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November 3, 2004

VIA HAND DELIVERY

Patti Daniel  
Supervisor, Bureau of Certification  
Division of Economic Regulation  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

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Re: B & C Water Resources, L.L.C.'s Application for Original Certificate for Proposed Water System in Baker and Union Counties and Request for Initial Rates and Charges, Docket No. 041040-WU

Dear Ms. Daniel:

We have received a copy of a letter dated October 29, 2004, to you from the Florida Department of Community Affairs ("DCA"), Chief of Comprehensive Planning, Charles Gauthier. The DCA letter provides the Commission with comments on the referenced Application as it relates to the local comprehensive plans of Baker and Union Counties. We note at the outset that the DCA has neither objected to the Application nor has it requested a hearing on the Application. Thus, on behalf of our client, B & C Water Resources, L.L.C. ("B & C"), we are submitting this as a courtesy response to the DCA's comments to clarify the record.

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OTH \_\_\_\_\_

The DCA letter recognizes that there are planning opportunities afforded by all of the proposed service area being under the "unified ownership" of B & C's affiliate - Plum Creek Timberlands, L.P. ("Plum Creek"). The DCA, however, suggests that the local comprehensive plans of Baker and Union Counties do not demonstrate a need for B&C's service area beyond the actual sites of the 27 hunt camps. We respectfully submit that the DCA misapprehends the immediate and growing need for potable water service throughout the entire proposed service area. First, the DCA overlooks that there are approximately 27 separate hunt camp sites that are dispersed throughout the proposed service area as shown on the maps appended to the Application. Approximately 1,082 families use these hunt camp sites and all require potable water for consumption, cooking, bathing, cleaning, etc. To certify only those areas where the camp sites are located, as the DCA suggests, would "carve up" a vast territory, all of which is owned by Plum Creek, so that only scattered portions of the territory would be certificated. The

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Commission has consistently found that this piecemeal approach to certification is not in the public interest. *See* Order No. PSC-04-0980-FOF-WU, issued October 8, 2004, in Docket No. 021256-WU, *In re: Application for Certificate to Provide Water Service in Volusia and Brevard Counties by Farnton Water Resources, L.L.C.* *See also*, Order No. PSC-92-01014-FOF-WU, issued March 27, 1992, in Docket No. 910114-WU, *In re: Application of East Central Florida Services, Inc. for an Original Certificate in Brevard, Orange and Osceola Counties.*<sup>1</sup>

Second, the DCA letter overlooks that there are long-term growth trends that will require that potable water be available throughout the proposed service area. Rural development, commercial development, and industrial and mining projects, all are anticipated in this area and will require potable or other future types of water service. Confronted with the present need for service and the anticipated growth in the area, B & C and Plum Creek believe that a certificate for all of the proposed service area is necessary in order for Plum Creek to properly manage its landholdings and to control the withdrawal of water so that over pumping does not jeopardize ground water resources.

Third, it is important to note that the local comprehensive plans of Baker and Union Counties do not prohibit the establishment of a water service territory as requested in the Application. Indeed, the Application is not inconsistent with the local comprehensive plans because the water service territory as proposed by the Application, in and of itself, is neither a land use nor a development as defined by Florida's planning statutes. Furthermore, the Commission should be aware that the Application has been properly noticed and that neither Baker County, nor Union County nor any other entity appearing on the FPSC's notice list has filed any objection to the Application. Thus, in addressing B & C's Application, the Commission is not required to consider whether the issuance of a water utility certificate is consistent with the local comprehensive plans.<sup>2</sup>

Finally, we wish to point out that granting the requested water utility certificate to B & C in no way restricts the DCA from exercising its statutory rights to manage growth and land use

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<sup>1</sup> The Commission stated in *East Coast*:

We are concerned with the size of the proposed certificated territory in this case, some 300,000 acres, and the configuration of the facilities within that territory. Clearly, the need for service is not pervasive throughout the territory. This concern, however, is not cause to deny certification. We do not think it is in the public interest at this time to carve up a vast territory, which is all owned by one entity, so as to certificate only scattered portions thereof.

<sup>2</sup> Section 367.045(5)(b), Fla. Stat. (2004) provides:

... when granting or amending a certificate of authorization, the Commission need not consider whether the issuance or amendment of a certificate of authorization is inconsistent with the local comprehensive plan of a county or a municipality unless a timely objection to the notice required by this section has been made by an appropriate motion or application. If such an objection has been timely made, the Commission shall consider, but is not bound by, the local comprehensive plan of the county or municipality. (Emphasis added.)

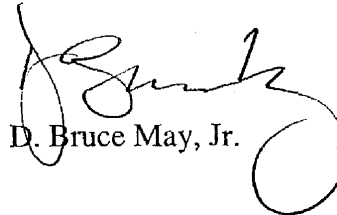
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throughout the proposed service territory. As we have advised the DCA, B & C and Plum Creek are committed to working in close coordination with the DCA, Union and Baker Counties, and other governmental entities as Plum Creek pursues development plans in the area.

We hope this information is informative. Of course, if you need additional information, or have any questions, please do not hesitate to contact us. Thank you for your consideration.

Sincerely,

HOLLAND & KNIGHT LLP



D. Bruce May, Jr.

DBM:kjg

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Charles Gauthier  
Clay Henderson  
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