-1	Resume
	JLY-2	Ord. 99-05-07
	JLY-3	City of Groveland Annual Financial Report 9/30/99
	JLY-4	Water Monthly Service Rates, Water Service Availability Charges
Joseph A. Mittauer	JAM-1	Resume
	JAM-2	City Service area map
	JAM-3	Water System Extension Map
	JAM-4	12/10/96 DEP letter
	JAM-5	1/16/97 DEP letter
	JAM-6	Consent order letter 2/18/97



Greg A. Beliveau	GAB-1	Resume
	GAB-2	G r o v e l a n d Comprehensive Plan Public Facilities Element
	GAB-3	Joint Planning Interlocal Agreement Between Lake County a n d t h e Municipalities of Lake County

* The City of Groveland reserves the right to introduce other exhibits for the purposes of impeachment, rebuttal, or because the documents are newly discovered. Cross examination of witnesses and questions to witnesses by Commissioners may also render additional documents pertinent and admissible.

III. BASIC POSITION

The City of Groveland has the prior right to serve FWSC's proposed service area and can provide the area with both water and wastewater service in a timely and adequate manner. Extension of FWSC's certificate to include the proposed service area will constitute a duplication of existing utility services and is prohibited by §367.045(5)(a), Florida Statutes. Service by the City is both consistent with the City's Comprehensive Plan and the Joint Planning Area proposed by Lake County pursuant to Lake County's Comprehensive Plan. FWSC's application for extension in this docket should be denied.

IV. ISSUES

Issue 1: Is there a need for service in the territory proposed by Florida Water Services Corporation's application, and if so, when will service be required?

Position: Yes, there is a need for service in the area requested. The developer of the Palisades subdivision originally requested service to commence by July 1, 2000 however this date has been now been rescheduled to a later date. The Developer has not yet requested any construction permits from the County. (Mittauer)

Issue 2: Does Florida Water Services Corporation have the financial ability to serve the requested territory?

Position: Yes.

Issue 3: Does Florida Water Services Corporation have the technical ability to serve the requested territory?

Position: Yes.

Issue 4: Does Florida Water Services Corporation have the plant capacity to serve the requested territory?

Position: Florida Water Services Corporation (FWCS) has indicated that it will provide water from its Palisades water treatment plant permitted for 1.15 MGD. The City is unclear how much demand has been calculated as required for the Summit development at issue in this docket. Exhibit D of the application indicates that 135,000 gpd will be needed. Mr. Sweat's testimony indicates that 38,400 gpd will be needed. Using the higher figure of Exhibit D, when growth is taken into account, a new water supply well will be needed within three years to adequately supply both the existing and proposed development within the service territory. (Mittauer)

Issue 5: Is Florida Water Service Corporation's application consistent with the local comprehensive plan?

Position: No. Service by FWCS of the City of Groveland's utility service district established by Ordinance 99-05-07 is inconsistent with the City's Comprehensive Plan Intergovernmental Coordination Element 9J-5.015(3), Policy 7-1.8.1 and the proposed Joint Planning Area (JPA) for Lake County. (Beliveau)

Issue 6: Does the City of Groveland have the financial ability to serve the requested territory?

Position: Yes. (Yarborough)

Issue 7: Does the City of Groveland have the technical ability to serve the requested territory?

Position: Yes. (Yarborough, Mittauer)

Issue 8: Is the City of Groveland's proposal to serve the area consistent with the local comprehensive plan?

Position: Yes. The proposed service area falls completely within the Utilities Service District established by Ordinance 99-05-07 and is consistent with the City's own Comprehensive Plan as well as the Joint

Planning Area proposed for Lake County pursuant to Lake County's Comprehensive Plan. (Beliveau)

Issue 9: What is the landowner's service preference and what weight should the Commission give to the preference?

Position: The landowner requested service from FWCS in October of 1999 apparently unaware that the Summit development was located completely within the City's established Utilities Service District. It is established Florida case law that, where adequate and timely service is available as is this case, landowners cannot select their own utility service provider. Storey v. Mayo, 217 So.2d 304 (Fla. 1968). (Yarborough)

Issue 10: Will the extension of Florida Water Services Corporation territory in Lake County duplicate or compete with the City of Groveland's utility system.

Position: Yes. (Mittauer, Yarborough, Beliveau)

Issue 11A: If the granting of the territory which Florida Water Services Corporation seeks to add to its PSC certificate would result in an extension of a system which would be in competition with, or a duplication of, the City of Groveland's system or portion of its system, is the City of Groveland's system inadequate to meet the reasonable needs of the public or is the City unable, refusing or neglecting to provide reasonably adequate service to the proposed territory?

Position: No, the City of Groveland has both the technical and financial ability to provide adequate and timely water service to the Summit. Further, the City would also be able to provide centralized sewer services to the development. (Mittauer, Yarborough)

Issue 11B: Does the Commission have the statutory authority to grant an extension of service territory to Florida Water Service Corporation which will be in competition with, or a duplication of, the City of Groveland's system(s), unless factual findings are made that the City's system(s) or portion thereof is inadequate to meet the reasonable needs of

the public or that the City is unable, refuses, or has neglected to provide reasonably adequate service to the proposed service territory?

Position: No, §367.045(5)(a), Florida Statutes, prohibits the Commission from granting a certificate for modification of FWSC's certificate in this case. (Mittauer, Yarborough)

Issue 12: Is it in the public interest for Florida Water Services Corporation to be granted an amendment to Water Certificate No. 106-W for the territory proposed in its application?

Position: No. The City of Groveland has a prior right to provide water and sewer service to the Summit and the technical and financial ability to provide both water and sewer utility services to the development in a timely manner. Extension of FWSC's certificate in this case will duplicate the City's existing water services and is prohibited under §367.045(5)(a), Florida Statutes. (Yarborough, Mittauer, Beliveau)

V. STIPULATIONS

There have been no issues stipulated at this time.

VI. PENDING MOTIONS

The City of Groveland has no motions or other requests for action pending at this time.

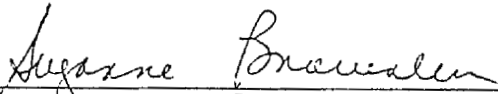
VII. CONFIDENTIALITY REQUESTS

The City of Groveland has no pending requests for confidentiality at this time.

VIII. REQUIREMENTS

The City of Groveland knows of no requirement set forth in Order PSC-00-623-PCO-WU, or any subsequent procedural order issued in this docket which cannot be complied with at this time.

Respectfully submitted this 8th day of February, 2001 by:


Suzanne Brownless, Esq.
Suzanne Brownless, P.A.
1311-B Paul Russell Road
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Tallahassee, Florida 32301
Phone: (850) 877-5200
FAX: (850) 878-0090

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing was furnished by Hand Delivery (*) or regular U.S. Mail to the following on this 8th day of February, 2001 :

J. L Yarborough, City Manager
156 South Lake Avenue
Groveland, FL 34736

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Suzanne Brownless, Esq.

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