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DIVISION OF
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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ROLLING ACRES ENTERPRISES,
CITY OF BROOKSVILLE, and
HERNANDO COUNTY,

Petitioners,

vs.

Case No. 89-2788

CONROCK UTILITY COMPANY,

Respondent.

PROCEEDINGS: Hearing
BEFORE: P. MICHAEL RUFF, Hearing Officer
DATE: September 13, 1989
PLACE: Hernando County Courthouse
Brooksville, Florida
REPORTED BY: HOLLY L. KIRCHMAN, Notary Public,
State of Florida at Large; Deputy
Official Court Reporter, Fifth
Judicial Circuit

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P R O C E E D I N G S

1
2 HEARING OFFICER: Are the parties ready to proceed?
3 Hearing will please come to order. Pursuant to notice,
4 this time and place is set for hearing in case number 89-
5 2788, on petition of Rolling Acres Enterprises, the City
6 of Brooksville, and Hernando County against Conrock
7 Utility Company. And the Public Service Commission is
8 intervening.

9 Who appears for petitioners? That means objectors.

10 MR. HYSLOP: What did you say?

11 MR. PINGEL: Who is appearing on behalf of the
12 petitioners?

13 HEARING OFFICER: You all are parties. Come up here
14 to the counsel table.

15 MR. EPPLEY: My name is William Eppley. I'm
16 appearing on behalf of the City of Brooksville, who has
17 objected to the petition.

18 MR. HYSLOP: My name is Peyton Hyslop. I'm here on
19 behalf of Hernando County and the Hernando County Water
20 and Sewer District.

21 MR. THOMAS: I'm Ghale Thomas, and I'm representing
22 Rolling Acres Enterprises as owner.

23 HEARING OFFICER: You're the owner of that
24 enterprise, that business?

25 MR. THOMAS: Yes, sir.

1 HEARING OFFICER: All right. Is that a corporation,
2 or do you just own it as a sole proprietorship?

3 MR. THOMAS: No, it's a corporation, Rolling Acres
4 Enterprises, Inc.

5 HEARING OFFICER: What's your status with the
6 corporation?

7 MR. THOMAS: I'm president.

8 HEARING OFFICER: Any other officers?

9 MR. THOMAS: Yeah, my wife. She's secretary-
10 treasurer.

11 HEARING OFFICER: Who holds the stock?

12 MR. THOMAS: I do.

13 HEARING OFFICER: You own 100 percent of the stock?

14 MR. THOMAS: Yeah.

15 HEARING OFFICER: All right. I will let you
16 represent yourself pro se, even though you are a
17 corporation.

18 MR. PINGEL: Mr. Ruff, we have entered into an
19 agreement with the petitioner, and the agreement is that
20 -- he can go ahead and read it to you -- but I think it
21 has removed any objection that he may have.

22 HEARING OFFICER: Okay. Do you want to file that as
23 an exhibit?

24 MR. THOMAS: Yes, sir.

25 HEARING OFFICER: All right. This is Petitioner's

1 Exhibit One. Hearing no objection, it's admitted.

2 (Whereupon, Petitioner's Exhibit One was identified
3 and received into evidence.)

4 HEARING OFFICER: Sir, what does this document mean?
5 Tell me what this is just briefly.

6 MR. THOMAS: Well, what I was primarily concerned
7 about is, the Public Service Commission designated me or
8 Rolling Acres Enterprises one square mile as my
9 designated service area. And it starts up there at State
10 Road 41 and goes east to White Road and then south to
11 Trilby, and then back west to State Road 41.

12 And I was afraid that -- that's my livelihood -- that
13 these guys, these big guys would come along here maybe
14 two or three years down the line and try to gobble me up,
15 see? And I wanted it in writing, and they promised there
16 that -- I don't know how legal that is or whatever --
17 that they had no intention of doing that.

18 And that was my primary concern.

19 HEARING OFFICER: All right. On the basis of this,
20 do you want to withdraw your objection?

21 MR. THOMAS: Well, yes, I think I will because
22 that's -- that's on the record now, right?

23 HEARING OFFICER: Yes, sir. Do you want to
24 withdraw? You're free to.

25 MR. THOMAS: I think I've pretty well -- I've got

1 what I wanted, promise. Whether that's worth anything
2 from them or not --

3 HEARING OFFICER: I can't give you legal advice.
4 All I can do is just ask what you want to do.

5 MR. THOMAS: I think I will go ahead and withdraw
6 based on that document there.

7 HEARING OFFICER: The record will reflect Petitioner
8 Rolling Acres Enterprises, Incorporated has withdrawn its
9 objection. Thank you, sir.

10 MR. THOMAS: That's the only one of those I have.

11 HEARING OFFICER: All right.

12 MR. THOMAS: Do you have another one over there,
13 Rod?

14 HEARING OFFICER: If the party in the room has a
15 copy of it, I'll take a copy of it. Otherwise --

16 MR. PINGEL: We'll give you another copy of it, sir.

17 HEARING OFFICER: I'll give you a period of time to
18 submit a copy of that to me, all right?

19 MR. THOMAS: All right. Thank you.

20 HEARING OFFICER: Mr. Thomas? Has he already gone?
21 That's all right. I want Conrock to give me a copy of
22 that exhibit. Mr. Thomas got out of the room while I was
23 not looking at him.

24 MR. POMP: I will see you have a copy before we
25 leave.

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HEARING OFFICER: All right. That's fine. Further appearances?

MR. PINGEL: On behalf of the respondent, Conrock, my name is Jim Pingel. And appearing with me is Mr. Mark Williams on behalf of the corporation.

HEARING OFFICER: Mr. Williams is an officer or employee of the corporation?

MR. WILLIAMS: President, sir.

HEARING OFFICER: He can be your party representative.

MR. PINGEL: Thank you, Your Honor.

HEARING OFFICER: And the Commission?

MR. SCHWARTZ: On behalf of the intervenor, Florida Public Service Commission, David Schwartz.

HEARING OFFICER: Mr. Schwartz, I have allowed your intervention because it was unobjected to. What position does the Commission take in this proceeding? An intervenor can't just intervene. And intervenor is a party in a Chapter 120 proceeding and has to advise the other parties something about its position.

There hasn't been a notice of intended agency action in this case as is normally the case in a 120 proceeding. Because of that, aside from the press of time and the nearness of the hearing, I entered an order requiring more definite statement in conjunction with the order

1 granting your intervention.

2 Now what position are you going to take in this
3 proceeding, and are you going to call any witnesses or do
4 any cross-examination, or just let us know.

5 MR. SCHWARTZ: Okay. I have the same concern that
6 was raised by another hearing officer in a similar case,
7 and in our petition to intervene, I supplied a case, I
8 believe it's South Florida Natural Gas -- I'm not sure
9 the whole case name -- I can certainly supply that to
10 you.

11 But it states that the Commission in its proceedings
12 does not have to take a position going into the hearing.
13 I'd be happy to provide that to you. But we have a right
14 -- I will provide the case to you -- but we have a right
15 to intervene since the subject matter is exclusively
16 within the Public Service Commission's jurisdiction.

17 HEARING OFFICER: I understand that. But
18 environmental cases under Chapter 403 are exclusively
19 within the DER jurisdiction as well. And, yet, if they
20 get in the case as a party, they have to advise through
21 proper pleading, the other parties what their position
22 is.

23 MR. SCHWARTZ: Okay. I have a position.

24 HEARING OFFICER: It's understood you regulate the
25 subject matter, but it's been transferred to this forum

1 for de novo hearing, and that case probably referred to a
2 proceeding the Commission was conducting itself.

3 MR. SCHWARTZ: Our position is that the certificate
4 should not be granted. And I was prepared and still am
5 prepared to make a motion in support of that and to
6 substitute the issues. Because we believe that the
7 certificate is not ripe yet to be granted. Yet this
8 dispute is ripe to have certain factual determinations
9 made certainly as to whether the objection should be
10 granted.

11 The Commission does not yet have a position on
12 whether the objection should be granted, but we have a
13 very clear-cut position that the certificate cannot be
14 granted at this point because the application is
15 incomplete.

16 HEARING OFFICER: Fine. Now is any party prejudiced
17 by that, or do all the parties understand that to be the
18 position?

19 MR. PINGEL: We have discussed the deficiencies with
20 Mr. Schwartz. I don't believe there's any difficulty in
21 modifying the issue that the Hearing Officer will
22 consider. And we realize that until the deficiencies
23 have been resolved, that you're not in a position, or you
24 do not have the jurisdiction to go ahead and recommend a
25 granting or denial of our certificate.

1 HEARING OFFICER: We're here to decide if you're
2 entitled to the certificate.

3 MR. PINGEL: That's correct.

4 HEARING OFFICER: Including whether deficiencies
5 exist or not. This is a de novo proceeding.

6 MR. PINGEL: I understand that. I misspoke. I
7 should have said as far as our application is concerned,
8 the deficiencies in our application. I realize that the
9 issue that has been framed as to whether or not there
10 should be a granting of the certificate.

11 HEARING OFFICER: All right. But my question went
12 to the fact that he announced his position at the outset
13 of the hearing today. Now do all the parties understand
14 the Commission's position in this matter sufficiently so
15 that that's not a surprise in terms of notice?

16 MR. SCHWARTZ: Sir, we sent a deficiency letter to
17 Conrock and copied you on that. I'm not sure if we sent
18 copies -- no, we did not send copies to the County or the
19 City or Rolling Acres Enterprises. But I can't imagine
20 why they would be prejudiced by that. And I have been in
21 enough contact with them that they understand my position
22 on that, and they can speak for themselves.

23 HEARING OFFICER: All right. I just need to know
24 that because we don't have a pleading showing what your
25 position is. All right. You can proceed on that basis.

1 We're going to have a number of these cases in the
2 future, Mr. Schwartz, and I suggest that the Commission
3 just enter a notice of agency action. Or if that's an
4 indelicate way for the Commission to proceed, in their
5 petition to intervene in these matters, have them state
6 what their position is.

7 And if it's simply, "We don't know whether to grant
8 or not because we don't have all the information yet,"
9 just say, "Our posture at this time is to deny the
10 application because this, this, and this has not been
11 supplied us or we're unaware of it."

12 But take a position so that the parties will know
13 well before trial, especially in view of the amendment to
14 120 three or four years ago that says an agency must
15 conduct itself no differently than any other party while
16 jurisdiction is before the 120 forum, before the Division
17 of Administrative Hearings.

18 There's no practical problem really. It's just that
19 you've got to let them know ahead of time.

20 MR. SCHWARTZ: Again, I'd be happy to provide you
21 with the case we have been relying on in not taking our
22 position.

23 HEARING OFFICER: I understand, but you can send me
24 a copy of it, but this is a 120 proceeding. All right.
25 It also appears to me that Conrock is the party trying to

1 change the status quo here, the moving party on the
2 application. And, therefore, you have the burden of
3 proof of showing under the JWC case a prima facie
4 entitlement to the license, as it were, that you seek.

5 And then the burden to go forward would shift to the
6 objectors, called here the petitioners, to demonstrate
7 why it is it should not be granted.

8 MR. PINGEL: That's my understanding, Your Honor.

9 HEARING OFFICER: You can go ahead, Mr. Pingel.

10 MR. PINGEL: All right. Your Honor, are you going
11 to allow us to make opening statements?

12 HEARING OFFICER: Yes, sir, you may.

13 MR. PINGEL: Okay. Thank you. Mr. Ruff, Mr.
14 Eppley, Mr. Hyslop, on behalf of my client, Conrock
15 Utilities, Inc., this is my first real chance to talk to
16 you about my client's desire to construct a water system
17 to serve an area which we have called the east central
18 service area. And this is what I consider a preview of
19 what we anticipate that we're going to show, a road map
20 of what our evidence will show in this particular case.

21 During the course of this hearing, I hope to present
22 a clear picture regarding why Conrock Utilities should be
23 granted a certificate of public convenience and
24 necessity. But like most things in life, not everything
25 is black and white. There are bound to be disputes, and

1 there are bound to be inconsistencies.

2 However, based upon the responses from the City of
3 Brooksville and from Hernando County, it appears that
4 there's not much of a dispute, or there's no dispute, as
5 to a number of the observations that are contained in the
6 feasibility study which we'll introduce into evidence,
7 which was prepared at the request of Conrock.

8 Obviously there is a dispute in this case as to
9 whether a public or a private entity is best suited to
10 serve the area, the subject area, from a cost,
11 environmental, and practical standpoint. The evidence in
12 this case will show -- and there's no dispute -- that the
13 property involved in the subject area is owned by the S.
14 A. Williams Trust. Mark Williams serves as the trustee.

15 The evidence will show that Mr. Williams will be
16 able to obtain a lease arrangement for the use of two
17 existing wells that are located on the Williams property.
18 There's no dispute that the water in the wells that are
19 located on the Williams property are suitable for the
20 water supply service in the subject area.

21 Currently the county provides service to three
22 subdivisions in the subject area, and the City provides
23 service to one subdivision. Within the subject area,
24 there are currently ten, at least ten privately owned
25 water supply systems. We believe that the primary issue

1 that you will have to consider today is who has the true
2 interest and the ability or the capability to most
3 economically serve this area and assure that there will
4 be a continuation of public health and safety in the
5 subject area.

6 The initial witness that we will call will be Mr.
7 Williams. Mr. Williams will be able to provide the
8 officer with the background and history of the property
9 and a background and history pertaining to the wells.
10 These are existing wells on the property.

11 He will also provide you with background as to why
12 his corporation desires to go ahead and provide a private
13 water system to the subject area, and will be able to
14 demonstrate to you the financial feasibility of his
15 corporation to provide the service.

16 Thereafter, I will present testimony from Mr. Rod
17 Pomp. Mr. Pomp will testify as a planner regarding the
18 preparation of the feasibility study. There will not be
19 any dispute as far as the demographic materials that are
20 contained in his feasibility study because that was
21 obtained from the public bodies involved in this hearing
22 today.

23 He will explain to you the water needs in the area,
24 in the subject area. He will also explain to you the
25 cost estimates for going ahead and providing a private

1 water system in this area.

2 Lastly, we will present testimony by Mr. Robert
3 Green. Mr. Green is a licensed engineer in the State of
4 Florida and has worked with the preparation of this
5 feasibility study. Additionally he has extensive
6 background in the area of water supply and sewage supply,
7 and at one time functioned as an engineer for Hernando
8 County.

9 In the subject area he has had the opportunity to
10 apply for private water supply systems, and he has
11 personal knowledge regarding the desire and the interests
12 of both the City and the County to provide a water system
13 to the subject area.

14 Thank you.

15 HEARING OFFICER: Is there anything else, Mr.
16 Schwartz, preliminarily before we call the first witness?

17 MR. SCHWARTZ: No.

18 HEARING OFFICER: All right. You may proceed, Mr.
19 Pingel.

20 MR. PINGEL: Your Honor, I'd like to call Mr. Mark
21 Williams.

22
23 THEREUPON,

24 MARK SUMNER WILLIAMS,

25 having been duly sworn and called as a witness on behalf of

1 Conrock Utility Company, was examined and testified as
2 follows:

3 DIRECT EXAMINATION

4 BY MR. PINGEL:

5 Q Mr. Williams, would you please state your full name?

6 A Mark Sumner Williams.

7 Q And what is your current residence address?

8 A 947 Clearview Avenue, Lakeland, Florida.

9 Q What is your relationship to the applicant in this
10 matter, Conrock Utilities, Inc.?

11 A I'm the president of the corporation.

12 Q Okay. Could you explain when this corporation was
13 formed and the purpose of the corporation?

14 A The corporation was formed approximately ten months
15 ago. And the purpose of it was to get licensing and
16 eventually operate a utility company in Hernando County.

17 Q Why was the purpose of the corporation to obtain a
18 license and operate a water supply system in Hernando County?

19 A Because we had a feasibility conducted, and we felt
20 one was needed for that area of Hernando that we applied for,
21 and no other entity seemed interested in performing or doing
22 that service.

23 Q All right. If you could step down to this map and
24 identify the area -- Mr. Ruff, can you see this?

25 HEARING OFFICER: Yes, sir.

1 Q (By Mr. Pingel) Okay. Identify the area that is
2 owned by the Williams Trust.

3 A The Williams Trust is approximately in this area and
4 down here around -- I own a small piece over here, another
5 small piece over here.

6 Q Okay. Could you identify for Mr. Ruff where the
7 existing wells are located?

8 A Approximately right there.

9 Q Go ahead and have a seat.

10 HEARING OFFICER: Tell me one thing. What are the
11 green and red color is signifying?

12 MR. PINGEL: The green and red colors -- and we'll
13 have further testimony regarding these -- but these are
14 other subdivisions that are located within the subject
15 area.

16 HEARING OFFICER: Okay; fine.

17 THE WITNESS: Well, the largest green one, most of
18 that's proposed. Nothing has been done there at all.

19 Q (By Mr. Pingel) All right. I don't think I made
20 this clear on the record, but by whom is the property owned
21 where the existing wells are located?

22 A It's owned by a group of people, my three sisters,
23 my brother, my two parents, and myself. And the seven of us
24 form a trust.

25 Q And the name of that trust is?

1 A It's the S. A. Williams Family Trust.

2 Q Has there been any agreements entered into between
3 the trust, which owns the property where the existing wells
4 are located, and your corporation regarding the use of the
5 wells on the Williams property?

6 A Okay. That's not a problem. I own 20 percent of
7 the real estate myself. But as far as the rest of the family
8 goes, they're all in accordance with it, and they agreed to
9 whatever terms work out that seem to be amiable to the Public
10 Service Commission and the corporation.

11 Q Okay. Prior to the formation of your corporation
12 ten months ago in the subject area, had there ever been any
13 discussion on your part regarding the formation of a water
14 supply system with either representatives from the County or
15 representatives from the City?

16 A Okay. We had had informal talks over a period of
17 years with the County and the City about them trying to
18 utilize the water capacity of the wells, and that's been going
19 on -- I have been involved with it, so it went back to the
20 early '70s, '74, '75, in that time period. Nothing ever
21 transpired; they never seemed to show any interest in doing
22 anything out in that area.

23 Q Will you describe for Mr. Ruff some of the
24 background on the existing wells as far as the environmental
25 strength of the wells?

1 A There's two wells, one's a 19-inch, it's 450 feet
2 deep. And there's a 22-inch inside diameter that's 360 feet
3 deep. The 19-inch, I believe, was drilled in the late '20s.
4 The other one was drilled in the early '50s.

5 Combined output of the wells is 5500 gallons per
6 minute when they're initially started. There's an 18-inch
7 drawdown; that's the maximum drawdown, and they have been at
8 that level ever since. From the late '20s to the early '70s,
9 they were used 24 hours a day because of the war crisis and
10 everything else going on there.

11 MR. SCHWARTZ: Objection, Your Honor. This
12 testimony is, I don't believe, based on personal
13 knowledge.

14 MR. PINGEL: Your Honor, if I may respond. I
15 believe that you can put whatever weight you feel is
16 appropriate on his testimony. If you want me to go
17 ahead and lay the proper predicate for how he's aware of
18 this information --

19 HEARING OFFICER: Is your objection as to hearsay
20 or competency of the witness?

21 MR. SCHWARTZ: As to not being made on personal
22 knowledge. It would be competency.

23 HEARING OFFICER: All right. You can establish a
24 predicate about that.

25 Q (By Mr. Pingel) Okay. You just mentioned in regard

1 to the wells an historical note as to how the wells were used
2 during the Second World War.

3 A Uh-huh.

4 Q Could you explain to Mr. Ruff how you became aware
5 of that information and who provided you with that
6 information?

7 A Well, several years ago, a guy by the name of Paul
8 Simmons, who was the senior electrician for the plant,
9 retired, and he told me most of it. What he didn't tell me,
10 Charles DeLamater told me.

11 Q Who's Charles DeLamater?

12 A He's currently foreman out there. He worked there
13 before the war, and during the war he was drafted, and after
14 the war he returned and went back to work for us.

15 Q What are the wells currently being used for?

16 A Agricultural.

17 Q Okay. Prior to forming Conrock Utilities, Inc.,
18 have you had the opportunity to form any other utilities that
19 exist in the subject area and serve both the County and the
20 City?

21 A South of Munion Hill Road, we operate a construction
22 and demolition landfill site --

23 MR. EPPLEY: Your Honor, I cannot hear.

24 A South of Mundon Hill Road, we operate a construction
25 and demolition landfill site that's used by City, State, and

1 County facilities or agencies.

2 HEARING OFFICER: Excuse me. Mr. Eppley, if you all
3 want to come up here and sit somewhere close, feel free
4 to do so. Excuse me, Mr. Pingel, go ahead.

5 MR. PINGEL: Thank you, Mr. Ruff.

6 Q (By Mr. Pingel) One of the areas that has been
7 reviewed in the feasibility study which was prepared at your
8 request deals with the financial ability to support or fund a
9 private water system. Could you please describe to Mr. Ruff
10 the financial basis of your corporation to go ahead and
11 sustain a private water supply facility?

12 A Okay. You mean Conrock or the S. A. Williams
13 Corporation?

14 Q I think you have to discuss both of them.

15 A The S. A. Williams Corporation was formed in the
16 mid-'60s sometime by my father, and I have been running that
17 for several years now. We have several different businesses
18 we're into. Our gross sales this year will be somewhere in
19 the million dollar area. And we operate on at least a 25
20 percent profit margin.

21 I have been running the corporation now for about
22 six or seven years. I took it over from my brother-in-law who
23 was not doing such a good job. We have absolutely no debt
24 service. We don't owe anybody anything. We paid off all our
25 bills, and things are going quite well.

1 Q In the feasibility study that you requested to be
2 performed by Mr. Pomp and Mr. Green, have you had the
3 opportunity to review the financial information regarding the
4 cost of construction and implementing a private water service?

5 A Yeah, I read that. It was quite sometime ago, and I
6 haven't reviewed it recently. If I remember right, the total
7 was in the 4.1 or \$4 million area, and to do it on a phase
8 construction, they were talking approximately 400,000 to do
9 phase one. We plan on paying that cash out of pocket.

10 Q Okay. As far as that amount is concerned, there
11 would be no difficulty for Conrock Utilities to go ahead and
12 go forward from a financial standpoint?

13 A No.

14 Q Okay. One of the objections that has been raised by
15 the public bodies in this matter deals with the possibility
16 that your company would walk away from this project. I know
17 this calls for speculation, but is there any reason that
18 you're aware of at this point that you would not, on behalf of
19 your corporation, go forward with this project?

20 A No. It's the exact opposite. My mother is quite
21 anxious to start on it. We have been here since the late
22 '20s. Why should we leave now?

23 Q As a corporation, do you anticipate that you will
24 have any difficulty as far as the maintenance and operation of
25 a private water facility if the certificate is granted in this

1 matter?

2 A No, sir, I don't imagine a problem there.

3 MR. PINGEL: Mr. Ruff, I don't have any further
4 questions at this point.

5 HEARING OFFICER: All right. Any objectors have
6 cross? You can go in whichever order you want to.

7 CROSS EXAMINATION

8 BY MR. EPPLEY:

9 Q Good afternoon.

10 A Yes, sir.

11 Q A few questions, Mr. Williams. Your company has
12 been formed for a period of how long?

13 A Approximately ten months.

14 Q What assets does that company have?

15 A Conrock?

16 Q Correct.

17 A Currently nothing.

18 Q It has no assets at the present time?

19 A No. It's a wholly owned subsidiary of the S. A.
20 Williams Corporation.

21 Q Okay. Who owns the stock of Conrock? Who are the
22 stockholders?

23 A That would be my parents and myself.

24 Q Do you all individually own the stock?

25 A I would have to look at the records.

1 Q You don't know who owns the stock?

2 A I don't have an exact breakdown on the shares and
3 how it's split up. They're split up some in the corporation
4 and some in the family members.

5 Q But the corporation itself has no assets?

6 A Conrock or the S. A. Williams Corporation?

7 Q I'm talking about the applicant, Conrock.

8 A No, sir.

9 Q Does Conrock own any land in the way of assets?

10 A Currently no, but I've got leases that are
11 guaranteed to it.

12 Q It has leases that are guaranteed to it?

13 A My parents and family have guaranteed leases to it.

14 Q But those are not leases that are in place at the
15 moment?

16 A They haven't been written.

17 Q Do they exist?

18 A Just sitting here looking at each other.

19 Q Just you sitting here saying, "We have a lease"?

20 A Yeah.

21 Q There's no written evidence of that or there's no
22 written evidence anyone has agreed to any of the terms of this
23 lease?

24 A Not that I've got with me.

25 Q What are the terms of the lease?

1 A Okay. It will be on a minimal annual thing, annual
2 charge based on -- we assume we have done all the research.
3 Like I said earlier, it's pretty much between the Public
4 Service Commission and the utility company. But we anticipate
5 it will be on a percentage of usage with a minimal annual
6 guarantee.

7 Q But you haven't really discussed any particular
8 terms or anything like that? You all just agreed to go ahead
9 as a family?

10 A We discussed those terms, but we haven't set down
11 exact numbers.

12 Q You couldn't tell me what those are today?

13 A No, sir.

14 Q Okay. What experience do you have in operating a
15 water utility?

16 A A water utility?

17 Q Correct.

18 A None, but Rod Pomp and Bill Green have experience at
19 it, engineering, that type of work.

20 Q But you have no experience yourself?

21 A In other businesses I have a lot of experience, but
22 not specifically in a utility company.

23 Q Are either Mr. Green or Mr. Pomp stockholders or
24 officers of this corporation?

25 A No, sir.

1 Q Do they have any financial interest in the
2 corporation?

3 A No, sir.

4 Q You indicated that there are some wells on this
5 property, on some of the properties in question.

6 A Which properties are in question?

7 Q Okay. You all have sought an application to provide
8 water service in the area.

9 A Yes, sir.

10 Q What ability do you have to provide service within
11 that area? What ability does Conrock have to provide service
12 in that area?

13 A There's two wells on the land that we own.

14 Q When you say on the land we own, who are you
15 referring to?

16 A Our family.

17 Q Okay. Is that owned in the trust?

18 A Yes, sir.

19 Q Where are those wells located, if you would please?
20 I was in the back of the room.

21 A Okay. Approximately here.

22 Q Are both the wells located in close proximity to
23 each other?

24 A Yes, a couple hundred yards.

25 Q What existing lines do you have in place to serve

1 that area?

2 A Outside of our property, none.

3 Q Excuse me?

4 A Outside of our property, none.

5 Q Okay. How many square miles is located --

6 A Approximately 25, if I remember right.

7 Q 25 square miles? But you have no in-place lines
8 anywhere in that area?

9 A Not outside our property.

10 Q Okay. The wells in question, how long has it been
11 since they have been in use? How long have they not been in
12 use? Are they actively used presently?

13 A There's an active consumptive use permit.

14 Q Is there any consumptive use of the wells at the
15 present?

16 A Yes.

17 Q How much is there?

18 A I don't know exactly.

19 Q Okay. Are they pumping at full flow?

20 A No, sir.

21 Q How long has it been since they have pumped at full
22 flow?

23 A For a long period.

24 Q How long is a long period?

25 A You mean for 24 hours at full capacity or what?

1 Q Just say eight hours at full capacity.

2 A At eight hours at full capacity? Approximately -- I
3 honestly don't know, but I would guess about a couple of
4 years.

5 Q Okay. Were they primarily used for mining purposes?

6 A Yes, sir.

7 Q How long has it been since the mine ceased
8 operation?

9 A Late '60s, early '70s.

10 Q Have you all done any tests on flows or water
11 quality anything of that nature at this point in time?

12 A When you say water quality, we had some tests done a
13 couple years ago. We haven't had any tests done on flows or
14 anything.

15 Q What in-place funding does Conrock have to
16 facilitate this application?

17 A Like I told Mr. Ruff a second ago, we plan on doing
18 phase A out of it, once the engineering is done, and we plan
19 on paying for that out of our pocket.

20 Q But that would be --

21 A Storage tanks and the initial supply lines and
22 updating the wells and bringing them all up in case there's
23 any deficiencies, bring them up to specs.

24 Q I am talking about Conrock itself -- I'm not trying
25 to play games with you or anything -- but Conrock itself.

1 Does the corporation have any in-place funding?

2 A It's just a matter of transferring the funds from
3 one account to another.

4 Q Okay. Does Conrock have anything in any accounts at
5 the moment?

6 A No.

7 Q Are there any letters of agreement that would
8 evidence that at the moment?

9 A Not in my possession.

10 Q Do you have any financial statements with you or
11 anything of that nature today that would --

12 A They were sent in the application, but I didn't
13 bring that with me.

14 Q Okay. The corporation itself has not been in
15 business at all, I assume. You all set it up, and there's
16 been no business activity within the corporation.

17 A It has no cash flow.

18 Q No profit or loss?

19 A No.

20 Q Just no activity?

21 A Right. Well, now this.

22 Q But I'm talking about financial activity.

23 A No, it doesn't have a franchise yet.

24 Q It doesn't engage in any other services?

25 A No, sir.

1 MR. EPPLEY: I have no further questions. Thank
2 you.

3 CROSS EXAMINATION

4 BY MR. HYSLOP:

5 Q You gave us a little information about the wells.
6 You said you had them tested or something done with them about
7 two years ago?

8 A I forgot if the City or County paid for that. But,
9 yes, sir, there was some testing done there.

10 Q And you said you had a consumptive use permit. Do
11 you know how many gallons a day that's for?

12 MR. PINGEL: Excuse me?

13 Q (By Mr. Hyslop) I asked him about his consumptive
14 use permit, approximately how many gallons a day, if he knew.

15 A We just reapplied. It sounds terrible, but I forgot
16 what. I think it's three quarters of a million, but I'm not
17 sure.

18 Q That's for both wells?

19 A Yes, sir.

20 Q Okay. You have said you're the president of the
21 corporation. How many employees does the corporation have?

22 A Which one?

23 Q Conrock.

24 A Conrock, no employees.

25 Q No employees. Are you a licensed water plant

1 operator, or do you have any licenses to conduct this type
2 business?

3 A No, sir.

4 Q Okay. In the feasibility report that was prepared,
5 there's a section called financial considerations. That
6 report, I believe, was made a part of your application, and in
7 there it talks about trying to obtain bonds, loans, and grants
8 through governmental agencies or through participation with
9 governments.

10 Have you done anything along those lines to see if
11 any of those type funds, number, one, are available; and,
12 number two, to submit any applications or any preparation to
13 obtain such funding?

14 A No, sir, that would sort of be putting the cart
15 before the horse.

16 Q Okay. You talked about operating a landfill in the
17 area.

18 A Construction demolition.

19 Q Who's that owned by?

20 A That's owned by the S. A. Williams Corporation.

21 Q Is it operated by the S. A. Williams Corporation?

22 A Yes, sir.

23 Q So Conrock Corporation doesn't operate any kind of
24 public utility then, no landfills by the S. A. Williams
25 Corporation?

1 A No, but I manage a landfill.

2 MR. HYSLOP: I don't have any further questions.

3 HEARING OFFICER: Mr. Schwartz?

4 CROSS EXAMINATION

5 BY MR. SCHWARTZ:

6 MR. SCHWARTZ: Mr. Hearing Officer, I'd like to
7 show this to the witness, and I have some copies.

8 HEARING OFFICER: What is this packet of documents,
9 Mr. Schwartz?

10 Q (By Mr. Schwartz) Mr. Williams, are you familiar
11 with that document?

12 A Yes, sir. I haven't reviewed it in a month or two,
13 but, yes.

14 Q Did you prepare that document?

15 A No, sir, Rod Pomp prepared it.

16 Q Rod prepared that document? Okay. You provided
17 certain information that went into that? You provided certain
18 information to Mr. Pomp that went into that application?

19 A Yes, sir.

20 Q So you're personally aware of the information in
21 there; you have personal knowledge of the information in that
22 application?

23 A Yes, sir.

24 Q Yes, sir?

25 A Yes.

1 Q Could you tell from -- what is the date of this
2 application?

3 A June.

4 Q June what?

5 A I don't know. I have to look back and flip through
6 and find the exact date.

7 Q I can help you out.

8 A Okay. July.

9 Q What is the date?

10 A June 28th.

11 Q Look on the front.

12 HEARING OFFICER: You all both speak up.

13 Q (By Mr. Schwartz) What is the date of this
14 document?

15 A August 14th.

16 Q Would you say that's a filing date?

17 A I would assume so, yes.

18 Q So it was filed on this date?

19 A Apparently that's when your office received it and
20 filed it.

21 Q The date again is?

22 A August 14th.

23 MR. SCHWARTZ: I'd like to offer this into evidence
24 as Florida Public Service Commission Exhibit Number One.

25 HEARING OFFICER: Intervenor's One for

1 Identification. Any objection?

2 MR. PINGEL: No objections.

3 HEARING OFFICER: It's admitted.

4 (Whereupon, FPSC Intervenor's Exhibit Number One was
5 identified and admitted into evidence.)

6 HEARING OFFICER: Is this my copy here, Mr.
7 Schwartz?

8 MR. SCHWARTZ: Yes, sir. Mr. Hearing Officer, I'd
9 like at this time to request that official recognition be
10 taken of some of the operative statutes and rules which
11 I've got some copies of. And I think it would be
12 helpful in my asking questions for you and Mr. Williams
13 and all the parties to follow.

14 HEARING OFFICER: All right.

15 MR. SCHWARTZ: One statute is section 367.041.

16 HEARING OFFICER: Do you have all this in exhibit
17 form?

18 MR. SCHWARTZ: Yes, sir. This is Florida Public
19 Service Commission Exhibit Number Two.

20 HEARING OFFICER: Intervenor's Two.

21 (Whereupon, FPSC Intervenor's Exhibit Number Two was
22 identified and admitted into evidence.)

23 MR. SCHWARTZ: The first statute of import is
24 section 367.041, which is the application which sets
25 forth certain requirements of the application. And

1 section 367.051, particularly (3) (a), which sets forth
2 pretty much the ground, the framework on which this
3 dispute has arisen.

4 Also I'd like to request that official recognition
5 be taken of Rule 25-30.035, which sets forth further
6 requirements for the application. This is two pages, and
7 this would be Intervenor's Exhibit Number Three.

8 HEARING OFFICER: Intervenor's Three.

9 (Whereupon, FPSC Intervenor's Exhibit Number Three
10 was identified and admitted into evidence.)

11 MR. SCHWARTZ: And finally I'd like to request
12 official recognition be taken of Rule 25-30.25, which is
13 the official date of filing of the application. If you
14 would, that's Intervenor's Number Four.

15 HEARING OFFICER: Intervenor's Number Four.

16 (Whereupon, FPSC Intervenor's Exhibit Number Four
17 was identified and admitted into evidence.)

18 Q (By Mr. Schwartz) And I have another document to
19 give to Mr. Williams. Have you seen this document before?

20 A Yes, sir, we received this letter about Wednesday or
21 Thursday of last week.

22 Q And what is the nature of this letter?

23 A A series of discrepancies between what your
24 requirements were and what we have submitted that you asked be
25 corrected.

1 MR. SCHWARTZ: Okay. I'd like to introduce this as
2 Intervenor's Number Five.

3 HEARING OFFICER: It's identified as Intervenor's
4 Exhibit Number Five. Any objection?

5 MR. PINGEL: No objection, Your Honor.

6 HEARING OFFICER: It's admitted.

7 (Whereupon, FPSC Intervenor's Exhibit Number Five
8 was identified and admitted into evidence.)

9 Q (By Mr. Schwartz) Mr. Williams, will you please
10 turn to the application? On Page 3, it's described as Section
11 2, Part 2-A, Part 2-A on Page 3. It's designated a
12 Certification - Territory Description. Are you following me?

13 A Okay.

14 Q Could you read paragraph A?

15 A An accurate description of the territory sought for
16 certification, described by sections, quarter sections, and/or
17 by metes and bounds, using section, township, range, and
18 county references as attached as exhibit A.

19 Q Thank you, sir. Will you please turn to the back of
20 the application where the exhibits are attached, and please
21 describe or read the title of the first exhibit that's
22 attached?

23 A Exhibit E.

24 Q So where is Exhibit A? Is it attached there?

25 A Okay. Exhibit -- as your letter indicated on the

1 5th, Exhibits 1, 2, and 3 -- I don't know exactly which one --
2 it's talking about Exhibits A, B, and C apparently got
3 misplaced or an accident happened somewhere, and you didn't
4 receive them. And that's what your letter was requesting more
5 copies of.

6 And they were mailed out, to the best of my
7 knowledge, September 5th or 6th because your office called us
8 and asked for that stuff before you wrote us a letter, and
9 they were mailed out within 24 hours of that call.

10 Q Okay. So you do not have any proof that that
11 exhibit had been filed?

12 A Can you excuse me a second? I want to ask Rod. Did
13 you get that stuff in your file?

14 HEARING OFFICER: Just a minute.

15 MR. POMP: To answer your question, yes, that has
16 been filed. I do not have a copy of the air receipt
17 where we did air express it.

18 HEARING OFFICER: That's not testimony. If you
19 don't know, say you don't know. It's up to counsel to
20 supply that later if he thinks it's necessary.

21 THE WITNESS: I don't know what happened to it.

22 MR. SCHWARTZ: Excuse me one second, sir.

23 HEARING OFFICER: All right.

24 MR. SCHWARTZ: I'd just like to bring to the
25 Hearing Officer's attention, in Rule 25-30.035,

1 Paragraph (3) (h) being territory proposed to be served
2 including sub one detailed map showing existing lines
3 and facilities.

4 HEARING OFFICER: Do you have a question of the
5 witness about that?

6 MR. SCHWARTZ: I believe I have already asked
7 whether those maps have been filed, whether they were
8 attached with the application.

9 HEARING OFFICER: That's a matter for argument.

10 A They have apparently been lost, and we're going to
11 send you some copies. If that map would suffice, you're
12 welcome to it.

13 Q How about on the same page of the application,
14 Exhibit B, is that attached to your application? Do you have
15 proof that that's been filed?

16 A Okay. On all three of those things which your
17 letter copied, I was under the impression they had been filed,
18 and apparently something's happened, and they have gotten
19 misplaced or lost or there was a mix-up in those.

20 Q Okay. Thank you, sir. If you will, in the letter,
21 if you will read under deficiencies, number three.

22 A Okay. The affidavit that proper noticing was given
23 in accordance with Rule 25-30.030, Florida Administrative
24 Code, was not included with the application.

25 Q Okay. And that, I believe, would be Exhibit D in

1 the application, on Page 5?

2 A Page 5?

3 Q Under notice of intention, Paragraph B.

4 A Oh, B, yeah, that would be Paragraph B.

5 Q And that, again, is also not attached?

6 A Yes, sir. Apparently it's been deleted or
7 something.

8 HEARING OFFICER: What is that you're referring to?

9 THE WITNESS: He's referring to the advertisement
10 in the newspaper.

11 MR. SCHWARTZ: Once again, sir, if I may bring to
12 your attention, in statute, section 367.041, subparagraph
13 4 --

14 HEARING OFFICER: There will be a time to argue the
15 law. Have you actually advertised?

16 THE WITNESS: Yes, sir, noting by the number of
17 objections. But we advertised.

18 HEARING OFFICER: You advertised, but you may not
19 have filed the proof of advertising, is that what you're
20 saying?

21 THE WITNESS: I was under the impression we filed
22 the proof of advertising. Apparently it's been lost, and
23 we're going to send another one.

24 HEARING OFFICER: You mean you lost it, your company
25 lost it? Who lost it?

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THE WITNESS: For lack of a better explanation, I will just say the secretary didn't staple it all together on the applications when it was sent.

HEARING OFFICER: But you say it got advertised?

THE WITNESS: Yes, sir.

HEARING OFFICER: Okay. Excuse me, Mr. Schwartz.

Q (By Mr. Schwartz) If you would, look, please, again, on Page 3 of the application, Part 2, Paragraph D. If you could read that, please, into the record.

A Evidence that the utility owns the land where the utility treatment facilities are located. Where the utility does not own the land, a copy of the agreement which provides for the long-term continuous use of the land is attached as an exhibit.

Q And the response that's filled in there, please, if you could read that.

A Land held by family members; least to be completed.

Q To be completed. So that, too, is not attached?

A No, sir, that wasn't attached.

Q And if I understood your testimony so far today, that least has not been completed to date?

A Not in writing.

Q Not in writing. Okay.

HEARING OFFICER: Are these exhibits you all have been discussing attached to the application which is the

1 exhibit in evidence?

2 MR. SCHWARTZ: Yes, sir.

3 HEARING OFFICER: They are attached?

4 MR. SCHWARTZ: Exhibits A through D are not
5 attached. That was the evidence I was trying to get
6 into the record. The first exhibit, you will not, is
7 Exhibit E. I am just trying to point out certain
8 deficiencies in the application.

9 MR. PINGEL: Your Honor, if I may respond.

10 HEARING OFFICER: Are we going to have the
11 application put into evidence today?

12 MR. SCHWARTZ: I thought I had.

13 MR. PINGEL: He has introduced the application
14 into evidence.

15 HEARING OFFICER: That's what I thought. Is that
16 exhibit complete with the missing attachments you
17 have been referencing in your cross-examination?

18 MR. SCHWARTZ: No. The missing attachments are not
19 in the application. I don't know where the application
20 is, and I have been told by Mr. Williams that they were
21 mailed to us -- I think I see one of them here -- but the
22 Commission's never seen it nor had the opportunity to
23 review it yet.

24 MR. PINGEL: Mr. Ruff, if I may respond. We will
25 present testimony that the items listed in the deficiency

1 letter with the exception of the tariff information has
2 been provided to the Commission.

3 HEARING OFFICER: Do you have the information that's
4 in question in the hearing room?

5 MR. PINGEL: It's been brought to the hearing room.

6 HEARING OFFICER: All right. In that connection, I
7 will remind you, again, this is a de novo proceeding.
8 We're not here to review what the Commission had to
9 review. We're here to see if the statute is complied
10 with which determines how you get a certificate.

11 So we're taking evidence today. We're not reviewing
12 the deficiencies in the filing of the pleading, okay?

13 MR. SCHWARTZ: Okay.

14 THE COURT: If he has that today and it's admitted
15 into evidence, then it's in the record at this de novo
16 proceeding upon which to decide whether or not he gets a
17 certificate, his company gets a certificate.

18 MR. SCHWARTZ: Okay. Are you going to call Mr. Pomp
19 as a witness?

20 MR. PINGEL: I will call Mr. Pomp as a witness?

21 MR. SCHWARTZ: I have some questions about your
22 study. Would that be more appropriate to cross Mr. Pomp
23 on?

24 MR. PINGEL: I don't know the nature of your
25 questions, so I can't respond at this point.

1 MR. SCHWARTZ: Do you plan to introduce this into
2 evidence?

3 MR. PINGEL: I plan on introducing that into
4 evidence.

5 Q (By Mr. Schwartz) Okay. Mr. Williams, do you
6 believe that the City of Brooksville or Hernando County have
7 the means or the water supply capability and desire to serve
8 your proposed service territory?

9 A No, I don't.

10 Q And what do you base that contention on?

11 A If you take the little piece called the Wesleyan
12 Village, to the best of my knowledge -- now I might be wrong
13 on some exact dates -- but that was given to them, the City of
14 Brooksville, in the early '80s because they wanted to expand
15 their existing facility, and they couldn't expand their
16 facility because their facilities weren't up to par.

17 Q You're talking about this read area here?

18 A That little area was given either to the City or the
19 County to provide water service for, and one of the reasons it
20 was given them is because they didn't have adequate pressure
21 for fire. And to the best of my knowledge, to this date, they
22 still don't have adequate pressure for fire, and we're in the
23 late '80s now.

24 Q So they're currently being served by the City?

25 A Yes, sir, but they don't have adequate pressure for

1 fire. They have made no effort -- the County and the City
2 have been moving in the opposite direction, more towards the
3 west.

4 Q So how did this come to your attention; that the
5 residents in that Wesleyan Village were not receiving adequate
6 water pressure? Did they ask you to provide them service?
7 How did that come to your attention?

8 A Just in different discussions with people over the
9 years.

10 Q Have customers, have residents of that area ever
11 come to you asking for you to serve them?

12 A No, sir, they haven't approached me in that fashion.

13 Q Okay. Do you have any written agreements for
14 providing service with developers or customers within your
15 service territory?

16 A No, sir.

17 Q How do you plan on providing sewer service within
18 your service territory?

19 A To the best of my knowledge, sewer and water are
20 separate applications, and this doesn't cover sewer at all.
21 It only covers water.

22 Q So if there were some residents living out in the
23 area you planned on providing water service, how would you
24 expect they would have sewer service provided?

25 A Well, currently you've got a couple small sewer

1 systems, but basically it's septic tank out there. Once we
2 got our water franchise, we would consider putting in sewer.
3 But, again, they're separate applications.

4 Q So this application is just for water?

5 A I thought that was the format to handle it.

6 Q Do you have the necessary county and Southwest
7 Florida Water Management District approval to have septic
8 tanks used in this area?

9 A Repeat the question.

10 Q Have the county and/or Southwest Florida Water
11 Management District given their blessings, approved your plan
12 to provide water service without sewer service being provided?

13 A Well, obviously the county hasn't. As far as
14 Swiftmud, that's not -- to the best of my knowledge, that's
15 not a regulatory purpose of that agency. All they do is grant
16 consumptive use permits.

17 Q Well, the Department of Environmental Regulation.

18 A Again, we've got our wells and all in place. So it
19 would just be a matter of upping the CPUs.

20 HEARING OFFICER: Just a minute, counselor. Why is
21 that relevant in this proceeding? That's not an issue.
22 He's only asking for a water certificate, isn't that
23 right?

24 MR. SCHWARTZ: I'm sorry. One second, sir.

25 HEARING OFFICER: Isn't he asking for just a water

1 certificate?

2 MR. SCHWARTZ: Yes, sir.

3 HEARING OFFICER: Why does the DER have any bearing
4 here? That's another agency's regulatory purview; it's
5 not before us today, is it?

6 MR. SCHWARTZ: Let me see if I can redirect this, if
7 this would help any.

8 Q (By Mr. Schwartz) Mr. Williams, you mentioned you
9 own some property within this.

10 A Uh-huh.

11 Q And you said it was somewhere around here?

12 A Here you go.

13 Q I will drop this line of questioning; I apologize.

14 A That shows the property lines on it.

15 Q Okay. Now how many acres of land is it that you own
16 in the service territory?

17 A Approximately 900.

18 Q 900, and that's, again, held, you said, by various
19 members of --

20 A The majority of it is held by the trust, which is
21 seven people comprise the trust, and there's a couple small
22 tracts that are owned by the S. A. Williams Corporation
23 itself.

24 Q Do you plan any development out there?

25 A No, sir.

1 Q No planned development out there?

2 A Not that we're intending for our property. We have
3 been approached by TBF Properties that wants to develop some
4 of our property, but we haven't come to any sort of
5 accommodation.

6 Q So then it's currently zoned as agricultural, is
7 that what you said?

8 A No, there will be TBF Properties had some of our
9 land rezoned. I don't remember the exact zoning on that. The
10 majority of it is agricultural, and you've got the
11 construction and demolition site that will be zoned whatever
12 is appropriate.

13 Q I didn't understand what you said.

14 A TBF Properties.

15 Q Who are they?

16 A Tommy Bronson family. They're trying to put in a
17 development to the north and to the west of us.

18 Q And that's something that you would be serving water
19 service to?

20 A Well, if we got the franchise, if they put in their
21 development, yes.

22 Q Do you know when construction would begin on that
23 piece of land?

24 A No.

25 Q Okay. If you look again at the deficiency

1 letter, what is number eight about there?

2 A Tariff schedules.

3 Q So have you filed tariff schedules?

4 A No, sir.

5 Q Have they been filed to date?

6 A No, sir.

7 Q Okay. How do you expect that your water rates would
8 compare with those of the County and the City?

9 A I would expect comparable or less, but it's
10 something I can't really answer for sure without doing all the
11 numbers.

12 Q Okay.

13 A I would expect less, I would hope.

14 Q Are you aware of any County requirements that would
15 require the utility, private utility such as the one you
16 propose to have, requirement for dedicated lines of certain
17 facilities to the County?

18 A To the best of my knowledge, that deals with private
19 developers who build, and the County requires for them to get
20 change in zoning. A lot of times they'll require them to
21 build and dedicate a utility system for that development, but
22 I don't know of anything that requires private utilities to
23 give their systems to the County.

24 Q Who's performing the engineering design of your
25 proposed water facilities?

1 A Mr. Pomp and Mr. Green. Mr. Green, if I remember
2 right.

3 Q Okay. And who will manage -- who will be your
4 operations manager for the system?

5 A Well, if we get the franchise, as far as -- I
6 already have my staff, Donna Martin or Charles DeLamater.

7 Q And he's the one you have designated in your
8 application?

9 A Yes, sir.

10 Q Yes, sir.

11 Q On Page 2?

12 A Yes, sir.

13 Q Where is he today?

14 A At the plant.

15 Q He's at the plant today?

16 A Yes, sir.

17 Q Okay. So did you ask him to come and testify today,
18 to be a witness?

19 A No, sir.

20 Q But he's your planned plant manager, and you have no
21 technical expertise at operating a plant?

22 A No, sir.

23 Q So he is your expertise at operating the plant?

24 A Right now, yes.

25 Q Well, see, now I can't cross examine him and ask him

1 about his qualifications personally. What personal knowledge
2 do you have of his qualifications?

3 A Well, Charles, lacking in formal education, he more
4 than makes up for in practical knowledge and experience.

5 Q Okay. Well, since you never operated a utility
6 before, you have never employed him to be a plant manager of a
7 utility, I believe?

8 A Yes. What he's lacking --

9 Q Have you ever employed him in any capacity?

10 A Charlie? Oh, yes, he's worked for me for over 30
11 years, my family.

12 Q What kind of work has he done for you?

13 A Everything. He pretty much runs the place up in
14 Brooksville now.

15 Q The place being demolition landfill?

16 A The ranch and the C and D site, yes, sir.

17 Q Does he currently possess an operator's license to
18 operate a utility system?

19 A No, sir, that is something -- I would send him or
20 Donna to school for, so they can get the appropriate
21 certificates. He possesses several other certificates, but
22 not that one.

23 Q Who would perform the business management, the day-
24 to-day administration of the utility?

25 A That would probably be done, again, between myself

1 and Charlie.

2 Q Okay. And neither of you have had any experience in
3 dealing with the Public Service Commission or governmental
4 agencies in providing a public service?

5 A Well, we both have been running the C and D site.
6 You're dealing with governmental agencies there on a daily
7 basis.

8 Q There's C and D, what is that?

9 A Construction and demolition site. The County
10 usually makes a point of coming by once a year, Swiftmud and
11 DER do the same as far as inspections. They're also all
12 available to do spot and surprise inspections whenever they
13 choose. And we have never had a problem with any of them.

14 Q Okay. Thanks. I'd like to refer you, again, to the
15 application. I believe it's Exhibit F. You can tell me what
16 that is about.

17 A That deals with the financial statement of myself,
18 the corporation, the trust.

19 Q What is this on Page 1, the first page of Exhibit F?

20 A Page 1? That deals with my parents' personally.

21 Q Those are your parents' personal financial
22 statements?

23 A Uh-huh.

24 Q Are they certified, certified financial statements?

25 A No, sir, they're not certified financial statements.

1 None of them were audited. The Commission requirements didn't
2 ask that.

3 Q And your parents aren't here today?

4 A No, sir.

5 Q What is the total that you have in the S. A.
6 Williams Family Trust?

7 A Three million or 3.069.

8 Q Okay. And there's, I note, an asterisk by the line
9 that says S. A. Williams Family Trust. What does that
10 asterisk, what is that explanation there on Page 1 of Exhibit
11 E?

12 A Apparently that deals with Mr. Williams having a
13 limited beneficial interest in the trust.

14 Q A limited beneficial interest in the trust for his
15 life, a life interest. Is that an income interest? Is that a
16 right to principle of the trust?

17 A It's an income interest, to the best of my
18 knowledge. To the best of my knowledge, he can do anything he
19 wants with it anyway.

20 Q What does limited mean? Are there other people he
21 shares an income interest with? What percentage of income
22 does he have in this trust?

23 A Okay. This trust, if I remember right, deals with
24 what my grandmother set up when she passed on. And the way it
25 works is, it goes to -- I don't know if it goes to my children

1 and it passes down from generation to generation once the
2 preceding generation has passed on.

3 Q If you look on Page 3 of that same exhibit, what is
4 this a financial statement of?

5 A The trust.

6 Q The trust, okay. And what is the net worth of this
7 trust?

8 A We just did that, 3.869 million.

9 Q Okay. So referring back to Page 1, again, of the
10 financial statement of Mr. and Mrs. Sumner Williams, their
11 personal assets, that's the corpus of the trust, that's the
12 entire trust that you have listed, is that not?

13 A That's why the asterisk is there, yeah.

14 MR. SCHWARTZ: Okay. I have no further questions.

15 HEARING OFFICER: Redirect?

16 MR. PINGEL: I have a couple questions, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. PINGEL:

19 Q Mr. Williams, you do not have any technical training
20 as an engineer, is that correct?

21 A I had a couple years in college, but I don't have
22 anything that I can put behind my name.

23 Q In regard to the feasibility study that was prepared
24 by Mr. Pomp and Mr. Green, this was performed at your request
25 in anticipation of applying for a franchise, is that correct?

1 A Yes, sir.

2 Q Okay. As far as the specific details and the
3 operation of that franchise if it's granted, these are things
4 that will have to be worked out in the future, is that
5 correct?

6 A That's correct.

7 Q Okay. At this point, there have been certain
8 determinations made as far as the anticipated cost by the
9 engineers to go ahead and construct the private water supply
10 facility to service the subject area, is that correct?

11 A Yes, sir.

12 Q You haven't done any particular studies as far as
13 water viability and other studies in preparation of the
14 construction of the plant at this point?

15 A No, sir.

16 Q Two years ago water studies were performed, paid for
17 by either the City or the County?

18 A Yes.

19 Q Was there anything that was negative as far as the
20 quality of the water contained in those studies?

21 MR. EPPLEY: Your Honor, I object that that's
22 hearsay.

23 HEARING OFFICER: Do you want to respond to the
24 objection?

25 MR. PINGEL: Well, he's the one that requested the

1 study be performed, and all I asked him is if he went
2 ahead and reviewed the study and if anyone ever advised
3 him if there's any problems as far as the quality of the
4 water.

5 HEARING OFFICER: Objection sustained. It appears
6 to call for hearsay. You can go at it another way.

7 Q (By Mr. Pingel) Has anyone ever advised you there's
8 any problems as far as the quality of the water from an
9 environmental standpoint in the existing wells on your
10 property?

11 A No, sir. It's always been the exact opposite; they
12 advised us of the excellent quality of the water.

13 Q At the conclusion of the studies that were
14 performed, that were paid for by either the City or the
15 County, has any representative of the City or the County ever
16 advised you that there was any difficulty as far as the
17 quality of the water in the existing wells?

18 A No, they thought it was excellent quality. As a
19 matter of fact, all they said it needed was --

20 MR. EPPLEY: Object to the second part of his
21 answer. He asked him as to whether or not anybody had
22 ever advised him of a problem being with the water. He
23 said no, and then the follow-up was unresponsive.

24 HEARING OFFICER: Sustained.

25 Q (By Mr. Pingel) Assuming that a certificate is

1 granted, do you anticipate any difficulties in employment a
2 licensed water management or licensed water manager to operate
3 your facility?

4 A No, sir. If we can't get one of our own people
5 trained, we'll hire one from outside.

6 Q All right. You have had the opportunity to review
7 the deficiency letter which was introduced into evidence?

8 A Yes, sir.

9 Q In regard to the various requests that were made by
10 the Commission, did you arrange for those items to be provided
11 to the Commission?

12 A Yes, sir.

13 Q How did you arrange to have those provided?

14 A Like I stated earlier, I got a call from the Public
15 Service Commission up in Tallahassee, and they only advised me
16 of one through three. So the day I got that, I called up Mr.
17 Pomp's or Mr. Green's office and asked them to forward the
18 information for one through three up there.

19 Numbers four through eight, I took the -- the
20 original I got in my file, but I photocopied it, and I wrote
21 on it "appropriate responses" and sent it on to your office
22 for you guys to do the follow-up and forward it on to the
23 Commission.

24 Q So you have gone ahead and prepared your response to
25 the deficiency letter, is that correct?

1 A Yes.

2 MR. PINGEL: All right. I don't have any further
3 questions.

4 RECROSS EXAMINATION

5 BY MR. EPPLEY:

6 Q If I could. Mr. Williams, you indicated that you
7 had made that response, you did the response, the deficiency
8 letter, you did the response?

9 A No, sir. What I said was --

10 Q You said you requested that there be a response.

11 A Yes, sir. I sent a copy of the letter with my
12 reactions to it to his office.

13 Q To whose office?

14 A To Mr. Pingel's office.

15 Q Okay. Did you do the response? Did you file a
16 response to the deficiencies?

17 A No, sir.

18 Q Do you know that a response was filed?

19 A To the best of my knowledge, it hasn't been
20 responded to as of today because I haven't gotten a copy of
21 the letter that they should have sent to the Public Service
22 Commission.

23 Q So you're saying it has not been responded to as of
24 today?

25 A It might not have. If it won't be, it will be by

1 the end of the week.

2 Q Do you have proof it has been responded to by today?

3 A No, sir, that's what I just said. I don't have
4 copies of any letters that have gone out.

5 RE CROSS EXAMINATION

6 BY MR. HYSLOP:

7 Q I have a couple of questions. You said Mr.
8 DeLamater --

9 A DeLamater. Just call him Charlie.

10 Q -- works for you at the plant. That plant's not a
11 water service plant?

12 A That's just what we call that place.

13 Q Okay. And you said there's no adequate water
14 pressure in certain areas served by the City. Is that based
15 on some personal knowledge that you have, or how do you know
16 there's no adequate water pressure in that area now?

17 A As far as right now, well, they could have updated
18 the pressure between now and when I checked into it. But I
19 checked into it approximately eight to ten months ago, and at
20 that time there wasn't adequate water pressure.

21 Q Okay. And on the redirect, you were asked some
22 questions about the hiring and putting this water company
23 together. In your feasibility study for the water supply
24 system that you submitted, it talks about three alternatives
25 as to phasing.

1 Are you familiar with that?

2 A It's been several months since I have seen that, so
3 I'm going to have to ask you --

4 Q You have alternative one, alternative two,
5 alternative three with different costs. On alternative one,
6 it's the construction of the well field and interconnecting of
7 pipe. Alternative two is construction of well field and
8 treatment facility including storage. And alternative three
9 is all the previous including a transmission line throughout
10 the service area.

11 How far through these alternatives, if this was
12 granted, would you be planning to go and in what time period?

13 A That's more of an engineering question. But as far
14 as one and two, we plan on doing those fairly quick. As far
15 as three, I honestly don't know how long it takes to build
16 that much pipeline, so I can't answer that.

17 Q But it would be your intention to undertake that as
18 rapidly as possible; you'd go ahead and build now?

19 A Probably once we got the drawing and the plans
20 submitted and if we felt financing was needed, then, yes, we
21 would.

22 Q Okay. And the funding requirement for that is,
23 according to the report, is about three-and-a-half million
24 dollars.

25 A I don't have it -- again, if you say so.

1 Q 3.4.

2 A For one and two.

3 Q For three. You said you wanted to go ahead and get

4 --

5 A Three eventually. But I don't know about the pipes.
6 You're asking immediately. It's not a new type of thing. One
7 and two, you're talking about between 570 and 660.

8 Q What I'm trying to find out is your corporate plans,
9 if the application is granted, to actually get the pipes in
10 the ground to get the water to the people you want to serve.
11 What's the timeframe you are anticipating on that? As soon as
12 possible, five years down the road, ten years down the road?

13 A I would plan on getting it all done by five years.

14 Q Okay.

15 A The other two, one and two, I feel as soon as
16 possible. As far as the pipeline, I don't know how long it
17 takes to do that sort of thing and what all is required there.

18 MR. HYSLOP: I have nothing further.

19 HEARING OFFICER: Just a minute, please. As I
20 understand it, you're not seeking to enter the utility
21 business to supply a development that your company or
22 related company or persons will be building, is that
23 right?

24 THE WITNESS: Correct.

25 HEARING OFFICER: You're just entering the utility

1 business?

2 THE WITNESS: Yes, sir.

3 HEARING OFFICER: Now what agreements do you
4 actually have to obtain the financial resources to
5 develop the plant and the lines and the other infra-
6 structure of the water utility?

7 THE WITNESS: Like I stated earlier, I consider
8 phase one basically building the storage facility and
9 modifying the wells and all that which the plans
10 called for to be phases one and two in the study. We
11 plan on taking those expenses out of pocket.

12 HEARING OFFICER: I understand what you said about
13 that.

14 THE WITNESS: And then as far as the distribution
15 system, which is -- is that what you're getting at?

16 HEARING OFFICER: I understand what you said, I
17 suppose the money would come out of the pocket of the
18 trust, is that right?

19 THE WITNESS: The corporation, yes, sir.

20 HEARING OFFICER: I'm trying to get at what
21 assurance can you show me or to the Commission that
22 these funds are definitely committed? I remember your
23 testimony about the \$400,000 for the first phase would
24 come out of pocket. But I'm a little vague about that.

25 How is that arranged? Do you have a written

1 agreement, or what do you have and who is it with?

2 THE WITNESS: We have a verbal agreement currently,
3 and we have the Merrill Lynch account.

4 HEARING OFFICER: Who would the money, or what
5 entity would the money come from?

6 THE WITNESS: It would be coming from the joint,
7 the corporation and the trust.

8 HEARING OFFICER: What corporation?

9 THE WITNESS: S. A. Williams Corporation.

10 HEARING OFFICER: Does S. A. Williams Corporation
11 own all the stock of Conrock? How is that held?

12 THE WITNESS: The stock of Conrock is jointly
13 held between the family members and the corporation.

14 HEARING OFFICER: S. A. Williams Corporation?

15 THE WITNESS: Yes, sir.

16 HEARING OFFICER: I believe you testified you didn't
17 know the exact breakdown without looking at the papers
18 that are involved?

19 THE WITNESS: Correct. I don't know.

20 HEARING OFFICER: Do you own stock in Conrock?

21 THE WITNESS: Yes, sir, I think approximately 100
22 shares.

23 HEARING OFFICER: Do you have any personal funds
24 that are going to be committed to the development of the
25 utility?

1 THE WITNESS: At this time, no. But in a year, yes.

2 HEARING OFFICER: Now the service area is depicted
3 on the map on the easel over there, is that correct,
4 outlined in the dark line?

5 THE WITNESS: In the yellow line, correct.

6 HEARING OFFICER: In the yellow line?

7 MR. PINGEL: Blue line.

8 HEARING OFFICER: Why don't you just go over there
9 for me, if you would, and point to me the bounds of the
10 service area, proposed service area?

11 THE WITNESS: The blue line.

12 HEARING OFFICER: Now I think in response to an
13 earlier question of mine, you said that the green areas
14 and the red areas shown inside that boundary are existing
15 developments of one sort or another?

16 THE WITNESS: The large green area was proposed.
17 That's TBF Properties. And Dogwood Estates, which is
18 about half of this, is an existing development. The
19 balance of this, which is all this down here, is
20 proposed, and that's been going on for a year, two
21 years, and nothing's really happened there.

22 The balance of these are existing developments
23 with either privately owned systems or two or three of
24 them have County systems.

25 HEARING OFFICER: Have County what?

1 THE WITNESS: County-owned systems.

2 HEARING OFFICER: So the County supplies some of
3 those now?

4 THE WITNESS: This one, Dogwood Estates, I think,
5 is City supplied.

6 HEARING OFFICER: Speak up a little louder.

7 THE WITNESS: I'm not sure if the City or County
8 supplies Wesleyan and Phillippe Creek. Is Hill 'n Dale
9 on County?

10 HEARING OFFICER: Answer of your own knowledge.

11 THE WITNESS: Hill 'n Dale is a County system, too.
12 And the other ones, I honestly don't know who owns the
13 others.

14 HEARING OFFICER: Do you seek to serve those systems
15 presently served by the County or other entities?

16 THE WITNESS: If we can come to an agreement, yes.
17 If we can't come to an agreement, then I would be seeking
18 to supply back-up systems. Because the County only has
19 one well. If the well breaks down, those people wouldn't
20 have any service at all, and it would be beneficial for
21 the people to have a back-up system to get water.

22 HEARING OFFICER: So if you don't reach agreement
23 with the other entities supplying customers in that
24 proposed service territory, what would you do? Would
25 you carve that out of your territory voluntarily or what?

1 THE WITNESS: I would like not to, but, yes, I guess
2 that could happen.

3 HEARING OFFICER: Do you deem those to be competing
4 systems?

5 THE WITNESS: No, sir, because I don't think any of
6 them have enough capacity to do any expansion.

7 HEARING OFFICER: Any questions based upon what I
8 asked the witness? You may step down. Thank you, sir.
9 Go ahead, Mr. Pingel.

10 MR. PINGEL: Your Honor, I'd like to call Mr. Pomp.
11 THEREUPON,

12 ROD LOWELL POMP,
13 having been duly sworn and called as a witness on behalf of
14 Conrock Utility Company, was examined and testified as
15 follows:

16 DIRECT EXAMINATION

17 BY MR. PINGEL:

18 Q Would you please state your full name?

19 A Rod Lowell Pomp, P-o-m-p.

20 Q And, Mr. Pomp, what is your residence address?

21 A 1604 Jefferson Road, Dade City, Florida.

22 Q By whom are you employed?

23 A Green Engineering.

24 Q And what is your position with Green Engineering?

25 A I am vice-president.

1 Q Could you please describe for Mr. Ruff your
2 educational background?

3 A I have 25 years of construction technology and
4 development. I have a Bachelor's degree in engineering
5 technology, civil engineering management and technology. I
6 have a four-year degree in business administration.

7 Q Okay. What is your employment background in regard
8 to construction engineering and planning?

9 A I spent ten years with governmental services in
10 review of projects, commercial and industrial subdivision.
11 Held various positions in management capability as well as the
12 technical capability.

13 Q Could you identify the governmental bodies you have
14 been employed by?

15 A By Pasco County and Hernando County.

16 Q What positions have you held in Pasco and Hernando
17 Counties?

18 A Zoning administrator and code enforcement manager in
19 charge of reviewing developments.

20 Q Okay. And what positions have you held with Pasco
21 County?

22 A Pasco County, I was zoning technician, assistant
23 zoning administrator, permitting manager, building inspections
24 manager, and flood program administrator.

25 Q Okay. At the request of Mr. Williams, did you

1 prepare a water supply feasibility study?

2 A The Rod. L. Pomp Corporation prepared a feasibility
3 study under the request of Mr. Williams.

4 Q Okay. In characterizing the feasibility study, was
5 this prepared in terms of being a planning study versus a
6 design engineering study?

7 A Basically the intent of this study was to see if
8 it's even feasible to open or start a public utility in this
9 immediate area. Basically I'd say, yes, it's a planning study
10 rather than a construction design technical manual.

11 Q Okay. In preparing the feasibility study for the
12 water supply system in the subject area, could you describe
13 what information and materials you relied upon?

14 A I obtained information, demographic materials, from
15 Hernando County. I obtained also previous reports that were
16 done by the County and the City for certain water and
17 wastewater facilities that assisted me in compiling this
18 report, or assisted the firm in compiling this report.

19 Also I acquired information from Southwest Florida
20 Water Management. I spoke with individuals and technical
21 staff at the water authority. I spoke to engineering
22 technicians and engineers at the Department of Environmental
23 Regulation to acquire the additional technical information
24 needed to composite this report.

25 Q Okay. In regard to the subject area, are you

1 familiar with the number of County-operated or County-
2 serviced water systems?

3 A From my previous experience here in Hernando County,
4 I am familiar with the systems that are existing at the
5 Lakeside Acres, the Hill n' Dale site, and the Dogwood
6 Estates.

7 Q Could you come to this chart and show Mr. Ruff where
8 these areas are located?

9 A This is the Hill n' Dale subdivision here with the
10 Village of Hill n' Dale to the west of it. The Lakeside Acres
11 is backed up to Mr. Williams' property here at his Bister
12 (phonetic) Lake property that is parallel to WPA Road. And
13 the Dogwood Estates is off of the Croom Road, which there's a
14 proposed development here called TBF Properties that Mr.
15 Williams has related to that is contiguous to the Dogwood
16 Estates that would be part of the proposed development area.

17 That is the areas that are currently served by the
18 water facilities at those locations.

19 Q Are you familiar with the areas within the subject
20 area that are serviced by the City of Brooksville?

21 A The area in red marked Wesleyan Village has a City
22 line that runs parallel to that as to the actual connection to
23 it, I believe. And, again, I have to go back from memory that
24 it does have service by the City there.

25 Q Okay. You have heard examination and testimony by

1 Mr. Williams regarding the fire flow capacity in the Wesleyan
2 Village subdivision. Are you aware of any fire hydrants in
3 that subdivision?

4 A At the time I was zoning administrator and code
5 enforcement official in Hernando County, we had a project
6 under review there, it was an apartment complex. At the time
7 of that review, it was brought up by the fire inspector for
8 the City that they would have to have a -- they had a well
9 system there; that they'd have to have a back-up system by the
10 City.

11 But the City did not have the fire flow capacity at
12 that time to meet fire flow demand.

13 Q Okay. Could you identify for Mr. Ruff the charts
14 that you have prepared for your testimony today?

15 A The current map you have before you at this time,
16 sir, is the map showing the proposed outlined service areas,
17 and the areas outlined in yellow are enumeration units or
18 census data information. The dark area, blue area, indicates
19 the requested service area. The green areas indicate the
20 areas of existing development or platted developments
21 currently.

22 The areas in red indicate the mobile home parks or
23 RV parks located within the service area that would be
24 potentially supplied or have existing systems, such as the
25 Tall Oaks RV park, which is now called Countryside Estates,

1 has an independent licensed franchised water service.

2 The areas here in yellow indicate the dwelling units
3 existing within these locations, and those that are
4 anticipated by population growth in 1986, 1990, 2000, 2010.
5 Again, the subdivisions are outlined here showing the number
6 of lots and the densities of the existing subdivisions.

7 Q Okay. Is this chart that you have just discussed,
8 is it incorporated in your feasibility study?

9 A Yes, sir, it is.

10 Q Okay.

11 A And that in the study is marked III3. III1 is the
12 proposed water system of the east central service area
13 indicating the assumed lines based on some discussions with
14 Mr. Green, some engineering information we received from the
15 County and the City. And they're just projections or
16 assumptions where these lines would go as far as the routing
17 and looping system.

18 III2 is basically the central service area as it is
19 outlined. We just made a separate map for it showing that it
20 is approximately 25 square miles of service area that Mr.
21 Williams and Conrock would like to acquire.

22 Again, this is the actual well site location showing
23 a blown-up view of where the wells are existing and where a
24 proposed tank would be and how it would interconnect with the
25 transmission lines.

1 And each one of these maps were produced, reduced
2 and placed in the feasibility study and are marked
3 appropriately with their pages in the index.

4 Q Let me show you a document which I will identify for
5 the record as Conrock Utilities Feasibility Study - Water
6 Supply System, and ask you if you have seen this document
7 before.

8 A I have.

9 Q And is this the document that you prepared at the
10 request of Mr. Williams?

11 A That is correct.

12 MR. PINGEL: Your Honor, at this point I'd like to
13 go ahead and introduce the feasibility study into
14 evidence.

15 MR. HYSLOP: I'd like to object.

16 HEARING OFFICER: Let's identify it as Respondent
17 Conrock's Exhibit One.

18 (Whereupon, Respondent's Exhibit One was marked for
19 identification.)

20 HEARING OFFICER: Objection?

21 MR. HYSLOP: I don't know that any predicate has
22 been laid for it to be introduced into evidence, and I
23 don't know what purpose it's been presented to serve at
24 this hearing today.

25 MR. EPPLEY: Your Honor, my objection --

1 HEARING OFFICER: Does that mean relevancy?

2 MR. HYSLOP: Relevancy.

3 MR. EPPLEY: Your Honor, my objection is also based
4 on relevance. It's a feasibility study, but I believe he
5 indicated the feasibility study basically just determines
6 what water demand there might be in the area based on the
7 number of persons that might be living in the area.

8 I don't think that that demand, that he has shown,
9 would be indicative of the demand of those persons that
10 would be wanting his water. Also in his feasibility
11 study, I don't think the feasibility study shows the
12 cost of the system to be served or where the system
13 would be served or the cost associated with the system
14 itself.

15 And, so for that reason, I would say that the
16 feasibility study is not relevant because it's not the
17 type of feasibility study that's contemplated by the
18 appropriate rules.

19 MR. PINGEL: If I may respond. In regard to the
20 objections pertaining to relevancy, all of the elements
21 of the issues that are for the consideration of the
22 Hearing Officer today have been addressed in that
23 document. In particular, it has been addressed in that
24 document as to the competitive nature of a potential dual
25 system.

1 Secondly, the cost aspect and the effectiveness of
2 having a private service supply this area. And, lastly,
3 the financial capability of this family to go ahead and
4 service this area.

5 The document was prepared by an engineer who is
6 going to testify later regarding the preparation of a
7 water supply system. And Mr. Green, who will testify
8 later, is experienced as an engineer in the preparation
9 of systems in this particular subject area and has had
10 the opportunity to deal with both of the governmental
11 bodies in the past.

12 He is the engineer of record, and this report was
13 submitted under his direction.

14 THE WITNESS: Jim, can I clarify that?

15 MR. PINGEL: Sure.

16 THE WITNESS: The report, one of the reports that
17 were submitted to the Public Service Commission has the
18 front cover in Green Engineering's name. Those are the
19 reproduction copies that have just recently been
20 transmitted within the past 90 days.

21 The original one was done under the Rod L. Pomp
22 Corporation, which is a licensed engineering firm,
23 which Mr. Green is also a licensed engineer for that
24 firm. Then recently we have combined Rod L. Pomp
25 Corporation and now are working under Green Engineering.

1 HEARING OFFICER: That may be getting off the point
2 a little. The question is to relevancy. It seems to me
3 that the subject matter of the study represented by
4 Respondent's One, as I understand it -- not having had an
5 opportunity to read it -- is relevant. It talks about in
6 the general sense the ability of the applicant to provide
7 the water service proposed and details about how that
8 would be accomplished presumably.

9 The question of whether or not he will be able to
10 supply water to customers within that area who may now be
11 served by some other utility or entity or privately
12 served by their own wells goes to the question of whether
13 the company in its operations as a utility will be
14 feasible. But it doesn't render the feasibility study
15 itself irrelevant.

16 The question of whether it has as much weight given
17 that there are other customers served by other entities
18 as it would if this was a totally unserved territory.
19 But it doesn't render the exhibit irrelevant. The
20 question of whether the exhibit's weight is sufficient to
21 show feasibility might come to mind, but the objection
22 is overruled.

23 (Whereupon, Respondent's Exhibit Number One was
24 received into evidence.)

25 Q (By Mr. Pingul) Okay. Mr. Pomp, could you please

1 describe the purpose of preparing this feasibility study?

2 A Again, the purpose of preparing this feasibility
3 study was to determine whether there was a need for this
4 service area based on existing growth patterns of Hernando
5 County.

6 Q Okay. How would you describe the proposed service
7 area?

8 A Currently it's basically rural in nature. It is
9 densely populated and does have potential for growth. Based
10 on previous studies that have been done by other governmental
11 agencies, based on projections by those governmental agencies,
12 and based on our own review and analysis of those studies.

13 Q All right. In regard to the subject area, are you
14 familiar with the number of privately owned water systems in
15 the area?

16 A Privately owned water systems, in my opinion, can be
17 any individual that has the capability of drawing water from
18 his own site such as an individual well. Private entities
19 that are supplying facilities there, yes, there are mobile
20 home parks there, there are individual subdivision
21 developments that have their own supply systems.

22 Q You have had the opportunity to review the answers
23 to interrogatories that have been submitted by the City and
24 the County. And one of the areas of objection deals with the
25 possibility of dual service or parallel service or competitive

1 service.

2 In the subject area, based upon your preparation of
3 the feasibility study and your personal familiarity with this
4 area, do you anticipate that from a planning standpoint and
5 from a construction standpoint that there's going to be
6 difficulty with a dual service?

7 A No, sir. Actually parallel systems are not uncommon
8 as we're finding out in many communities. You've got to get
9 from one side of the road to the other. Therefore, you must
10 provide service in some fashion to both sides of those roads.
11 It's not uncommon to have two utility systems or even one
12 utility system with parallel lines in the same location.

13 In the preparation of this report, we did not feel
14 that neither the County nor the City had any development
15 potential at this particular point of their existing well
16 sites. Now we also did not feel that the City would take
17 advantage of the development of this area for water system
18 since their population is limited and their tax base is
19 limited without going into expensive bonding issues.

20 Again, this is our opinion. And we felt that there
21 would be, as far as the competitive nature, we weren't really
22 competing; we were adding a system to both the community, the
23 City and the County, in the development of a regional plant
24 rather than creating several subregional plants.

25 Q Okay. The County in responding to the

1 interrogatories submitted by the Public Service Commission has
2 indicated a desire to have an integrated system throughout the
3 County so that they can provide water supply throughout the
4 County.

5 Are you familiar with the Spring Hill Utility?

6 A In name but not in activity. I am familiar with a
7 situation that has recently arose.

8 Q Let me interrupt you for a moment. Just so it's
9 clear to Mr. Ruff, where is the Spring Hill Utility located in
10 relation to the subject area?

11 A It is southwest approximately 12, 15 miles or
12 better.

13 Q Okay. And you started to testify regarding your
14 understanding of what's involved with the Spring Hill Utility.

15 A I had had a conversation with Mr. Williams when I
16 found that Spring Hill Utilities was on the block, so to
17 speak, to be sold. I had asked Mr. Williams if he minded if I
18 would discuss some of the issues with the owners of Spring
19 Hill Utilities as to possible acquisition. He said, "Let's
20 cross one bridge at a time; let's get this one going before we
21 jump into something like that."

22 I also know that the County has been talking
23 throughout the years of trying to acquire that system. I also
24 understand recently that that system was sold, and it was not
25 sold to a governmental agency.

1 Q Okay. But it's your understanding that that
2 facility was sold to a private agency?

3 A Yes.

4 Q Are you familiar with the population base potential
5 in the area serviced by the Spring Hill Utilities?

6 A The Spring Hill subdivision is approximately 15,000
7 acres, and it covers approximately 70,000 dwelling or
8 potential dwelling units.

9 Q The County in responding to the interrogatories
10 served by the Public Service Commission indicated that if the
11 franchise was granted to Conrock Utilities, that that would
12 have impact on bonding revenues.

13 Do you have an opinion as to whether the operation
14 of Conrock Utilities would impact on any type of bonding
15 revenues in regard to the County's activities?

16 MR. HYSLOP: I'm going to object. I don't know if
17 any predicate has been laid to establish what basis that
18 Mr. Pomp's opinion would be of any relevance any more
19 than if we just brought somebody in off the street to
20 find out what he thought about it.

21 I don't believe he's qualified to give any opinion
22 on what affect the implementation of this system would
23 have on bonding opportunities of the County or the City.
24 I don't think it's an appropriate question.

25 MR. PINGEL: If I may respond. He previously

1 testified that he has worked for a number of years for
2 Hernando County and for Pasco County in the function of
3 planning and code enforcement. And if you like, I'll ask
4 him if he's familiar with --

5 HEARING OFFICER: Let's establish how he's familiar
6 with that subject.

7 Q (By Mr. Pingel) Okay. Could you please describe to
8 Mr. Ruff how you would be familiar with the bonding procedures
9 that would be utilized in preparing the revenue base for a
10 utility?

11 A In this particular situation, I was directed by the
12 county staff of Pasco County to work on some portions of a
13 bonding program for the County. I won't sit here and tell you
14 that I am an expert in the bonding issue. I don't do that
15 because I'm not. From my previous experience in this
16 particular matter and my knowledge of construction and
17 activities that I worked with throughout the years, I'll give
18 you my personal opinion.

19 My personal opinion is, number one --

20 MR. EPPLEY: Your Honor, that was our objection, or
21 the objection. His personal opinion without an
22 adequate predicate being laid. It's just personal
23 knowledge of the bonding abilities of the City and the
24 County.

25 MR. HYSLOP: He's testified just a moment ago he's

1 not an expert in this field, so once again, I renew the
2 objection.

3 HEARING OFFICER: He wasn't offered as an expert.

4 MR. PINGEL: No, I didn't offer him as an expert.

5 MR. EPPLEY: Your Honor, then I would object to
6 it's a hearsay response, or a question calling for
7 hearsay on his part.

8 HEARING OFFICER: Overruled. He didn't call for
9 hearsay. He asked how he knew, he asked him what he
10 knew.

11 Q (By Mr. Pingel) Go ahead and continue with your
12 answer.

13 A I lost my train of thought. But to answer your
14 question, from my personal experience, my personal opinion
15 would be that there would not be a major affect to either the
16 County or the City on this issue. I won't say it will not
17 have an affect, but I don't believe it would have a major
18 affect.

19 Q Based upon your preparation of this feasibility
20 study and based upon your experience as a former employee of
21 Hernando County and Pasco County, do you have an opinion as to
22 whether or not there is a desire or an interest by either the
23 City or the County to actively service this subject area?

24 A Well, since both are represented here today, I
25 cannot say there's an active interest to go in either one of

1 those directions for either the County or the City at this
2 particular point. We have had some discussion -- I spoke with
3 Mr. Eppley, counsel for the City, as to his objections
4 initially to Conrock's activity because we have shown on our
5 maps that we were taking in Wesleyan Village.

6 His response to me at that time was he didn't feel
7 he wanted to enter into an agreement with the City until he
8 got back with his people, but there was a five-mile territory,
9 and he didn't think that that was an area that he was involved
10 in. He did not get back to me as to address that particular
11 issue, whether they would actively pursue expansion into that
12 area.

13 When I initially started this report, before Mr.
14 Williams and I consummated the actual contract, I had some
15 opportunity to do some preliminary study work and talking with
16 some of the members of Hernando County Utilities. And, again,
17 this is going to be hearsay. Counselor, you can object, but I
18 was informed that they really did not foresee any major
19 expansion out into that area at that time. And that was Mr.
20 Iastanzia (phonetic) who was a construction development
21 manager for the County at the time.

22 Q Have you had the opportunity to review the County's
23 comprehensive plan?

24 A Yes, I have.

25 Q Okay. Is there any mention in the County's

1 comprehensive an regarding the development of a water system
2 in the subject area?

3 A Again, if my memory serves me correct, I don't
4 believe that there was anything discussed as to any expansion
5 within the original draft of the comprehensive plan.

6 Q Okay. You have had the opportunity to review the
7 answers to interrogatories submitted by the County. And
8 there's mention in the answers to interrogatories that the
9 County has approved the concept of installation of a
10 subregional well field which they call the East Hernando Well
11 Field. They indicated that they anticipate that construction
12 could begin in 1990, and it would be on line by 1991.

13 Are you familiar with where the proposed East
14 Hernando Well Field is located?

15 A The interrogatory is the first mention or any
16 indication that there was even one proposed within our service
17 area.

18 Q Okay. Are you aware of any bonding revenues that
19 have been approved for the construction of a East Hernando
20 Well Field?

21 A No, sir, I am not.

22 Q Okay. Referring to your feasibility study, could
23 you please advise Mr. Ruff what your observations were in
24 preparation of this study, and then after you have completed
25 that, could you please advise him what your conclusions are?

1 A Go ahead with question number one again.

2 Q As far as the preparation of the feasibility study,
3 could you please advise Mr. Ruff what you did specifically in
4 regard to population growth figures, development of the system
5 itself, and cost analysis as far as the development of the
6 system?

7 A Okay. Basically what we had to determine was, is
8 there a need for the system to begin with. And in order to do
9 that, rather than going out and doing the actual head count of
10 the entire service area to determine what the existing
11 population was, we utilized information supplied to us by the
12 planning department of Hernando County.

13 In that we basically, if I may, we relied on
14 information supplied from the County as to the actual density
15 and units, occupied units within this service area. Once we
16 acquired that, we looked at what it would take to supply water
17 to these individuals and these individual developments based
18 on a formula established by the Department of Environmental
19 Regulation of approximately 250 gallons per household. And
20 then we just multiplied the ratios out to determine how many
21 gallons it would take to facilitate the existing density and
22 the proposed density.

23 From that we basically worked it down to what it was
24 going to cost to transfer that water and how big of a system
25 it would take to get it there. Once we did a preliminary

1 work-up on the construction or assumed construction design, we
2 then put a cost analysis to it, working it out of what the
3 bond would cost, what the project funding requirements would
4 be, how much approximately per gallon it was going to cost us
5 to produce it based on our construction and engineering
6 analysis.

7 And that's basically it.

8 Q Okay.

9 A And the conclusion -- the second part of your
10 question -- is, the recommendation or conclusion of our report
11 is, we found that there is a need for service in this area.
12 There is a need for expansion of system in this area based on
13 projections of future growth.

14 Q Okay. Mr. Schwartz had introduced in evidence a
15 deficiency letter dated September 5, 1989, directed to Mr.
16 Williams. And as you have already heard from the testimony,
17 there were certain items that were not incorporated with the
18 application for a certificate.

19 Have you made any effort to go ahead and supply the
20 requested information?

21 A Yes, sir, I have.

22 Q And could you please describe what your efforts have
23 been?

24 A I have air expressed the specific items other than,
25 I think, the tariffs to the Public Service Commission,

1 attention Jo Anne, as Mr. Williams had directed me. In that
2 were, in the original -- let me explain to Mr. Schwartz and
3 the rest of the members here. There was 15 or 16 of these
4 books produced. All the maps were inside of it also. We put
5 it in a box, the best box we could find. We foam-filled the
6 box. In foam-filling the box, we went through the application
7 checklist to make sure we had items a, b, c, d, e, and f in
8 there. They were in a separate envelope.

9 In that also we had individual maps as we're showing
10 here, were also in that particular box as well. I can't tell
11 you what happened to them. I can only tell you I did transmit
12 them. And I see that Mr. Schwartz has also shown me that some
13 of the books had not received some of the maps. But out of
14 15, I don't think that I missed to many.

15 I also just recently, upon Mr. Williams' request, as
16 he acquired the deficiency letter, sent the legal notice,
17 Exhibit A, that we sent to the Public Service Commission, if
18 you'd like. Do you want to enter this into the record? That
19 way they have it.

20 MR. PINGEL: Why don't we, for the record, identify
21 this as Respondent's Number Two?

22 HEARING OFFICER: So marked.

23 (Whereupon, Respondent's Exhibit Number Two was
24 marked for identification.)

25 MR. PINGEL: I'd like to go ahead and move that into

1 evidence.

2 MR. EPPLEY: Your Honor, we'd like to see what it
3 is. We don't know what it is.

4 HEARING OFFICER: Any objection?

5 MR. EPPLEY: No, sir.

6 HEARING OFFICER: It's admitted.

7 (Whereupon, Respondent's Exhibit Number Two was
8 received into evidence.)

9 THE WITNESS: Also there was a question about the
10 notice of intent affidavit for Conrock Utilities where
11 it was, legal notice was published. I also submitted
12 those as exhibit D. I have my copy here with me showing
13 that I also sent this all registered receipt mail to
14 all the individuals.

15 MR. PINGEL: I'd like to have this identified as
16 Respondent's Exhibit Number Three and move to introduce
17 it into evidence.

18 HEARING OFFICER: It's Respondent's Three. It's
19 admitted.

20 (Whereupon, Respondent's Exhibit Number Three was
21 marked for identification and received into evidence.)

22 THE WITNESS: The other one was the map of the
23 proposed service area marked Exhibit C in the
24 application, and, again, this is an identical map of what
25 was sent to the Public Service Commission.

1 MR. PINGEL: I'd like to have this map marked as
2 Respondent's Exhibit Number Four.

3 THE WITNESS: That is a blue line copy of the one up
4 here now.

5 MR., EPPLEY: Your Honor, we have one objection on
6 this. Number one, there's no evidence that this was
7 submitted. We have no letter of correspondence or
8 anything of that nature that shows this was submitted.
9 All he has done is shown us a copy of some type of
10 survey.

11 THE WITNESS: Counselor, I can address that. That's
12 a copy of that map right there. That's a blue line copy
13 of that map right there.

14 HEARING OFFICER: Do you want to respond to the
15 objection?

16 MR. PINGEL: I think what he's testified to is this
17 is what he went ahead and provided to the Commission. I
18 am not really certain what his objection is.

19 MR. EPPLEY: My objection is there's no showing that
20 those were included with the application.

21 HEARING OFFICER: Does that go to relevancy?

22 MR. PINGEL: How does that go to relevancy? He has
23 indicated that we got a deficiency letter, and that he
24 went ahead and provided this to the Commission.

MR. EPPLEY: The question is as to how he provided

1 it and if there's any evidence to show that he, in fact,
2 did provide it. He's indicated that he provided it. He
3 hasn't shown any letters or correspondence or anything of
4 that nature that would show that he provided it.

5 HEARING OFFICER: It's a matter of cross
6 examination. I think he's testified that he provided it.
7 You'll have an opportunity to cross him on that.

8 MR. EPPLEY: All right.

9 HEARING OFFICER: It's Respondent's Four?

10 MR. PINGEL: Yes, Your Honor.

11 HEARING OFFICER: It's admitted.

12 (Whereupon, Respondent's Exhibit Number Four was
13 marked for identification and received into evidence.)

14 MR. HYSLOP: Your Honor, could I look at the
15 affidavit of publication while he's continuing?

16 HEARING OFFICER: Sure.

17 Q (By Mr. Pingel) Based upon your preparation of this
18 feasibility study and your experience in the field of
19 planning, would you anticipate that there will be any direct
20 competition between the systems now in operation by the City
21 and the County, and if the franchise is granted, any direct
22 competition with the Conrock Utility system?

23 A I don't know how I can answer that question. Is
24 there direct competition? Yes, sir, there is direct
25 competition because the City claims the five-mile

1 jurisdictional area. That is actually within the County area.
2 And they would actually claim some of the County systems that
3 would be existing there.

4 So I guess there's direct competition between the
5 City and County in the location now.

6 Q All right. You heard Mr. Williams testify that in
7 regard to potential for competition between various systems,
8 that his system would offer a back-up system to existing
9 systems.

10 Do you have an opinion as to whether the system
11 proposed in the feasibility study that you prepared would
12 enhance the fire protection and the safety in the subject
13 area?

14 A The intent of the feasibility study was to be able
15 to provide service to be able to plan growth in this area in a
16 fashion consistent with the growth management plan and the
17 intents of the County and City. All this study was to do was,
18 it was basically or conceptually designed, or in theory, it
19 was designed to be able to have the capability of providing
20 fire flow, adequate and potable water supply to this service
21 area.

22 It would definitely be an enhancement to the
23 existing systems there. Again, from the report that we have
24 from Southwest Florida Water Management, there are wells in
25 those locations that are wells not of the same magnitude as

1 the one that's on Mr. Williams' property.

2 Q Okay. In regard to the three areas now being
3 serviced by the County, are you aware of any extending lines
4 that go beyond these particular subdivisions, water lines?

5 A No, sir, I am not.

6 Q In regard to the area currently being served by the
7 City, are you aware of any extending lines that go beyond the
8 subdivision?

9 A No, sir, I am not.

10 Q Do you know of any plans of either the City or the
11 County to build such extending lines into the subject area?

12 A Again, based on hearsay information, the information
13 we just received just the other day that the County planned on
14 extending from their East Hernando, proposed East Hernando
15 Well site, some lines under I-75 to the west. But that is
16 basically the only information that I have received of late.

17 MR. PINGEL: Okay. I don't have any further
18 questions at this point.

19 HEARING OFFICER: Let's take about a five-minute
20 break.

21 (Brief recess)

22 HEARING OFFICER: On the record. Mr. Eppley?

23 MR. EPPLEY: Thank you.
24
25

CROSS EXAMINATION

1
2 BY MR. EPPLEY:

3 Q Mr. Pomp, how are you doing?

4 A I'm fine.

5 Q I have some questions. You indicated that you did a
6 feasibility study, correct?

7 A That's correct.

8 Q What was the nature of the feasibility study?

9 A It is for a water supply system or -- the
10 feasibility preparation is to see if it's even feasible,
11 marketable, economical, to provide a certain type activity for
12 this area.

13 Q How did you go about conducting this study?

14 A In your reference to consolidation of material,
15 acquisition of materials?

16 Q Right, what materials it was you consolidated and
17 what did you look at?

18 A I don't have the specific data here before me, but
19 to answer your question, the material was supplied -- there
20 was a water study done for the southwest Hernando County
21 section for Hernando County itself. There was also some
22 information on the water and wastewater for the City of
23 Brooksville, but as to a specific study name, I don't have
24 that here. But I do have the documents.

25 Southwest Florida Water Management groundwater

1 surface study which is public knowledge.

2 Q Thank you. When you determined your study for
3 demand, what was it that you actually determined as to demand,
4 the water demand? What does demand mean in this study?

5 A In this particular study, is there a need for water
6 by a public entity or private entity to be supplied to reduce
7 the wells within this area.

8 Q Is there anybody within the area to your knowledge
9 that's not receiving water now, that has either a residence or
10 commercial structure?

11 A That is within that service area that does not have
12 the capability of an individual well or being supplied by the
13 City or County, is that what your question is?

14 Q Right.

15 A To my knowledge, no, there is not.

16 Q So everybody within this 25-square miles has water
17 that wants water, to your knowledge?

18 A That's correct.

19 Q On Page 3-6 of your report, you show water demand in
20 the year 2000 of 2.3. What is 2.3?

21 A That's 2.3 million gallons a day consumption.

22 Q Okay. Are you saying there is a demand for 2.3 or
23 there will be a demand for 2.3 million gallons in the year
24 2000?

25 A Yes, sir, that's based on the population projections

1 of that area.

2 Q Are you saying there will be a consumption of 2.3
3 million gallons?

4 A I'm saying there will be an additional demand of 2.3
5 million gallons a day for this particular area based on
6 existing consumption.

7 Q Okay. You say there will be an additional 2.3
8 million gallons of demand?

9 A Yes, sir, out of the well.

10 Q Let's look in 1986, which is two years ago. We show
11 a demand of 1.4 million. Is that what is being used?

12 A That is the basis that we started with in an
13 analysis based on a 250 gallon per day unit based on existing
14 population. That is what is there today.

15 Q Okay. That is what people are using today?

16 A Yes, sir.

17 Q Okay. So, then what you're saying by the year 2000
18

19 A Now that is a base that they are using today. You
20 yourself will know that you use more than 250 gallons a day or
21 less than 250 gallons a day. So that's an assumption.

22 Q That's an assumption based on an average?

23 A Right.

24 Q Okay. So you also made an assumption based on an
25 average that in the year 2000 the consumption would then be

1 2.3 million gallons.

2 A Which is roughly a 3.5 percent increase over the
3 year 1986.

4 Q What I'm trying to get at is, what this chart shows,
5 it shows now that we have 5594 people consuming 1.4 million
6 gallons. You're showing an expected population in the year
7 2000 of 9368 people, which is less than a hundred percent
8 increase, and you're showing that consumption then will be
9 2.3, correct?

10 A Million gallons a day, yes, sir.

11 Q But what we're doing is the difference between what
12 we're using in '86 and what we'll be using in the year 2000
13 will be the difference between 2.3 and 1.4.

14 A Yes, sir.

15 Q So actually the only increase in demand in the next
16 12 or 11 years will be a demand for consumption increased by
17 .9.

18 A Yes, sir. That's based on existing growth rate.

19 Q Okay. Is there any reason why any of these persons
20 would want to tie into a well that may be located seven or
21 eight miles from their place of either residence or business?

22 A Mr. Eppley, let me put it this way. If you take a
23 piece of board 12 inches long and you puncture it with nails
24 approximately a centimeter apart, eventually you're going to
25 break that board is two, is that correct?

1 Q I don't understand.

2 A Okay. You take a flat piece of surface and you keep
3 drilling holes in that thing, eventually it's going to give
4 in. That's the same intent here of the well. You puncture
5 more wells, the more wells you puncture within an area, you go
6 into the aquifer with potential contamination.

7 To answer your question -- I'm trying to answer it
8 by illustration -- is, if we keep continually drilling wells,
9 we have potential for contamination into those wells. If we
10 reduce those wells by having a public supply system, either by
11 a private entity or the governmental services, then we reduce
12 the potential for contamination.

13 Q Okay. But what I'm saying is, I'm saying all you
14 showed by this graph is that people will be using .9 million
15 gallons more water within that area by the year 2000. That is
16 not the demand for that particular system, correct?

17 A That is correct, that is not the specific demand.

18 Q Anybody that would be serving in the area, okay, or
19 if a person put out his well in his backyard, as many do, then
20 that would be less out of that .9, correct?

21 A If they are not within the service area, yes, and if
22 they're not tied into the system, that would be one that could
23 be lessed out. But as the County and City requires, that if
24 the service is provided within the area, then they must
25 connect to the system. Unfortunately private enterprise does

1 not have the prerogative.

2 Q Did your feasibility study determine what it would
3 cost for a person over here to connect to that system, or
4 somewhere in the system? What would the cost be to connect?

5 A No, sir, we did not -- if you're asking me the
6 question, if we started the plant today and the guy down here
7 in the southeastern corner wanted to connect to our system,
8 what it would cost him or I to -- or Mr. Williams -- to hook
9 that system to his facility, no, we have not done that.

10 Q So we don't really know what the cost would be at
11 all.

12 A We know what the start-up cost, the initial
13 construction cost, we know what the transmission lines, based
14 on our existing projections are, will be. We know that
15 approximately hook-up fees are, will be closely representative
16 to what the County and the City do charge now.

17 Q What is your projected cost for putting the system
18 in that area?

19 A In the entire service area?

20 A Yes, sir.

21 A In excess of \$4 million.

22 Q And that is -- how many miles of pipe does that
23 represent?

24 A That does not cover the entire service area. That
25 only covers the main transmission lines of the service area.

1 Q Where do the main transmission lines go, the \$4
2 million you're talking about?

3 A The initial area, the \$4 million cost, is going to
4 be for the -- again, this is an assumption -- for the 20-inch
5 line that runs down Mundon Hill Road to interconnect with WPA
6 Road, passes WPA Road with an eight-inch line, and then comes
7 down and back into Highway 50. That also picks up 12-inch
8 line up to the area of Dogwood Estates, Nottingham Forest, and
9 pick up the Weatherly Road back to our system.

10 Q Did you prepare those figures?

11 A Did I prepare the physical figures?

12 Q Right.

13 A Again, those are assumptions of what is needed in
14 that area, and that is the total cost of the project for those
15 service lines. Yes, the firm has completed those.

16 Q When you say the firm, are you referring to
17 something you did or something somebody else did?

18 A Yes, I have worked on that particular portion.

19 Q You have worked on it. Were you the one that came
20 up with the \$4 million as the cost of these lines?

21 A That's the lines, that's the plant, yes, sir, I will
22 answer that question yes.

23 Q In doing your feasibility study, did you take any
24 survey as to those persons who would be willing to tie into
25 the system?

1 A No, sir, I did not. We did not, again, feel it was
2 necessary to go into that depth as to who would want that
3 service. When, in fact, again, going back to the mandatory
4 requirement of both the City and County and the State that if
5 the service is there, that individual shall hook to it.

6 We would not demand that they hook to our system.
7 We would hope to be able to provide adequate service, we being
8 Conrock Utilities, provide adequate service to them that they
9 would do it.

10 Q But you're not aware of any rule or regulation that
11 would require Joe Blow that has five acres out here to connect
12 to your system?

13 A No, sir, that is not the intent of the development
14 to begin with anyway.

15 Q As to any other person who may put a house on a
16 five-acre parcel, there would be no requirement or rule that
17 they tie into that system, correct?

18 A No, sir.

19 Q Have you done any study that would show, that you
20 could show me, that would show what the connection fees would
21 be either for a residential or commercial unit?

22 A No, sir.

23 Q Have you studied the feasibility of Conrock to fund
24 this project, Conrock, the corporation?

25 A No, sir. If you have read the report, you will see

1 that I have recommended, or in my conclusion, recommended that
2 they go into further analysis with a financial advisor.

3 Q So the answer is no.

4 A (Moves head up and down.)

5 Q You indicated that you and I had some conversation
6 sometime ago. How did that conversation come about, if you
7 would, again?

8 A I believe that I contacted you to your objections.

9 Q Okay. In other words, you contacted me after the
10 City had filed our objections to the application of Conzock.

11 A That is correct.

12 Q So you knew at that time the City was objecting to
13 the application?

14 A That's correct.

15 Q There were no letters or correspondence or anything
16 of that nature?

17 A No, sir, it was just --

18 Q No agreement between the City or anything of that
19 nature?

20 A No, sir.

21 Q Do you know where the actual lines that the City has
22 in the area are?

23 A I don't even think the City does.

24 Q I'm asking you, though, if you do.

25 A To answer your question, I physically do not have

1 knowledge of their location.

2 Q Okay. Do you know what the ability of the City is
3 to provide water service into that area or any of these
4 outlying areas of the City, outside of the City or bounding
5 the City, the physical ability of the City to provide the
6 water?

7 A Physical or financially? Physically, I know there
8 was some proposals to do some increases in their system. As
9 to whether they went through with it, I can't answer that
10 question.

11 Q Do you know what the existing water capacity that
12 the City has on line is as of today?

13 A Off the top of my head, I'd have to answer no. I do
14 not have that information. I have that information available,
15 but I do not have that information in my head, to answer your
16 question.

17 Q Do you know what the existing demand is on the
18 City's system?

19 A No, sir.

20 Q So, then you would really not be in a position to say
21 whether or not the City would have the ability to provide or
22 not.

23 A I believe I previously stated it was in my opinion,
24 based on the previous practices or my professional practice
25 here in this County, that -- where those situations occurred.

1 that led me to believe that they did not have that capability
2 of servicing that particular site.

3 Q Okay. But that is kind of a weak belief, when you
4 don't even know what the capacity is and you don't know what
5 the demand for the capacity is.

6 A I made that statement earlier that, no, I did not
7 know what that is immediately. I am sure I do have the
8 evidence in our files where we have reviewed that material.

9 Q Okay. You made some references to your opinion as
10 to financial ability of the City. Do you know what the
11 financial ability of the City is today to either fund bonds or
12 not fund bonds?

13 A I think, based on the information that has been
14 provided us through the news media or/and the public hearings
15 that have been attended to, that my statement was a general
16 statement. Do I have physical knowledge of the actual funding
17 capability, no, sir, I do not.

18 Q You don't even know what the amount of outstanding
19 bonds is by the City, do you?

20 A Not at this time, no, I would not answer that.

21 Q Okay. And you wouldn't know to what degree bonds
22 were pledged for either water or sewer services, would you?

23 A Offhand right at this moment, no.

24 Q You indicated that there was a deficiency letter
25 sent to you, and that you all responded to that deficiency

1 letter, and you in some manner corresponded these items to the
2 Public Service Commission, correct?

3 A Let me qualify that by saying I did not receive the
4 deficiency letter. I was in Mr. Williams' office when Mr.
5 Williams informed me there were certain items that were stated
6 by the Public Service Commission that they did not receive.
7 And he asked he to resubmit that material, which I did.

8 Q Okay. And when did you do that?

9 A I don't have that particular slip here when it was
10 sent, but it was, I guess, about last weekend or so, the last
11 week or so.

12 Q You sent that last week?

13 A Yes, sir.

14 Q When you say you did, did you personally do it?

15 A No, sir, I did not. I sent a member of the staff
16 down to the post office to deliver it to be shipped by mail.

17 Q Okay. It was the U. S. Postal Service?

18 A Yes, sir.

19 Q Do you have any type of receipt that would indicate
20 it was sent?

21 A I do not physically have it with me, but, yes, sir,
22 I do.

23 Q Have you seen it?

24 A Yes, sir.

25 Q Okay. Do you have a letter of correspondence

1 showing your mailing of that to the PSC?

2 A Yes, sir, I would.

3 Q I am asking you if you do.

4 A Can I produce it today, no, sir, I cannot.

5 Q So you don't have that today?

6 A No, sir, I do not. But I wrote and signed the
7 letter to Jo Anne to the Public Service Commission stating
8 what I have sent, items a, b, and c, I think, and d to her.
9 They were enclosed.

10 Q What evidence did you send that the applicant owned
11 the land?

12 A Pardon me?

13 Q What evidence did you send that indicated that the
14 applicant owned the land?

15 A Are you talking about in the deficiency letter?

16 Q Correct.

17 A I don't even recall that particular item. Again, I
18 did not address it specifically.

19 Q Excuse me, I'm sorry. I didn't hear your response.

20 A To answer your question, I do not recall that
21 specific item. Item a, b, and was based on the application.

22 Q When you're saying a, b, c, and d -- let's not be
23 confused here. I want to know about the request in Paragraph
24 4. It says evidence that applicant owns the land. I believe
25 you indicated you sent that stuff, did you not?

1 A I did not say I sent this item number four.

2 Q What did you say you sent?

3 A I said that I sent exhibits a, b, c, and, I think,
4 d. I did not address this whatsoever. And as I explained, I
5 did not have actual knowledge of that letter.

6 Q Okay. So let's clarify things then. You cannot say
7 that you responded to items 3, 4, 5, 6, 7, or 8?

8 A I'm not even familiar with what you're reading.

9 Q Let's look at it. I want to be clear.

10 A Okay. Items 5, 6, 7, and 8 -- well, I am familiar
11 with -- I was questioned as to the tariffs, and they have not
12 been produced yet. As to item 1, territory description,
13 exhibit A, that was transmitted by me. Copies of the
14 territory -- item number 2, copies of the territory system
15 maps, exhibit B and C were transmitted by me.

16 Q Were they all at the same instance?

17 A Yes, sir. And item number 3 was the affidavit
18 notice of the rule, that was also transmitted.

19 Q The affidavit of what?

20 A Proper notice was given in accordance with the rule,
21 that's affidavit of notice.

22 Q Could I see that, Your Honor, a copy of the
23 affidavit? Is that what you're referring to, Mr. Pomp?

24 A No, sir, I'm referring to number 2.

25 Q Okay. This is the affidavit and this is the

1 publication.

2 A Yes, sir, publication of notice.

3 Q Who caused this to be published?

4 A Conrock Utilities through my office.

5 Q Where did you publish it?

6 A In the Suncoast News here in this County.

7 Q Did you do it in this County or in Pasco County?

8 A Well, it was published in the newspaper of this
9 County. Their office happens to be over in New Port Richey,
10 which we faxed the legal descriptions over to that office, and
11 they put the publication in. My office is in Dade City.

12 Q Where is this paper published, though?

13 A I can't answer that question.

14 Q This is Suncoast News published Wednesday and
15 Saturday, New Port Richey, Pasco County, Florida.

16 A In the Hernando section. And if I'm not mistaken --

17 Q In the Hernando section, what are you referring to,
18 a section in the paper that is published --

19 A Mr. Eppley, I don't run this particular paper. This
20 particular paper services this community pursuant to some
21 agreement apparently, and it is a newspaper up here that we
22 advertised in.

23 Q It appears it's a newspaper in Pasco County.

24 A Well, I can't answer that because I think it's part
25 of the Sun Press, which part of the Sun Press is up here in

1 Hernando County. But I couldn't answer that question as to
2 their actual physical location.

3 Q I'd like you to read the affidavit signed by Laurie
4 Sanders into the record, please.

5 A Okay. This is an affidavit that was provided Mr.
6 Williams, Conrock Utility Company from the Suncoast News,
7 affidavit further says that the Suncoast news is a newspaper
8 published at New Port Richey in Pasco County, Florida, each
9 Wednesday and Saturday in said Pasco County, Florida and --

10 Q Read the whole thing.

11 A I lost my place, Bill. Further says that he or she
12 has neither paid nor promised any person, firm, or corporation
13 any discount, rebate, commission, or refund for the purpose of
14 securing this advertisement for publication in said newspaper.

15 Q It doesn't say anything about publishing it in
16 Hernando County, does it? Does it say it's published in
17 Hernando County?

18 A No, it does not. It says physically published in
19 New Port Richey on this paper.

20 Q The property in question, what county is it located
21 in?

22 A Property in question is in Hernando County.

23 Q This is published in a newspaper in Pasco County.

24 A I can't answer that question. I can say the
25 affidavit came from a publishing company in Pasco County.

1 Q So what you're saying is, you don't know actually
2 where they put the print on the lines.

3 A Well, I can tell you this. I have the physical
4 newspaper, and if you'll permit me -- I believe I have it with
5 me. Can I submit this as evidence? This happens to be the
6 newspaper it was published in. It clearly states Spring Hill
7 and Weeki Wachee -- that's in Hernando County -- and it says
8 the Suncoast News. I picked this particular newspaper up at
9 the intersection of County Line Road and Shady Hills Drive on
10 the north side of road at the Majic Market there.

11 Q How did you pick it up?

12 A I physically hand-picked it up.

13 Q Pay anybody for it?

14 A Oh, yeah, I think it's a free newspaper. I don't
15 know if I paid anybody for it.

16 Q It's a free newspaper, isn't it? It's a throw away.

17 A Pardon me?

18 Q Isn't that a throw away? Isn't that what you get on
19 your doorstep and you don't pay for?

20 A I don't have any idea. I don't live in this County.

21 Q You don't know, do you?

22 A I don't have any idea. I acquired the newspaper. I
23 physically picked it up myself and brought it to my office.
24 If you're asking me if I expended any funds for it, I don't
25 remember at this time.

1 Q You said you picked this up at Spring Hill or Weeki
2 Wachee.

3 A No, sir, I did not. I said Spring Hill on Shady
4 Hills. No, I didn't. I said County Line and Shady Hills.

5 Q That's down there next to Pasco County, correct?

6 A It's in Hernando County.

7 Q I'm asking you, though --

8 A Yes, sir, it's near Pasco County.

9 Q Is any of this property within that area?

10 A No, I'd say it's a long way away.

11 Q I'd say so it is, too. Thank you. Just so I don't
12 lose my train of thought, you indicated you did not do
13 anything in regard to this letter with regard to 4, 5, 6, 7,
14 or 8, as to those deficiencies, is that correct?

15 A That is correct.

16 CROSS EXAMINATION

17 BY MR. HYSLOP:

18 Q A map was submitted into evidence. Could I -- thank
19 you. Looking at the map that -- is this a copy of the map
20 that you submitted to the Public Service Commission to further
21 the application?

22 A This is one of the maps, yes, sir.

23 Q Okay. And that's the map that was entered into
24 evidence here today, correct?

25 A Yes, sir, that's one of the maps.

1 Q Does this map show any detail of existing water
2 service lines and facilities in the area?

3 A This particular map does not, no, sir.

4 Q Do any of the maps you have referred to today show
5 any detailed lines existing in the proposed area?

6 A No, sir.

7 Q Okay. You testified as to the financial ability and
8 as to your opinion as to what affect the Conrock system would
9 have on the County's ability to float bonds. Do you remember
10 that?

11 A I stated that, in my opinion, I did not feel that it
12 would have a negative affect against the County to float a
13 bond, that is correct.

14 Q Okay. And you also said that you didn't know of any
15 information about the County having a plan or a five-year
16 plan, any kind of capital improvement plan for facilities in
17 this area, is that correct?

18 A At the original documentation for the comprehensive
19 plan, it was not submitted at that particular time. In other
20 words, in the comprehensive plan, I found no evidence
21 whatsoever, nor did I find any documents were they given to me
22 when they were requested that Hernando County had any intended
23 activity in that area.

24 Q Okay. Now you were asked earlier if you had
25 reviewed interrogatory answers furnished by the County in this

1 case, and I believe you said you had?

2 A Yes, sir.

3 Q Do you remember in those interrogatories a statement
4 as to proposed well fields in this area?

5 A Yes, sir, I do.

6 Q Okay. So are you testifying today that the sworn
7 interrogatory answers submitted by the County are inaccurate
8 and that your opinions are what's accurate?

9 A No, I'm not saying that at all.

10 Q Okay.

11 A I think I stated in that statement that it wasn't
12 until the interrogatories did I have knowledge of that
13 activity.

14 Q Okay. You testified earlier about parallel systems,
15 and that you think that those are something that can be done
16 with some amount of efficiency and useability in the area,
17 correct?

18 A From previous design experience with Mr. Green in
19 his firm, we have systems that we do now that are parallel
20 systems, that are loop systems.

21 Q Loop systems or parallel systems?

22 A There are parallel systems, and then we also have
23 done loop systems.

24 Q And those are two separate types --

25 A They're two different developments.

1 Q And, to your knowledge, there are existing systems
2 in this owned both by the County and by the City?

3 A Yes, they're in the service area.

4 Q Okay. And were Conrock to go into the area, these
5 systems, the system that Conrock would put in would be a
6 system that either would be parallel to or duplicative of a
7 system in existence.

8 A Not necessarily.

9 Q But in order to service the whole area, would you
10 have to duplicate systems that are already there, were you
11 unable to otherwise acquire them?

12 A No.

13 Q How would you service the Dogwood Estates
14 subdivision which is served by the Hernando County Water Sewer
15 District without duplicating that system?

16 A We wouldn't because it's already being served
17 internally.

18 Q My question is, were you granted the right to
19 service the area that you have requested, which includes that,
20 how would you service that subdivision without duplicating
21 that system?

22 A You just told me if I couldn't get ahold of that
23 system, then I wouldn't be able to service it if we couldn't
24 access the system. If you're asking me would we put a service
25 line in that immediate area, would we have -- and we did not

1 have the capabilities of acquisition of that, and the County
2 didn't voluntarily connect to our system, would it be a
3 parallel system, would it be a duplication of services, no,
4 because it would be an independent system on its own owned by
5 the County.

6 It may have a parallel water line run at some
7 particular point on the project, but it would not be
8 necessarily a duplication of services to that site since the
9 site would be served by the County itself.

10 Q So what you're saying is, areas within your
11 requested areas which are serviced by existing utilities are
12 not areas which you would think you'd serve should you not be
13 able to acquire those systems.

14 A Well, the acquisition of those systems are going to
15 be solely depending on two parties which I am not a part of.

16 Q Okay. When you worked for Hernando County, what was
17 your position?

18 A Zoning administrator, code enforcement official,
19 flood program administrator.

20 Q Were you familiar with any of the subdivisions in
21 this area?

22 A Yes, sir.

23 Q Of the subdivisions shown on these maps in green, in
24 your best estimation, about -- are they mostly developed,
25 underdeveloped, what's the status of them in a general sense?

1 A In a general sense, I'd be happy to point them out
2 to you. Lakeside Acres is a currently developed property.
3 Mondon Hill Farms is an undeveloped particular subdivision.
4 Eastside Estates has some activity, very limited. Cooper
5 Terrace is limited activity. Country Oak Estates is under
6 construction. I think there's maybe three houses in there.

7 Hill n' Dale is probably, if I had to guess, about
8 45 to maybe 60 percent completed. Village of Hill n' Dale is
9 a mobile home section there. That is probably, maybe 15 to 25
10 percent completed. Eastwood Estates is fully developed and
11 occupied except for, I think, about two lots in there, if I
12 remember.

13 Chris Morris Trailer Park has some mobile homes in
14 there; it's not what we would call a high density mobile home
15 park. Potterfield Sunny Acres is also a limited development
16 area. There might be about six or eight homes in that
17 particular area. Tall Oaks RV park is now called Countryside
18 Estates, has first phase completed, and they're getting ready
19 to go into the second phase of the mobile home section.

20 The Gunderman Mobile Home Park is a very minor
21 developed park. Phillippe Park is a recently developed park.
22 I haven't been there in the past eight months, but at that
23 particular time, they had less than ten percent occupancy.

24 TBF Properties is nothing more than a conceptual
25 plan development in this area which also encompasses party of

1 Mr. Williams' property. Withrow Woods is a subdivision that,
2 I think there's only three vacant lots out of 15 left in
3 there.

4 Basically that's the area.

5 Q How about Dogwood Estates?

6 A Dogwood Estates, it's a developed area.

7 Q And Nottingham Forest?

8 A That's not really what I would call a completely
9 developed area.

10 Q And then outside of these subdivisions that are
11 shown here, do the majority of the people live on tracts of
12 land?

13 A That is correct. It is rural in nature, as I
14 previously stated. Anywhere from one acre tracts on up to
15 80-, 100-, 200-acre tracts.

16 Q And some of these subdivisions are rather large
17 lots; would that be an accurate statement?

18 A Are they capable of handling individual well and
19 septic tanks, the answer would be yes.

20 MR. HYSLOP: That's all I have.

21 CROSS EXAMINATION

22 BY MR. SCHWARTZ:

23 Q Mr. Pomp -- is it Pomp or Pump?

24 A Pomp, P-o-m-p, like pomp and circumstance.

25 Q Mr. Pomp, excuse me.

1 A That's quite all right.

2 Q If you could turn to your water supply system study,
3 it's page roman numeral four dash nine. I just want to make
4 sure we have the same ones.

5 A Preliminary cost alternatives?

6 Q Alternative one.

7 A Alternative one?

8 Q Okay, right. What are these three pages here, this
9 table, roman numeral four dash two?

10 A Basically what these represent is what we would
11 estimate the cost of construction for this project for the
12 well field only, and then it goes into alternatives one, two,
13 and three, well field, treatment plant, and storage; well
14 field, treatment plant, and storage; and transmission.

15 Q Okay. Which alternative have you chosen to pursue,
16 or has Mr. Williams chosen to pursue?

17 A I don't think we have finalized an alternative at
18 this point at all. I think we made a recommendation here of
19 what, the report makes a recommendation as to what we feel
20 should be done.

21 Q Okay. Now the first alternative, alternative number
22 one, you say that's for well field only?

23 A Well, sir, that covers the construction,
24 engineering, legal, official printing, it does a lot. But
25 that particular portion of the project is the well field

1 construction, yes, sir.

2 Q There's no water treatment for that alternative?

3 A No, sir.

4 Q Is that really an alternative?

5 A Is it an alternative?

6 Q For serving this territory, no water treatment?

7 A Well, based on some previous reports -- and we did
8 not go further into it -- those reports indicated that no
9 treatment was really necessary. But it's a requirement, but
10 it's not necessary.

11 Q And the range of costs we're talking about here in
12 alternative number one, what is that cost?

13 A Number one total amount of \$728,200 to \$1,588,200.

14 Q To?

15 A To a total of \$5,961,100.

16 MR. SCHWARTZ: I have no further questions.

17 MR. PINGEL: If I may redirect?

18 HEARING OFFICER: Yes, sir.

19 REDIRECT EXAMINATION

20 BY MR. PINGEL:

21 Q Let me show you what has previously been discussed,
22 the Suncoast News. I'd like to have this identified as
23 Respondent's Exhibit Number 5, I believe it is.

24 You previously testified -- could you read the
25 ledger on this document?

1 A It's identified in blue, it says Spring Hill-Weeki
2 Wachee, Suncoast News, serving Pasco, Pinellas, and
3 Hillsborough Counties, Wednesday, March 22nd, 1989, Section
4 ONE, Pages 24, 32nd Edition -- 32nd Year, 19th Edition.

5 Q I hate to correct your reading of the ledger, you
6 said Hillsborough County, and I just looked down, and I'm
7 pretty sure it says Hernando County.

8 A It says Pasco, Pinellas, and Hernando County, I'm
9 sorry.

10 Q All right. Referring to Page 4, if you look at the
11 bottom of Page 4, there's a section that's been designated the
12 Suncoast News. Is there any indication that there is a number
13 to service Hernando County?

14 A Yes, there is.

15 Q Telephone number?

16 A In Hernando County, area code 904 683-5445.

17 Q Referring to Page 21 of Respondent's Exhibit Number
18 5, does a legal notice appear on Page 21 dealing with the
19 application of Conrock Utilities?

20 A At the top of Page 21, Hernando County legals is
21 identified there, and it says, application for original water
22 and/or sewer certificate. Notice is hereby given pursuant to
23 Section 367.041, Florida Statutes, of the application of
24 Conrock Utility Company to operate a water and/or sewer
25 utility, to provide service to the following described lands

1 in Hernando County, Florida, Township 22, and then it goes on
2 to identify the rest of the section, township, and ranges.

3 MR. PINGEL: Okay. Thank you. I move to introduce
4 this into evidence.

5 HEARING OFFICER: Let's identify it as Respondent's
6 Exhibit 5.

7 (Whereupon, Respondent's Exhibit Number 5 was marked
8 for identification.)

9 MR. EPPLEY: Your Honor, I make an objection to
10 that. Basically they're trying to show that this was
11 published in the area of, or the territory of the
12 application. And the best that he can show is that it
13 says Spring Hill-Weeki Wachee.

14 HEARING OFFICER: Well, the rule says a newspaper of
15 general circulation. It doesn't refer to where it's
16 published.

17 MR. EPPLEY: In the territory where it's published.

18 HEARING OFFICER: No, that's not how I read the
19 rule. Notice shall be published once each week for
20 three consecutive weeks in a newspaper of general
21 circulation in the territory proposed to be served. So
22 the question is whether it's of general circulation,
23 not where it's published, it seems to me.

24 MR. PINGEL: It indicates on the ledger --

25 HEARING OFFICER: I don't think it matters too much

1 if it's printed across the County line.

2 MR. PINGEL: I move to introduce that into evidence.

3 MR. EPPLEY: Your Honor, I see what you're saying.

4 I do note that the affidavit she signed indicated that it
5 was published in Pasco County. Now as to whether or not
6 it is distributed within the territory of the
7 application, there's been no evidence that it has been,
8 that it is distributed in the territory of the
9 application. Because that territory does not cover
10 either Weeki Wachee or the Spring Hill area.

11 And there's no testimony that that is either
12 published or distributed within the area of the
13 application. Those areas are outside of that
14 application.

15 HEARING OFFICER: Do you want to respond to that?

16 MR. PINGEL: I really don't have any response. I
17 think his testimony has been that he does not know
18 actually where it was distributed. It indicates there
19 that it was, it serves three counties, and it doesn't
20 limit the area of distribution.

21 HEARING OFFICER: Where's Spring Hill?

22 THE WITNESS: South and west of Brooksville.

23 HEARING OFFICER: What County is it in?

24 THE WITNESS: Hernando County.

25 HEARING OFFICER: Do you know where the Hernando

1 County Fairgrounds are?

2 THE WITNESS: Yes, sir.

3 HEARING OFFICER: Would that be in Hernando County?

4 THE WITNESS: Yes, sir.

5 HEARING OFFICER: All right. This newspaper
6 indicates, or it's indicated on the face of this paper,
7 the front page, that it serves Pasco, Pinellas, and
8 Hernando Counties. The articles on the front page alone
9 show that it relates to matters concerning institutions
10 and people in Hernando County.

11 The witness testified, as I recall, that he picked
12 up the paper at a location in Hernando County. I don't
13 know that he testified any more concerning his knowledge,
14 if he has any, about where that paper is circulated as it
15 relates to Hernando County.

16 I'm going to overrule your objection and let you
17 brief me on what we have to have to show general
18 circulation. I understand that the paper, as the witness
19 pretty much stated, is published in Pasco, in terms of
20 where it's physically produced.

21 So on that basis, I will admit the exhibit. If you
22 all want to brief me on that question, you can.

23 (Whereupon, Respondent's Exhibit Number 5 was
24 received into evidence.)

25 MR. PINGEL: I don't have any other questions.

1 HEARING OFFICER: I think I had a question, if you
2 will bear with me just a minute. Is there any recross?

3 MR. HYSLOP: I don't have any, Your Honor.

4 MR. EPPLEY: No, sir.

5 HEARING OFFICER: All right. You mentioned in
6 response to a question concerning whether there is any
7 direct competition between the City and the County in
8 the territory at issue here.

9 THE WITNESS: Yes, sir.

10 HEARING OFFICER: And that was on direct in response
11 to your counsel's question. You said there's a five-
12 mile zone or area around the City of Brooksville that the
13 City serves or seeks to serve. How does that operate,
14 that situation? You said they claim, I think.

15 THE WITNESS: Well, if I may show you the map. This
16 is the City's water plan for the year 2000, and this is
17 their proposed service area that is five miles, five-mile
18 limit.

19 HEARING OFFICER: Is the outer most boundary the
20 five miles?

21 THE WITNESS: Yes, sir.

22 MR. EPPLEY: Your Honor, that is pursuant to a
23 statute, Statute 188.02, I believe, Florida Statutes,
24 defines a statutory service area the City is
25 authorized to serve.

1 HEARING OFFICER: Okay. Now my next question to
2 follow up on that is, what if any service by the City or
3 County -- I think you have answered this, but I want to
4 make sure I'm clear on it. What if any service by the
5 City or County is performed outside of that five-mile
6 area?

7 THE WITNESS: Outside of the five-mile area --

8 HEARING OFFICER: With reference to the territory
9 that is sought in this application.

10 THE WITNESS: Okay. I have to look at the map here
11 again. It comes right down by -- well, this yellow line
12 here is an area that our census data is taken from. This
13 is the approximate area that it cuts through.

14 HEARING OFFICER: Is that census tract?

15 THE WITNESS: Yes, census track data. Everything
16 within this area is approximately the area of the five-
17 mile radius of the City. Within that area, Lakeside
18 Acres is a County system that is within the City's
19 jurisdictional area or limit, five-mile limit.

20 Outside of that area, the only one is the Hill n'
21 Dale development.

22 HEARING OFFICER: Point that out.

23 THE WITNESS: That is right here.

24 HEARING OFFICER: Okay. Thank you. Any other
25 questions?

1 RE-CROSS EXAMINATION

2 BY MR. HYSLOP:

3 Q Mr. Pomp, are you aware of water service being
4 provided by the County over adjacent to I-75?

5 A On the east side of I-75, yes, sir.

6 Q Okay. So another area outside of the five-mile city
7 service area would be an area adjacent to I-75, even though
8 it's not shown as a subdivision?9 A To go further on that, sir, also there's two other
10 well sites at Ridge Manor which are further down the road.
11 They're outside even further.12 Q But within the proposed territory outside the five-
13 mile limit, the County does serve other --14 A No, it's not within our proposed service area. It's
15 outside of our service area. I think you directed to say
16 within our service area and what systems.

17 MR. HYSLOP: Okay. Thank you.

18 HEARING OFFICER: You may step down.

19 MR. PINGEL: May we take a brief recess?

20 HEARING OFFICER: All right.

21 (Brief recess)

22 HEARING OFFICER: Hearing will come to order.

23 MR. PINGEL: I'd like to call Mr. Green as my
24 next witness.

25 THEREUPON,

1 ROBERT FRANCIS GREEN,
2 having been duly sworn and called as a witness on behalf of
3 Conrock Utility Company, was examined and testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. PINGEL:

7 Q Would you please state your name?

8 A My name is Robert Francis Green.

9 Q And what is your residence address?

10 A I live at 1305 West Missouri, Dade City, Florida.

11 Q By whom are you employed?

12 A I'm employed by Green Engineering Associates.

13 Q And what is your position with Green Engineering?

14 A I'm the president of the company.

15 Q Could you briefly go over your educational
16 background that led you to become the president of Green
17 Engineering Associates?

18 A My background and education is, I went to Erie
19 County, which is a section of the University of New York
20 State. I have a degree in Associate's in science and
21 construction. Then I have a diploma from ICS, which is
22 International Correspondence School, and I have spent
23 considerable time in the field.

24 I became registered as a Florida engineer in 1972
25 under the Florida chapter. And it was by two eight-hour

1 exams, was my licensing.

2 Q Are you licensed as an engineer in any other states?

3 A Yes, I am licensed in the State of Georgia, the
4 State of North Carolina, and the State of Colorado.

5 Q Could you briefly go over your employment background
6 that has been evolved working as an engineer?

7 A From the time I became registered?

8 Q Yes.

9 A From the time I became registered, I was working for
10 Gene Jenson Consultants in West Palm Beach. Prior to that, I
11 was a design engineer for the City of Gainesville, and a
12 design engineer for the City of West Palm Beach. I spent
13 approximately four years with Gene Jenson in West Palm Beach.

14 When I left West Palm Beach, I more or less went
15 into business, into a management position. I became an
16 engineer of record for a construction-engineering company in
17 Lakeland for about three months. I folded up, and at that
18 time, I formed an engineering company.

19 And I have had various names of engineering
20 companies since 1973.

21 Q Okay.

22 A In the interim there -- I want to point out -- in
23 the interim there, 1980, I went to work for Coastal
24 Engineering, and I spent a year with Coastal Engineering.
25 Left Coastal Engineering for approximately three months, and

1 went back with Coastal Engineering for another year. And at
2 this time they were the City and County engineers in Hernando
3 County and Brooksville.

4 I spent nine months as the City engineer of
5 Brooksville. And since that time I have operated my own
6 business.

7 Q Okay. In your capacity as an engineer, have you
8 ever had the opportunity to prepare feasibility studies and
9 design water supply systems and sewage systems?

10 A Yes, I have. Most every development or subdivision,
11 we design water and sewer systems if they're not available
12 through the municipality or private system. We initiate and
13 design our own systems.

14 Q In regard to the subject area, have you have the
15 opportunity to design any water supply systems?

16 A Yes, I have. I have worked on several of the
17 subdivisions in that area. I basically designed Nottingham
18 Forest -- this is when I was with Coastal. I designed
19 Lakeside Acres, and I also designed the water system in
20 Lakeside Acres. The small Countryside Estates, I designed the
21 water and sewer system in there.

22 That's about the extent of the subdivisions within
23 the area there.

24 Q Okay. In regard to the subject area, in your
25 capacity as a design engineer of water systems, have you had

1 the occasion to meet with representatives of the City of
2 Brooksville and Hernando County?

3 A Yes, I have.

4 Q Okay. In your capacity as a design engineer of the
5 water supply systems in the subject area, have you been able
6 to form an opinion as to whether either the City or the County
7 have an interest in constructing or developing a water system
8 in that area to be maintained by a governmental entity?

9 MR. EPPLEY: Your Honor, I'm going to object to that
10 unless he can lay a proper predicate as to his knowledge
11 upon which his answer would be based.

12 MR. PINGEL: Your Honor, he's indicated he's dealt
13 with representatives of the City and the County in the
14 past in regard to the design and implementation of the
15 water systems in the subject area.

16 MR. EPPLEY: Your Honor, I don't know what time
17 period he's referring to. I think when Mr. Green worked
18 for the City, it was maybe six or seven years ago.

19 HEARING OFFICER: Let's establish how he knows
20 within a relevant period of time what their intents are.

21 Q (Mr. Mr. Pingel) When in regard to the water
22 systems and sewage systems that you have designed in the
23 subject area, could you give us a timeframe as to when these
24 projects were completed?

25 A The Lakeside Acres system was done probably about

1 1980. And what that entailed, that was a private development,
2 and we reclaimed a well that had been contaminated, I believe
3 it's a four-inch well. And in accordance with the County
4 ordinance, the developer turned around and gave the system to
5 the County at that time.

6 The water and sewer system for Countryside Estates
7 down on 50 there, which is listed as an RV, I think, I am now
8 their engineer today, and that system hasn't really changed.
9 That is a four-inch system capable of only supplying the
10 development itself.

11 There's no fire protection that I know of in either
12 one of those systems. You know, they could have put
13 additional lines in and stuff like that since I have been
14 involved in it. But as of today, there's no fire protection
15 in either one of those.

16 But to answer your question about whether the
17 County's capable, I can't really answer that.

18 Q Okay. Are you aware of any plans by either the
19 County or the City to service the subject area?

20 A No, I am not.

21 MR. EPPLEY: Again, I would make the same objection
22 on no predicate.

23 MR. PINGEL: If I may respond. He's indicated that
24 he's been working in this area since 1980. He
25 functioned as a County engineer for a period of time.

1 He's currently the engineer for one of the subdivisions.
2 And, you know, if you want me to ask him if he has on-
3 going contact with the County representatives, then I
4 will go ahead --

5 THE WITNESS: I'd like to clarify that. I wasn't a
6 county engineer.

7 MR. PINGEL: I mean City engineer. I misspoke.

8 THE WITNESS: I worked for the consultants that was
9 the County engineer, and I was the chief engineer for the
10 company. But to answer your question, other than the
11 fact that we are now engineers for the particular
12 project I mentioned, we are also engineers for Budget
13 Inn out on the Interstate, next to Holiday Inn.

14 And that was a project in 1986, which at that time
15 the County did not have the facilities to provide us
16 with sewer and water.

17 HEARING OFFICER: All right. Let's ask him about
18 what contacts he might have with these officials so he
19 has some basis for knowledge other than his past
20 experience.

21 Q (By Mr. Pingel) Thank you. Back in 1986 in regard
22 to your function as the engineer for the Budget Inn, did you
23 have the opportunity to communicate with representatives of
24 the City or the County in regard to their ability to supply
25 either water or sewage systems to the Budget Inn?

1 A At that time we made our normal application to the
2 water and sewer department, and the sewer was not available.
3 They were having problems with the plant in Ridge Manor. And
4 they indicated that they could possibly run a water line
5 underneath the Interstate, and that's where it ended, because
6 we're now in litigation.

7 Q Are you aware of any water lines that have been run
8 under the Interstate from Ridge Manor?

9 A As far as I know, unless something's happened very
10 shortly, a short period of time ago, no, there is no water
11 line under there.

12 Q Are you aware of any effort on the part of the City
13 or County since 1986 to extend any water supply lines in the
14 subject area?

15 A I'm not aware of any.

16 MR. EPPLEY: I raise my same objection as to the
17 predicate as it relates to the City of Brooksville and
18 his knowledge of the activities of the City within a
19 relevant time period.

20 MR. PINGEL: Well, he dealt with them, he indicated
21 he dealt with them in 1986, and he's continued to be
22 involved in litigation over that particular project.

23 HEARING OFFICER: That related to the County, did
24 it not?

25 MR. PINGEL: That relates to the County.

1 HEARING OFFICER: What contact did he have with
2 the City, people involved in the City utilities?

3 Q (By Mr. Pingel) Okay. Since, say, 1980, have you
4 had any contact with any representatives of the City in regard
5 to their plans to service the subject area from a water supply
6 standpoint?

7 A No, the last contact I had with the City was in
8 1983.

9 Q My question was since 1980. What contact did you
10 have in 1983?

11 A That's the time period I was the City engineer.

12 Q Okay, all right. Your Honor, could you hand me, I
13 think it's Respondent's Exhibit Number 1, the feasibility
14 study?

15 Mr. Green, let me show you Respondent's Exhibit 1
16 which has been admitted into evidence, and ask you if you are
17 familiar with that feasibility study.

18 A Yes, I am.

19 Q Okay. What was your involvement as far as the
20 preparation of that feasibility study?

21 A I reviewed that feasibility study and made any
22 comments that I desired to make on it.

23 Q You have had the opportunity to hear Mr. Pomp
24 testify regarding the feasibility study. Is there anything
25 you feel is necessary to add to his testimony in regard to the

1 preparation of the study?

2 A No. I think it's exactly what it is, a feasibility
3 study.

4 Q Okay, all right. I don't have any further -- oh,
5 excuse me. I'd like to ask you to identify what we'll mark
6 for identification purposes as Respondent's Exhibit Number 6.

7 A That's my company brochure with my resume in it,
8 what the company has done.

9 MR. PINGEL: I'd like to move to introduce the
10 company brochure into evidence.

11 MR. EPPLEY: Your Honor, I don't have any
12 objections. It's just a resume.

13 HEARING OFFICER: Admitted as Respondent's Exhibit
14 6.

15 (Whereupon, Respondent's Exhibit Number 6 was marked
16 for identification and received into evidence.)

17 MR. PINGEL: Thank you. I don't have any further
18 questions.

19 HEARING OFFICER: Mr. Eppley?

20 MR. EPPLEY: Your Honor, I have no questions.

21 MR. HYSLOP: No questions, Your Honor.

22 MR. SCHWARTZ: No questions, Your Honor.

23 HEARING OFFICER: You may step down, sir.

24 MR. PINGEL: Your Honor, the Respondent/Applicant
25 rests.

1 HEARING OFFICER: Thank you. Who wants to go
2 first, City or County?

3 MR. EPPLEY: Your Honor, I would first like to make
4 a motion. I don't know if it's appropriate at the time,
5 but I would like to say that I don't believe they have
6 made a prima facie showing as to the application, as to
7 either the need of the application, their ability to fund
8 it, or their compliance with the requirements of the
9 application.

10 There was a deficiency letter sent, nobody testified
11 to the fact that any of those items listed in 4, 5, 6,
12 through 8 have been complied with. That is lacking. And
13 I can argue the feasibility study, but I don't believe
14 there was any evidence submitted that the feasibility
15 study was anything other than a determination that there
16 would be future use of water in the area.

17 It didn't detail the financial ability of the
18 company to provide it. There's been no showing that the
19 company owns any of the land within the area. And I can
20 go down the laundry list.

21 MR. PINGEL: Your Honor, if I may respond. This may
22 have been a misunderstanding on my part at the outset,
23 but Mr. Schwartz approached me and counsel for the City
24 and the County, and we discussed the fact that the
25 deficiency letter had been sent out.

1 My understanding was we would go forward with the
2 hearing today and Your Honor could go ahead and make a
3 determination as to whether or not there was a sufficient
4 basis for a certificate of necessity to be granted,
5 taking into consideration the fact that we have to
6 submit a completed application which has been accepted by
7 the Public Service Commission.

8 I mean, obviously at this point we have had a lot of
9 testimony regarding what has been submitted and what
10 hasn't been submitted. I haven't objected that it's
11 irrelevant, but it's contrary to what I understood was
12 going to occur during the course of this hearing.

13 In regard to whether or not we have met our burden
14 of presenting a prima facie case, I believe that all the
15 elements that are important and significant as far as
16 our ability to service the area and whether or not the
17 City and the County are interested or desire to service
18 the area have been submitted to you for your
19 consideration.

20 You have had the opportunity to hear Mr. Williams
21 testify. Mr. Williams testified regarding the
22 financial status of his family, the financial status
23 of the corporation. I don't think there's any question
24 that the evidence discloses that he's involved in a
25 closely held family corporation, and that there's not

1 going to be any difficulty as far as making monies
2 available if the franchise is granted.

3 He's expressed his desire and intent to go ahead
4 and provide a utility in that area. So as far as
5 whether or not they are financially capable of doing it,
6 I don't think is an issue.

7 The ownership issue, he's made it pretty clear that
8 there's going to be an understanding that if the
9 franchise is granted, that the wells will be leased
10 to Conrock. And there again, I don't perceive that that
11 is an issue that has been sufficiently attacked by either
12 the County or the City.

13 In regard to the study itself, we're talking about
14 feasibility in a situation. We do not at this point
15 have, like the City or the County, have a captive market
16 that we're dealing with. We have gone ahead and
17 prepared a feasibility study.

18 You have heard Mr. Williams express a desire to go
19 ahead and service that area. Mr. Williams has also
20 indicated that he will do whatever is appropriate in
21 conformance with the demands or the needs of the Public
22 Service Commission to go ahead and facilitate a water
23 supply system in the subject area.

24 And, therefore, I would respectfully request that
25 his motion that we have not sustained our burden be

1 denied.

2 HEARING OFFICER: First of all, motions to dismiss
3 or in the nature of a directed verdict at the close of
4 the moving party's case have to be taken under
5 advisement because the law requires me to do a
6 recommended order. And if I were to grant the motion and
7 were reversed, then we'd have to come back and finish
8 making the record.

9 So the way I proceed in matters like this is require
10 the parties to put on their case, and I will deal with
11 the motion in a recommended order which the rules require
12 me to do anyway.

13 Now, secondly, I have said several times this is a
14 de novo proceeding. The question of the deficiencies in
15 the filing of the application is not really -- and the
16 Commission's review or lack of ability to completely
17 review the application -- is not really before us now.

18 Once the Commission elects to send the case to the
19 Division of Administrative Hearings, then under Section
20 120.1(b)(3), they become just like any other party. They
21 conduct themselves just as any other party does as long
22 as it's before my jurisdiction.

23 So then the question becomes, have they proven their
24 case in terms of the things the Commission feels they're
25 deficient in or you all feel, the County and City, feel

1 they're deficient in. It's a question of proof before
2 this forum of whether they have done -- it's not really
3 an issue of whether they complied with all the
4 requirements of the Commission form, as that is approved
5 by the Commission portion of the statute and the
6 Commission's rules.

7 So I'm not troubled about the incompleteness of the
8 application. I'm looking to see whether those matters
9 are matters of proof here or not. But the motion will
10 be addressed in a recommended order.

11 And the City or County can proceed now.

12 MR. HYSLOP: For the record, I'd also like to join
13 in the motion so it's clear it's not the City alone
14 making the motion.

15 HEARING OFFICER: That's understood.

16 MR. EPPLEY: I would like to call Mr. Bill Geiger.

17 THEREUPON,

18 WILLIAM GEIGER,

19 having been duly sworn and called as a witness on behalf of
20 the City of Brooksville, was examined and testified as
21 follows:

22 DIRECT EXAMINATION

23 BY MR. EPPLEY:

24 Q State your name for the record, please.

25 A My name is William Geiger.

1 Q Mr. Geiger, how are you employed?

2 A I'm the director of development for the City of
3 Brooksville.

4 Q What are your, what is within your job description,
5 so to speak?

6 A I administrate the department of planning and
7 development, I oversee the planning and zoning division and
8 the building division for the City, which is involved with
9 site plan review and structure permitting. Those are the
10 fundamental responsibilities involved with that.

11 Q I asked you to bring some documents with you, and
12 also we have some interrogatories here. There was a question
13 in the interrogatories that detailed, that inquired as to
14 urban sprawl. You answered that.

15 Q What do we mean by urban sprawl, to your
16 understanding?

17 A Basically urban sprawl is, refers specifically to
18 development outside of the urban build-up area. It's
19 characterized by a lower density, the ability to provide
20 services in those areas that are spread out and, therefore,
21 less economically feasible to provide adequate facilities on a
22 large scale to those areas because of that nature.

23 Q In addition to the interrogatory response I
24 previously issue, I'd like to also add, too, that utility
25 service is just one aspect of growth management. And that

1 other public services that are required concurrent with
2 development include transportation facilities, recreation,
3 drainage facilities, conservation measures, affordable
4 housing, and other, looking ahead towards the land use
5 patterns, making sure appropriate land use patterns are
6 located together.

7 It's a concern of the City that in prematurely
8 providing utility service in areas which do not provide for
9 all the needed public services and facilities, that subsequent
10 development would produce a sprawling effect or the leapfrog
11 development.

12 And, again, as I stated, before the lower density
13 development that occurs with urban sprawl results in a
14 scattered and unplanned development which strains the service
15 delivery system so that local and state governments are
16 compelled to provide.

17 Q Okay. Are you familiar with the requirements of the
18 comprehensive planning act?

19 A Yes, sir, I am.

20 Q Okay. Do you, in fact, administer that act within
21 the City of Brooksville?

22 A Yes, sir, I do. I'm intimately in touch with
23 putting together the City's comprehensive plan.

24 Q And has the City recently put together a
25 comprehensive plan?

1 A Yes, sir, we have.

2 Q Has that plan been submitted to the State?

3 A Yes, it has.

4 Q And has it been accepted by the State?

5 A Yes, it has.

6 Q Okay. Are you familiar with certain guidelines that
7 relate to the terminology of urban sprawl and those particular
8 statutes where they come from?

9 A Yes. Both in statutes Chapter 163 as well as 9J5 of
10 the Florida Administrative Code, both have references within
11 them as far as the local governments dealing with the issue of
12 urban sprawl. Specifically to where the local governments
13 should provide goals, objective, and policies that would deal
14 with urban sprawl and try to prevent it.

15 Q Okay. I have asked you to bring copies of certain
16 of the Florida Administrative Rules with you as well as a copy
17 of the Statute 163 which deals with comprehensive plans. Do
18 you have those with you, sir?

19 A Yes, I do.

20 Q Could you hand them to me? Your Honor, we have
21 highlighted areas in there of these particular rules, and I
22 would like to have these identified so that we could admit
23 them.

24 A Included in with that are portions of the State
25 Comprehensive Plan as well as the Growth Management Act in 163

1 as well as the 9J5 Administrative Code which both those
2 sections deal with land use and also with the utilities.

3 Q Okay. I also asked you to bring with you a copy of
4 -- if you would, identify this, please.

5 A This is an excerpt out of the City of Brooksville
6 Code, specifically in the utility section, Article 5, which
7 speaks to connection and service of City water and wastewater
8 facilities to the City, and also speaks to the five-mile
9 service area that was referenced previously.

10 Q Our ordinances do address service within the five-
11 mile utility area?

12 A Outside of the City's existing jurisdictional
13 boundary.

14 HEARING OFFICER: The first three documents will
15 be Petitioner City of Brooksville composite Exhibit 1
16 for identification.

17 (Whereupon, Petitioner City of Brooksville Composite
18 Exhibit Number 1 was marked for identification.)

19 A Additionally, in addition to the code are excerpts
20 out of the City of Brooksville comprehensive plan and adopted
21 May 1st, 1989 that are pertinent to the issues involved with
22 urban sprawl and duplication of services, growth management in
23 general, and annexation.

24 Q And these are either matters of City ordinance or
25 our future land use plan?

1 A Future land use element as well as the utilities
2 subelements for wastewater and water. And the final document
3 to be filed is the --

4 HEARING OFFICER: The last described document is
5 Petitioner City of Brooksville 2.

6 (Whereupon, Petitioner City of Brooksville Exhibit
7 Number 2 was marked for identification.)

8 Q (By Mr. Eppley) Are you also familiar with the
9 Governor's Task Force on urban growth matters?

10 A Yes, sir, I am.

11 Q And if you would please, look at that document.

12 A Yes, sir.

13 Q Is that the document you recognize to be --

14 A This is the document.

15 Q Does it also detail -- do you have areas in there
16 highlighted that relate to urban sprawl, the concept of urban
17 sprawl and urban land planning?

18 A Yes, sir, there are.

19 Q Okay.

20 HEARING OFFICER: This is City's Exhibit 3.

21 (Whereupon, Petitioner City of Brooksville Exhibit
22 Number 3 was marked for identification.)

23 MR. EPPLEY: Your Honor, I'd like to move the
24 introduction of these.

25 MR. PINGEL: Your Honor, the only objection I have

1 is that, as I am sure you have already noticed, these
2 are not clean copies. These have been highlighted, and
3 obviously with the intention of drawing your attention
4 to certain provisions. I think that the proper way to
5 introduce an exhibit into evidence is without any
6 markings such as appear on this document.

7 And I would object on those grounds.

8 MR. EPPLEY: Your Honor, we haven't altered
9 anything. We have only highlighted appropriate sections.
10 I believe these are actual and factual copies of either
11 Florida Statute or the Florida Administrative Code which,
12 it's my understanding, are matters for judicial notice
13 by the Court.

14 HEARING OFFICER: There aren't any handwritten
15 notations on there, are there, just the highlighting?

16 MR. PINGEL: Not that I could locate.

17 HEARING OFFICER: I understand your objection, and
18 maybe technically it ought to be a clean copy, but it's
19 no different letting counsel argue what statutes or rules
20 apply after the hearing. So I don't think it prejudices
21 anyone. They're admitted.

22 (Whereupon, Petitioner City of Brooksville Exhibits
23 1, 2, and 3 were admitted into evidence.)

24 MR. EPPLEY: Your Honor, we have just received a call
25 that Mr. Geiger's wife is in labor, so I want to kind of

1 cut his testimony short. And I believe that we have made
2 reference, and I would basically rely on the introduction
3 of documents that I entered because my purpose in calling
4 him was just to basically introduce those documents that
5 relate to the concept of urban sprawl.

6 HEARING OFFICER: All right.

7 MR. EPPLEY: I tender him for cross examination.

8 CROSS EXAMINATION

9 BY MR. PINGEL:

10 Q I'm not an expert on urban sprawl, so I will try and
11 be brief. Within the five-mile limit that we have discussed,
12 does the City currently have the capability to service a
13 portion of the subject area?

14 A Yes, we do. We do have the capacity to service
15 within that area. We have available capacity.

16 Q How do you have that capacity?

17 A Our existing systems have an excess capacity to be
18 able to provide service to areas that request it. Of course,
19 that's given that development would be required to
20 successfully negotiate a utility service agreement with the
21 City to the effect that, with the pertinent provisions in how
22 that service would be provided.

23 Q Okay. Are you aware of the assessment of the
24 adequacy of existing water and sewer connection fees that was
25 prepared by Arthur Young and is attached to the City's answers

1 to interrogatories?

2 A Yes, sir.

3 Q There is a table number 2-1, water and sewer utility
4 evaluation. This report was prepared in 1987. Have there
5 been any changes to the water supply system of the City since
6 that time?

7 A The City is currently undergoing a bond program
8 where improvements are being made to its existing system
9 which, I believe -- and I would defer to our utility director
10 for his answer in where that is at this point in time. But
11 the system is being upgraded over and above what's even shown
12 in that report.

13 Q In regard to this report, do you have any personal
14 knowledge as to whether any of the wells that have been
15 identified were not functional at the time the report was
16 rendered?

17 MR. EPPLEY: Your Honor, I'm going to make an
18 objection. Number one, he's outside the scope of my
19 direct examination. And in the interrogatories, those
20 answers were answered by Mr. Arbuckle who's my next
21 witness.

22 HEARING OFFICER: That's sustained.

23 MR. PINGEL: Okay. I don't have any further
24 questions. Thank you.

25 MR. SCHWARTZ: I will try to make this quick. Maybe

1 Rather than have development occur out here in a
2 more rural fashion and moving in, we're looking at it from the
3 concept of growing outwardly.

4 MR. SCHWARTZ: Good luck.

5 THE WITNESS: Thank you.

6 HEARING OFFICER: Any other questions? You're
7 excused.

8 THEREUPON,

9 CHARLES A. ARBUCKLE,

10 having been duly sworn and called as a witness on behalf of
11 the City of Brooksville, was examined and testified as
12 follows:

13 DIRECT EXAMINATION

14 BY MR. EPPLEY:

15 Q Would you state your name for the record, please,
16 sir?

17 A Charles A. Arbuckle.

18 Q Okay. Mr. Arbuckle, how are you employed?

19 A I'm the director of utilities and sanitation for the
20 City of Brooksville, Florida.

21 Q How long have you been so employed?

22 A Slightly over four years in this capacity.

23 Q Okay. What is your function within that department?
24 What are your responsibilities?

25 A I direct the activities, the operation of day-to-day

1 activities of the water and sewer operation of the City as
2 well as the sanitation requirements. I'm also required to
3 plan for growth and negotiate contracts with developers and
4 review plans for development, conceptualize plans. I could go
5 on and on.

6 Q Okay. I asked you to bring some maps with you, and
7 I have them here. And basically one is a map of existing
8 water lines. I will show this to you and ask if you can
9 identify it. I believe that is the water line map, am I
10 correct?

11 A Yes, it is. This was prepared by, although it's not
12 labeled as such, by program developer King Engineering
13 recently, in the past few days, as a result of the hydraulic
14 analysis they have been performing for a number of weeks now
15 on the City's water distribution and supply systems.

16 Q Okay. And basically it shows where lines are in
17 place at the moment, correct?

18 A Yes, sir.

19 MR. EPPLEY: Your Honor, I'd like this marked as
20 exhibit whatever, whatever we're on.

21 HEARING OFFICER: Petitioner City of Brooksville
22 4, I believe.

23 (Whereupon, Petitioner City of Brooksville Exhibit
24 Number 4 was marked for identification.)

25 Q (By Mr. Eppley) Mr. Arbuckle, if you would, please,

1 just to help us with this, if you could come down here and
2 kind of relate to me where the City is in relation to this
3 map, if you can make a determination off that map.

4 Q Well, the City limits themselves are pretty well
5 defined here, how they come into the certificated area being
6 sought by the Respondent here. But it's in this basic area,
7 that's where the City boundaries are.

8 Q Okay. Where is our statutory service area as it
9 relates to --

10 A The statutory service area, according to Chapter
11 180, it would extend out a radius of five miles from the
12 boundary, corporate boundaries of the municipality. Which,
13 these being one-mile sections, somewhere around this yellow
14 line right here.

15 Q And is the City presently serving customers outside
16 of the City limits?

17 A Approximately 30 percent of our customer base is
18 outside the City limits.

19 Q Okay. And that is around various boundaries of the
20 City, correct?

21 A Yes, sir, subdivisions, trailer parks, and so forth
22 outside the City.

23 Q Are we serving any customers within the area of the
24 division?

25 A Yes, we are. Wesleyan Village right now is one in

1 particular. We have a major transmission line going out to
2 them. They also have their own wells. We augment their
3 supply. They're master-metered on a six-inch meter out there.
4 We had them put that in so it doesn't restrict their flows not
5 too long ago when they developed Phillippe Park.

6 Phillippe Park, which is also, contiguous and
7 managed by the same management corporation as Wesleyan
8 Village, is also served by us basically, although --

9 Q This is in there?

10 A Yes, sir. The internal distribution systems belong
11 to Wesleyan. We maintain up to and including the meter.

12 Q But we supply water to them?

13 A We supply water to them.

14 Q Does the City have the ability to serve new
15 connections within that area?

16 A We have the capacity -- and the reason I say we have
17 the capacity, referring back to a report and table out of
18 Arthur Young that counsel for the Respondent mentioned a
19 moment ago -- we have currently permitting capacity of 1.8
20 average daily flows throughout all our well sites, and we have
21 a peak permit of 3.2.

22 Now we have a reliable capacity, according to this
23 report -- and I'm referring to Table 2-1 that was previously
24 referred to in the Arthur Young report -- of six-and-a-half
25 million gallons per day. We have an estimated well capacity,

1 according to the engineers that compiled this, which was
2 Hensley Smith for the engineering firm, we have a well
3 capacity of 7.6 MGD.

4 Now they represent in this table that total supply
5 with larger size service is four-and-a-half million gallons a
6 day. That's if you take away the Lamar facility which is
7 capable, the well capacity is capable of 2 million gallons a
8 day.

9 What I'm leading up to is in that same report -- and
10 I'm reading from page roman numeral three dash Arabic three --
11 and it says as can be seen from Table 2-1, this analysis
12 projects the water utility by the year 2008 will need to
13 capably service a population of 33,400 persons distributed
14 among 16,454 ERUs and consuming an annualized average daily
15 volume of 3.83 MGD -- million gallons per day.

16 It goes on further to say, as further illustrated by
17 the table, the accumulative capacity of the City's present
18 source of supply can meet that demand. And not to read out of
19 context, I will finish it up. Provided renewal of CUP
20 allocations is appropriately expended and full usages are made
21 of the Lamar well's capacity period.

22 So I would say, yes, we do have the capacity and the
23 capability.

24 Q Okay. So we presently have the capacity to serve
25 33,000 persons?

1 A According to that engineering report, yes, sir.

2 Q Okay. And that would take us to the demand upon our
3 system within and without the City up until the year 2008?

4 A That is correct.

5 Q Okay. I have a report here -- this is a copy of it.
6 I would like you to identify that, please.

7 A That is the report I was reading from, an assessment
8 of the adequacy of existing water and sewer connections bound
9 report, December 1987, Arthur Young.

10 Q Is this the report and study that the City
11 authorized?

12 A Yes, it is. If I might add, the reason the City
13 asked for that report and caused it to happen is, we wanted a
14 long-range financial plan put in place for the City in order
15 to develop and fund the capital needs to accommodate growth in
16 the future to the year 2008.

17 Q Okay. And, so we then have the financial ability to
18 provide that service because it's in place?

19 A That's correct. As a result of that report, the
20 City then issued bonds in the amount of \$5.4 million. Closing
21 was the 24th of June, 1988 on that bond issue for the purpose
22 of making sufficient water and sewer improvements to
23 accommodate eminent growth and set that capital infrastructure
24 in place that would accommodate long-term growth as well.

25 Q Okay. And this is for growth within and without the

1 City and within the statutory service area?

2 A That was predicated on the outside statutory service
3 area and, as a matter of fact, reading from Roman numeral
4 three Arabic three out of the same Arthur Young report, it
5 says, for the purpose of this analysis, all the above were
6 selected as an average rate of annual demand growth between
7 1987 and 2008.

8 The rate chosen is 4.5 percent and assumes that the
9 City will continue to serve customers outside of corporate
10 boundaries (it is understood that Brooksville now has the
11 authority and implied responsibility to service a five-mile
12 wide corridor around the entire City limits) with the same
13 degree of activity as has been experienced over the past
14 decade.

15 Q Thank you.

16 HEARING OFFICER: Are you making that an exhibit?

17 MR. EPPLEY: Yes, sir.

18 (Whereupon, Petitioner City of Brooksville Exhibit
19 Number 5 was marked for identification.)

20 Q (By Mr. Eppley) Does the City also have sewer
21 services in these areas, and to what extent?

22 A Yes, sir. We have sewer outside the corporate
23 limits, not to the extent of water customers, certainly.
24 Because, here again, a lot of people still are on septic
25 tanks, and we haven't got to them yet. But we do have it on

1 our long-term plans to be more intensive in serving outside
2 the corporate limits.

3 Q Okay.

4 A Another reason for the bond issue.

5 Q And do we presently have financing in place for that
6 purpose?

7 A Yes, sir.

8 Q And that is a bond issue that you just recently
9 referred to?

10 A Yes, sir. It was to fund sufficient collection and
11 effluent disposal mains, provide an effluent disposal system,
12 and a new wastewater treatment plant that would be the first
13 phase of our overall long-range plan to accommodate growth for
14 over a 30-year period.

15 Q Okay. Are you aware of any agreement that the City
16 has with the County to provide services within this service
17 area?

18 A Yes, sir. There was an interlocal agreement we
19 entered into -- I don't know the precise date, but I believe
20 it was in 1976 or '78.

21 Q If you would, please, I'd like you to look at that
22 document.

23 A Interlocal agreement, agreement entered into this
24 28th day of February, 1978 by and between the City of
25 Brooksville, municipal corporation under the laws of the State

1 of Florida hereinafter called City, and the County of
2 Hernando, a County in the State of Florida, hereinafter called
3 County.

4 This is the interlocal agreement whereby the City
5 and the County did agree to the five-mile service area, and
6 that the City would develop the plans and wherewithalls
7 basically to service those needs within that five-mile radius.

8 MR. EPPLEY: Okay. Your Honor, if we could have
9 this marked.

10 HEARING OFFICER: Petitioner City of Brooksville
11 Exhibit 6.

12 (Whereupon, Petitioner City of Brooksville Exhibit
13 Number 6 was marked for identification.)

14 MR. EPPLEY: Your Honor, we would move the
15 admission of Exhibits 4, 5, and 6.

16 HEARING OFFICER: Any objection to 4, 5, and 6?

17 MR. PINGEL: Your Honor, I have an objection to
18 Exhibit Number 4. My objection is that there is no
19 identification on that document as to by whom the
20 document was prepared, when it was prepared, what the
21 document represents. And we are not given the
22 opportunity to cross examine the person who prepared
23 that document.

24 There has been some indication it was prepared by
25 a King Engineers, but there's no indication whatsoever

1 that King Engineers prepared that; there's no indication
2 of a stamp by any engineer that reviewed that document.
3 And, therefore, I'm going to object to the introduction
4 of that document into evidence.

5 MR. EPPLEY: Your Honor, I have had my client
6 identify it. He's stated that it was a map prepared at
7 the direction of the City. And basically this goes to,
8 would show where water lines are in place.

9 HEARING OFFICER: Let's have some more predicate
10 from the witness about how he comes to know where the
11 water lines are and how the exhibit, what knowledge he
12 has of the preparation of it and the reason for it and so
13 forth.

14 THE WITNESS: If I might, Your Honor, as part of the
15 bond issue I mentioned earlier, knowing that we would
16 have to accommodate future growth, knowing that we had
17 some deficiencies in our transmission system with regards
18 to firefighting capabilities, et cetera, one of the first
19 things that Hensley Smith, who prepared the engineering
20 data in the Arthur Young report, did, as a first step in
21 accommodating future growth with regards to water
22 service, was that the City would accomplish a hydraulic
23 analysis.

24 Now a hydraulic analysis -- the engineer here
25 certainly is aware of the program -- it's the Kentucky

1 Pipe Program. It's a standard commonly used computerized
2 CAT system, program, for determining the various
3 hydraulic characteristics of a water distribution and
4 supply system.

5 And it is also a program that would be a very
6 useful tool that could be used to perpetuity as long as
7 it's kept updated. When new development comes in and
8 so forth and you want to play what-if games with this
9 overall thing.

10 And what it produces for you here, as part of it,
11 is, this is a composite of actually two overlays in a
12 computer scenario. The outline, and then it's overlaid
13 with the water distribution system on top of that. Then
14 the computer produces it on one composite map such as
15 this. It shows the streets as well as the distribution
16 system. And it's got the various line sizes.

17 It normally is a much larger size than this, but
18 I asked that it be reduced for these purposes here.
19 For this particular meeting, I had it done for that
20 purpose. It is ordinarily much larger this.

21 HEARING OFFICER: The question was, who produced
22 it.

23 THE WITNESS: This was a product of the program
24 and the analysis being accomplished by King Engineering
25 Associates here in Brooksville, Florida. We have

1 contracted, the City has contracted with them, and
2 we're paying them the fee of \$83,000 -- this is an
3 \$83,000 map, is what it amounts to, you're looking at.
4 But it will also be a long-term tool for the City.

5 But from this map we're going to be able to
6 identify the constraints in our distribution system
7 where flows are not adequate to accommodate fire
8 protection, et cetera. And also as people connect
9 along the outer grids of our distribution system, once
10 we get the internal problem solved, we will be able to
11 know what size piping, et cetera, how much storage and
12 various things will be needed to accommodate these
13 new developments.

14 So looking towards growth, we needed a very precise,
15 scientific tool from which to plan from. That's the
16 purpose of the map.

17 Q (By Mr. Eppley) Is this the best map the City is in
18 possession of that shows the location of our water lines?

19 A At this point in time, it's the most up-to-date
20 document we have.

21 Q To your knowledge, as director or development -- as
22 our building director?

23 A Utilities director.

24 Q Utilities director, are these where the lines are,
25 to your knowledge?

1 A To my knowledge, they are. I have no reason to
2 question it. I have not truthed those lines, but my staff has
3 worked with the engineer in ground-truthing these locations,
4 et cetera.

5 Q Are these records that are maintained by the City of
6 Brooksville?

7 A Yes.

8 Q Are these records maintained in their day-to-day
9 business operations?

10 A By these records, you're talking about --

11 Q This map.

12 A This map?

13 Q Correct.

14 A This map, yes, it is contained now, was installed
15 yesterday in our computer system.

16 MR. EPPLEY: Okay. thank you.

17 MR. PINGEL: Your Honor, same objection. I don't
18 think he's laid a proper predicate to have this
19 particular map introduced into evidence. There's been
20 an effort to establish this as a business record.
21 However, as he indicated, it's just recently prepared.
22 They put it in their computer yesterday.

23 I'm not being given the opportunity to cross
24 examine the person who actually prepared this. Mr.
25 Arbuckle has indicated he didn't prepare it, he had

1 staff people that were involved with the engineers.
2 But none of these people are here, and we are being
3 denied the opportunity to cross examine on this document.

4 MR. EPPLEY: Your Honor, my previous response
5 stands.

6 HEARING OFFICER: Sounds to me like it comes
7 within the exception for government compilation of
8 records and documents as well as what's been termed
9 the business records exception. It looks to me like it
10 was commissioned and accomplished for a longer-term
11 normal governmental function to serve a normal
12 governmental function rather than commissioned to
13 buttress the City's case in this proceeding.

14 That's what I have heard the witness say, at any
15 rate. So I am going to admit it.

16 MR. EPPLEY: Thank you. As I understood, it was
17 without objection to the other items, so they are --

18 HEARING OFFICER: That's right. 4, 5, and 6, and
19 they're admitted.

20 (Whereupon, Petitioner City of Brooksville Exhibits
21 4, 5, and 6 were received into evidence.)

22 Q (By Mr. Eppley) Okay. If you would, please, Mr.
23 Arbuckle, relate long-term plans for the City. I brought a
24 map here, and we're going to use this for reference purposes.
25 These are items that are not in place. But if you would,

1 please --

2 A What we have here -- as a matter of fact, this is a
3 conceptualized master plan designed primarily for the sewer
4 master plan for the City. This is, by the way, the sewer map
5 showing the sewer facilities within the City which is in
6 relationship to the water map except this is a sewer map.

7 Going back to the bond issue we recently had, we put
8 that issue together and based our capital needs on this
9 concept that you see here. And we have just recently
10 completed an alternative study for the Department of
11 Environmental Regulation on effluent disposal as to which
12 would be the most viable method in which we should first
13 install these force mains.

14 These lines you see over around here and across
15 Yontz Road and down the truck by-pass and down through this
16 area, this is sewer --

17 MR. PINGEL: If I may interrupt. I don't really
18 understand what relevancy this has to the issue that we
19 are discussing today. I'm not really sure what question
20 he's responding to at this point, if there is any
21 question he's responding to.

22 HEARING OFFICER: I don't yet either.

23 MR. EPPLEY: Your Honor, basically the comprehensive
24 planning act requires that there be concurrency in
25 provision of services. And that is within the packet of

1 information and the packet of statutes that we have
2 supplied to the Court. Basically the concept of
3 concurrency is that with regards to land use planning
4 within the State, that you provide additional services.

5 Basically those services relate to roads, streets,
6 water, and sewer. To show the fact that we are
7 complying with the comprehensive plan act and being able
8 to supply water and sewer within those areas that we are
9 serving, we have developed a long-term plan that
10 basically shows that we are preparing to provide for
11 water and sewer within these areas, and these areas also
12 provide services outside of the corporate limits of the
13 City and within the district to which we have made our
14 objection to.

15 MR. PINGEL: Your Honor, if I may respond. I don't
16 have any objection if the testimony is presented in
17 regard to the subject area. But there's no dispute that
18 they have long-term plans. I'm sure that throughout the
19 five-mile radius, both on the east side and the west side
20 of the City limits, that they have plans for growth and
21 for service.

22 I think what the issue is that we're discussing
23 today, is whether or not they have any specific plans in
24 the subject area. We just heard an individual testify on
25 urban sprawl and suggesting that putting a private

1 facility in this area is going to create urban sprawl.

2 If they have specific plans for the subject area, I
3 think that's what is pertinent.

4 HEARING OFFICER: Let's see where it goes. Now
5 realize we're also talking water, sir.

6 MR. EPPLEY: Correct.

7 Q (By Mr. Eppley) Mr. Arbuckle, if we look at this
8 map and we look at the top of the map, where is the top of the
9 map in regards to north, east, south, west, et cetera?

10 A North is the top of the map. The disputed area here
11 comes right up against this red line, so the service area is
12 over here. What you see here is a nucleus, a nucleus for the
13 entire service area that will grow from this nucleus that
14 we're showing you here.

15 Now let me say, you know, in the utilities business,
16 based on my meager 11 years in the business, water is one of
17 the easiest services there is to give. Sewer is what's
18 difficult, especially your constraint on growth, not water.
19 We have taken care of the water with some future modifications
20 we'll have to make.

21 But what has constrained us thus far has been our
22 sewer. And what we're showing you here is what we're doing
23 about it. And we have just recently received a tenth issue
24 permit from --

25 MR. PINGEL: Your Honor, again, I don't mean to be

1 rude to Mr. Arbuckle, but I think we are here on a
2 particular issue, and at this point we're going a little
3 bit far afield here. During our case, we obviously went
4 far afield on certain matters. And I request the Court
5 we deal with specifically what their plans are for, if
6 any, for a water system service in the subject area and
7 whether or not they have the ability to go ahead and
8 service that area.

9 MR. EPPLEY: Your Honor, within that line, you know,
10 we are showing to this body through this that we have the
11 ability and the plans to provide both water and sewer
12 within the area. We will have the lines in this area
13 here that will be able to serve that which will be in
14 the disputed area.

15 We presently have water and sewer lines in here.
16 That better shows our ability to provide the service than
17 Conrock Utilities that has no stock and that has no
18 assets, and all it has is a hole in the ground. They
19 have nothing other than a hole in the ground. We have
20 lines in place, we have proposed lines in place, we have
21 financing to accommodate that.

22 And basically what we're trying to get across to
23 this body is that we already have these in place to
24 provide for this funding. Their application is just
25 a representation to that which they would like to do.

1 HEARING OFFICER: I understand that. But I think
2 what he's talking about is, let's confine it to water
3 service. We're getting into all provisions made for
4 sewer extensions and so forth. That's not before us
5 here.

6 MR. PINGEL: Your Honor, if I understand what he's
7 saying, I mean the lines he's referring to, I don't
8 believe that you can even connect a residence into
9 those, the borderline he's showing.

10 THE WITNESS: I've got a church into it right now.

11 HEARING OFFICER: That's a matter for further
12 direct, and if he doesn't cover it on direct, you can
13 cross him on it. That doesn't make it irrelevant. This
14 is a preliminary stage in the testimony on that line at
15 least.

16 MR. PINGEL: Thank you.

17 MR. EPPLEY: I think we pretty much covered that, so
18 with that, I'm going to stop that line. Your Honor, I
19 have no further questions of Mr. Arbuckle.

20 HEARING OFFICER: All right. Mr. Pingel?

21 CROSS EXAMINATION

22 BY MR. PINGEL:

23 Q Mr. Arbuckle, I want to show you an exhibit which
24 we'll mark as Respondent's Number 7, I believe, and ask you if
25 the yellow line which appears, the yellow highlighted line,

1 which appears on this exhibit represents the five-mile service
2 line.

3 (Whereupon, Respondent's Exhibit Number 7 was marked
4 for identification.)

5 A I can only make an approximation, if that would be
6 sufficient. I would say it either borders on it or is
7 slightly within it.

8 Q Okay. To the east and to the north of the five-mile
9 line, there's a State forest, correct?

10 A Yes, sir, that is correct, Withlacoochee State
11 Forest.

12 Q All right. How long has the statute pertaining to
13 the five-mile service area been in existence?

14 A To my knowledge, I don't know when it was first
15 enacted, but to my personal knowledge, I know it having been
16 in existence since 1988.

17 Q Back in 1978 when you entered into the
18 intergovernmental or interlocal agreement, was the five-mile
19 service area being recognized by the City and the County?

20 A I cannot say that; I was not here then. I would
21 have to assume from examining the interlocal agreement that it
22 was.

23 Q Okay. Are you aware of any systems within the five-
24 mile service area that are operated by the County?

25 A Yes, sir.

1 Q Which systems are operated by the County?

2 A Dogwood Estates for one. And I'm not sure about the
3 other one. Dogwood Estates I know.

4 Q Is the other one Lakeside Acres?

5 A Yeah, I believe it's Lakeside, but I'm not certain
6 as to the exact name. There are two.

7 Q Did the City interpose an objection to the County
8 maintaining a system, a water system within their five-mile
9 service area?

10 A I have no idea.

11 Q Do you know why the County's --

12 A I wasn't here when they acquired that.

13 Q Do you know when those county systems went into
14 operation?

15 A No, sir.

16 Q Wesleyan Village is an area that apparently you
17 provide supplemental water supply, is that correct?

18 A Augment their water supply.

19 Q What do you mean by augment their water supply?

20 A Well, they basically are kind of what you might
21 refer to as a closed utility, supplying their own customers.
22 But they do not fall within the normal PSC permitting
23 franchise requirement because they only serve customers on
24 their own property.

25 So they are not a public supply. But they have to

1 be augmented because of fire flow requirements. Their wells
2 are not sufficient to supply fire lows. And it is my
3 understanding that is the reason -- my understanding, you
4 understand. I was not a party or privileged during the time
5 the transmission main was constructed to Wesleyan Village.

6 But from my examination of people that were involved
7 with it, it was constructed to augment it for fire flows and
8 peak domestic demand periods.

9 Q Other than the augmented water flow to Wesleyan
10 Village, which is within the five-mile jurisdictional area or
11 service area, is there any reason why the City hasn't serviced
12 any other areas as far as water supply systems?

13 A The best reason I can think of, to my knowledge,
14 since I have been here, is no one's asked.

15 Q Okay. Are you aware of the Countyside Estates?

16 A County?

17 Q Excuse me, Countryside Estates.

18 A No, sir.

19 Q All right. You mentioned the Arthur Young report,
20 and in the answers to interrogatories that were filed on
21 behalf of the City of Brooksville, there was a table that was
22 attached, and it was Table 2-1. And that had to do with the
23 water supply inventory, and I believe this report was prepared
24 back in 1987, is that correct?

25 A Yes, sir. That table was actually prepared by

1 Hensley Smith in the Arthur Young report.

2 Q Have there been any changes to the number of wells

3 --

4 A No.

5 Q -- as reflected in this report?

6 A No, sir, same wells still in place.

7 Q All right. If I understand the report, the Lamar
8 well at the time that the report was made was out of service.

9 A Still is.

10 Q Okay.

11 A One. We have two.

12 Q Was there a problem with the quality of the water?

13 A There's no problem with the quality of water.

14 According to Hensley Smith, the integrity of the present
15 grouting and so forth seems to have been compromised, and
16 we're pumping a certain amount of turbidity or solids, sand,
17 some kind of pumice-like material that's being allowed to
18 infiltrate down through the well.

19 And because of this finding, in our bond issue that
20 was previously mentioned, we on the recommendation of the
21 engineer, which said it would take \$250,000 to correct that,
22 we did borrow the money, that's part of our bond issue that is
23 in place. We are waiting for this hydraulic analysis which
24 you contested a while ago, that's being completed. And once
25 that is completed, you see, one of the things that analysis is

1 going to tell us is, first of all, do we even need the Lamar
2 well? Second of all, did we ever need the McDonald well or
3 the Williams well out there.

4 That's one of the reasons why we have not really
5 done anything with the well as yet, because we want to make
6 sure that when we do develop wells, that we want to put them
7 at strategically located as possible to get the best hydraulic
8 efficiency from their locations.

9 So we expect this study to be finally completed
10 within the next 30 to 60 days, and after that, we'll either
11 upgrade the Lamar well and put that other well back in service
12 -- it's one million gallons per day approximately -- or we
13 might go and dig another one.

14 Q Okay. The Lamar well, as far as its location, has
15 the ability to service the subject area?

16 A City system is a completely integrated system, so
17 let me qualify my answer preliminarily if I might. The Lamar
18 well, in conjunction with the other supply production facility
19 of the City, does have the capability.

20 Q Okay. Can you give me some idea from a distance
21 standpoint how far the Lamar wells are located from the
22 subject area?

23 A That would be very difficult. I'm trying to use a
24 little spacial conception here. I would say with three to
25 four miles of the edge of the subject area, disputed area

1 here, or less maybe.

2 Q The Damac well, which is reflected in this report,
3 was that operational in 1987?

4 A The Damac well in 1987, we have a CUP, it was not
5 operational. It was functional, one of the best functional
6 wells we've got, but it was not in operation because we did
7 not have a DER permit for it.

8 Q Why didn't you have a DER permit on that well?

9 A Well, the best I can determine from my research is
10 that when they transferred over from the old Health and
11 Rehabilitative Services responsibility to maintain such
12 facilities and monitoring them through the current Department
13 of Environmental Regulation, sanitary surveys were taken. And
14 somehow this well was left off of any sanitary survey and did
15 not get identified.

16 And another reason why nobody really concerned
17 themselves with it is that at that particular time, when the
18 City acquired the Damac system, I was told, they had plenty of
19 water supply and didn't worry about it at that time. Of
20 course, now with growth and so forth, I have been trying to
21 activate that well, and we're in the process of drawdown tests
22 and everything right now.

23 We have been involved in the permitting process for
24 that well with Coastal Engineering for several months. And we
25 feel that permitting is eminent to activate that well again.

1 Although I do have 150,000 in that same bond issue should I
2 need to spend it on that well, but I don't think I'm going to
3 have to.

4 Q All right. As the director of utilities, with
5 regard to the subject area, do you consider that a population
6 growth area?

7 A I consider certain corridors of that, I would say
8 definitely high potential growth area, eminent.

9 Q What do you mean by that?

10 A When I say eminent, I say we're not talking 20 years
11 from now.

12 Q Five years?

13 A Possibly in the next five years along the main
14 traffic corridors, such as State Road 50.

15 Q All right. In the subject area, if I was able to
16 appreciate the map, there are -- there is an existing line in
17 Wesleyan Village.

18 A Yes, sir.

19 Q Okay. Are there any other existing lines that are
20 currently being operated by the City within the subject area?

21 A No, sir. Let me say, without cross examining, we
22 have a line to the north -- the furtherest northeast line that
23 we have goes to our Croom Road wastewater treatment plant
24 which is just contiguous to the Cloverleaf Subdivision up
25 there. That's the only one that's in place right ow, and it's

1 out there at the property boundary on Croom Road.

2 Q All right. I realize that you're a City
3 representative and you may not be knowledgeable about the
4 County's plans, but I'm curious. In their answers to
5 interrogatories to the Public Service Commission, they
6 indicate that they are prepared to go on line with an East
7 Hernando Well Field by 1991.

8 Do you know where that's located, that well field?

9 A No, sir.

10 Q Okay. Have you ever had any discussions with anyone
11 from the County regarding that?

12 A East Hernando Well Field. Let me say this so I
13 don't fell evasive. I used to be the director of utilities
14 for Hernando County before I came with the City. And
15 certainly, I am somewhat familiar with the long-range plans of
16 the County as they existed a little over four years ago. But
17 I just want to say that for the record.

18 Past history of Hernando County, yes, I do have
19 knowledge of. Recent plans, I cannot speak to.

20 Q You're not aware of any plans by the County to
21 construct a well field known as the East Hernando Well Field?

22 A I have heard of it; I'm not familiar with it. I
23 have heard of it.

24 Q Is that located east of I-75 or west of I-75?

25 A I have no idea.

1 Q Okay. In the bond that you have been discussing,
2 how much has been allocated for the development of the ability
3 to serve the subject area?

4 A In the structuring of the bond issue, the entire
5 five-mile area was taken into consideration because the future
6 population to the year 2008 were considered. But in
7 structuring the issue, what we had to determine was, certainly
8 we could not afford at this point in time the debt service to
9 completely accommodate the future population to the year 2008.

10 But what we did structure, we know we can afford, is
11 to put that infrastructure in place that would take care of
12 what I referred to a while ago as eminent growth, growth we
13 know to be on the drawing board that's going to occur within
14 the next 24 to 36 months. And then once that infrastructure
15 is in place, then ordinary impact fees, connection fees, and
16 general gross revenues will provide the funding for continued
17 expansion without additional debt service.

18 And that's the way we structured our debt service,
19 so we wouldn't have to keep reborrowing, you see.

20 Q I'm not trying to belabor this point, but I'm
21 curious. Is it your understanding that the majority of that
22 bond, the monies generated by that bond will be used for
23 services on the west side of the City of Brooksville within
24 the service area, the five-mile service area?

25 A No, sir, that's the reason why we wanted to show

1 that map that you objected to a while ago. It shows why it
2 was not -- this would have explained the way our bond issue is
3 structured. Like I said before we took that map down, this is
4 the nucleus, and the way it's designed, it will matter not
5 where growth does occur. Because the problem is sewer
6 service, not necessarily water. The big problem is sewer,
7 collecting it, and getting rid of it because nobody wants it.

8 So that's the reason why we formed a grid around the
9 outer parameters of the City so whether growth occurred in the
10 east, west, north, south, it doesn't make any difference. We
11 would have the infrastructure in place to cover it. Because
12 historically the constraining factor was sewer, not water.

13 Q Does the City have any plans to acquire any wells
14 within the subject area?

15 A With this hydraulic analysis is completed, then we'll
16 know. I told somebody that several months ago, but I forget
17 who.

18 MR. PINGEL: I don't have any further questions.

19 Thank you.

20 HEARING OFFICER: Mr. Schwartz?

21 CROSS EXAMINATION

22 BY MR. SCHWARTZ:

23 Q Mr. Arbuckle, do you know approximately how many
24 customers the City serves within the proposed service
25 territory of Conrock?

1 A Right now, a little over 200. That's at Wesleyan
2 Village. We serve them through a master meter.

3 Q I'm not sure -- maybe you have another map on this
4 point -- but can you possibly show me on this map where these
5 various wells are you were talking about?

6 A Which wells?

7 Q Wells that are either current -- well, first of all,
8 currently operational wells in the City that are in this
9 particular proposed --

10 A All of our -- we have no wells in the proposed
11 service area. Our wells are located predominantly, with the
12 exception of one, inside the City limits -- well, two, Damac,
13 all right -- and the Oak Hill well are outside the City
14 limits.

15 Q Okay. Could you possibly point out where the
16 closest water main is to the proposed area?

17 A Well, the closest water main to the service area is
18 actually the one going up Jasmine Road here, this is Jasmine,
19 going through Wesleyan Village, regardless of its adequacy or
20 not. And we have another one -- I'm not familiar with this
21 map here, if you'll give me a moment here. We have another
22 one in this general area of our Croom Road plant, as I said,
23 coming off of U. S. 41, that goes down Croom Road to our Croom
24 Road plant.

25 Those are our most easterly mains that we have with

1 the exception of one coming up the truck by-pass and going up
2 a railroad right-of-way. That was recently installed as well.
3 But the most easterly one, I'd say, is the one going to
4 Wesleyan Village.

5 Q With respect to this five-mile statutory service
6 area around the City, where is most of the growth, would you
7 say? Is it more to the east, west, north, south? In that
8 statutory service area, what is the largest growth area right
9 now?

10 A I would say, based on information that's been
11 supplied to me -- and here again, this is not something
12 Charlie Arbuckle come up with -- we have a lot of growth both
13 to the south of the City along the truck by-pass and out
14 towards the east. I personally have had some developers,
15 property owners in that area that have plans or are waiting
16 for the sewer capacity, that can't just have water, they need
17 sewer.

18 And we have a lot down the 41 corridor, we have a
19 lot out State Road 50 east. As to any interest in this
20 specific area, the only interest that's been shown to me so
21 far is TBP Properties. That's the largest subdivision --
22 well, they have approached me on service. And here again,
23 sewer is the problem.

24 Q In your common understanding of the term, would you
25 consider that growth along highway corridors is urban sprawl?

1 A Growth along highway corridors urban sprawl? Not
2 necessarily. It could be interpreted as such, yes, in some
3 cases, but not as a generic statement, I won't say that.

4 Q Why wouldn't it be?

5 A Well, simply because urban sprawl -- and here again,
6 I'm not a planning person. Mr. Geiger was defining urban
7 sprawl. Urban sprawl, from my interpretation and perspective,
8 is really what's caused pollution, inadequate services to
9 various outlying isolated locations, is because of urban
10 sprawl.

11 Because growth was not controlled systematically,
12 you had pockets here and you had pockets there, but the main
13 arteries getting to these pockets and so forth didn't exist.
14 The pockets looked real good, but there's no services in
15 between to support these little pockets of growth.

16 And that's what you try to prevent. Now you say
17 along the main corridor -- I want to qualify that. Yeah, if
18 it grows gradually. But if you start growing down here at the
19 tail end of it, yeah, that's urban sprawl, you know.

20 Q Okay. Can you explain to me how you interpret and
21 what your understanding is, as director of utilities for the
22 City, what the statutory service area, I believe it is? What
23 does that mean to you?

24 A Well, basically I have to take most written
25 literature at face value. I stay out of trouble that way most

1 of the time. And when it says five-mile radius from the
2 corporate boundaries -- and it didn't say from any particular
3 corporate boundary. That could be anyplace there's a
4 corporate boundary, any point in a five-mile radius -- and
5 normally a radius denotes a circle, okay? Take a compass,
6 scale it out, make a circle, that's the senior boundaries
7 you've already got. Whatever else in that circle's yours.

8 Q What do you mean you already have?

9 A I mean when you draw a circle from your corporate
10 boundary, part of that circle is going to be within your
11 boundary, is what I'm trying to say.

12 Q What do you understand it to be? What right of the
13 City is there within this service area?

14 A If you took a string five miles long, put it next to
15 the corporate boundary --

16 Q I'm not concerned about the geography of it. What
17 rights do you have within that area? What does that mean to
18 you when you say, we have the statutory service area? What
19 can you do within it? Is it an exclusive right? What is it?
20 I just don't understand that.

21 A To provide any of those municipal services defined
22 in Chapter 180. I don't have them memorized. But municipal
23 projects, to provide for the health, safety, and welfare of
24 citizens and the community.

25 Q And, so a private utility would not have that right

1 to go in there?

2 A I don't know. I know cities do.

3 Q Okay. Do you know of any plans that the City has to
4 annex this five-mile area into this service area?

5 A The counsel policy, present policy of the City
6 Counsel is that anyone wanting sewer service would have to be
7 annexable. But that is because historically we had limited
8 capacity. But here again, as a result of the bond issue,
9 we're remedying that situation very rapidly where we will have
10 sufficient sewer capacity.

11 But certainly it is my intention -- whether or not
12 the counsel will adopt it or not -- but I'm going to recommend
13 that the policies be instituted that they'll either be
14 annexable or the City will be appointed attorney in fact until
15 the property does become annexable.

16 That way you can control your growth and prevent
17 enclaves.

18 Q Do you have any reason to believe that any of the
19 customers that you have within this proposed service territory
20 of Conrock -- and I guess, as you said, it's basically
21 Wesleyan, is that it?

22 A Wesleyan Village, yes, sir.

23 Q Do you have any reason to believe they're not
24 receiving adequate service?

25 A I don't have any reason to believe they're not

1 receiving -- when you say adequate service, what type of
2 adequate service?

3 Q Water service.

4 A Domestic?

5 Q Any water service.

6 A I have no reason to believe they're not receiving
7 adequate domestic potable water service.

8 Q What other services are there?

9 A Well, there's fire flow services.

10 Q Fire flow services, and you said that that's being
11 taken care of?

12 A We're addressing that in our hydraulic analysis.

13 Q Okay.

14 A You're talking about today at the present time?

15 Q Sure. What does the interlocal agreement say --
16 maybe I missed this -- but what does the interlocal agreement
17 say as to the City's rights to serve within this territory,
18 within either the five miles --

19 A Basically the interlocal agreement, the County and
20 the City agreed the City shall serve within a five-mile radius
21 of their corporate boundaries, and that the City will
22 institute those plans necessary to provide adequate service,
23 et cetera. The normal whereas's.

24 Q And Dogwood Estates, that is within the statutory
25 service area, isn't it?

1 A Oh, yes, sir.

2 Q And what would the plan then be, the County would
3 still continue to provide service there?

4 A I have no idea.

5 Q I guess that's something the County may be able to
6 speak to. Would there be any financial hardship, to your
7 knowledge, of -- I'm not speaking of the bonding, the bonds
8 that you have already floated -- would there be any hardship
9 to the City now if Conrock were to take this area that's
10 within your statutory service area?

11 What problems does that present, the bonding?

12 A I can answer that, and I think I can qualify it
13 based on our existing budget we just developed. And I can
14 answer that, yes, there would be a hardship, a potential
15 hardship.

16 Q How would that happen?

17 A Primarily because we borrowed x number of dollars to
18 accommodate eminent and long-term growth, all right? And we
19 have been spending some of those dollars, but so far we
20 haven't got any new connections. If we don't get any new
21 connections, I have \$30,000 contingency in my budget for next
22 year. 30,000 is not much contingency in a \$2.4 million
23 budget.

24 Q So it's actually the revenues from those new
25 connections that would pay off the bonds?

1 A Revenues and reimbursement to liquidate that debt
2 service from connection fees or impact fees, if you will, from
3 those new connections so that we might eliminate them.

4 MR. SCHWARTZ: Okay. I don't believe I have any
5 further questions. Thank you, Mr. Arbuckle.

6 HEARING OFFICER: Anything else? You can step down.

7 MR. HYSLOP: I'd like to call Mr. --

8 MR. EPPLEY: I rest, Your Honor.

9 HEARING OFFICER: County may proceed.

10 MR. HYSLOP: The County would like to call Mr.
11 Holbach.

12 THEREUPON,

13 ROBERT ALAN HOLBACH,

14 having been duly sworn and called as a witness on behalf of
15 the County of Hernando, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. HYSLOP:

18 Q Please state your name and position.

19 A My name is Robert Alan Holbach. I'm engineer and
20 coordinator for Hernando County Utilities Department.

21 Q Hernando County Utilities Department, is that an
22 instrumentality of Hernando County or the Hernando County
23 Water and Sewer District or both?

24 A It's an instrumentality of both.

25 Q Are you familiar with the operation of the water

1 system of the Hernando County Water and Sewer District?

2 A Yes, sir, I am.

3 Q How long have you been in this position you're in
4 now, and tell me a little bit about how you're familiar with
5 that operation.

6 A I joined the utilities department March 19th, 1986
7 in the capacity of engineer coordinator. As part of my duties
8 are to coordinate engineering work within the district. I
9 also have responsibilities for directing the water and
10 wastewater operation.

11 Q Okay. Could you give me a little of your educational
12 background?

13 A I have a Bachelor's degree in business
14 administration. I'm a certified Class A water and wastewater
15 operator in the State in Maryland.

16 Q And how many years' experience have you had in the
17 water field?

18 A I have been in water operations and certified in
19 water since 1972.

20 Q Prior to coming to work for Hernando County, did you
21 have a position elsewhere that dealt with water service
22 supply?

23 A Yes, sir, I was regional supervisor for water and
24 wastewater operations for Maryland Environmental Service, an
25 agency of the Department of Natural Resources for the State of

1 Maryland for 13 years.

2 Q Okay. Have you familiarized yourself with the
3 feasibility study prepared on behalf of Conrock, Incorporated
4 that's been filed in this action?

5 A I have read it.

6 Q And are you familiar with the water services
7 existing and proposed in the territory which Conrock has made
8 application for?

9 A I am familiar with the County's water systems, the
10 City's water systems. There are some privates I'm not aware
11 of.

12 Q Okay. Let's deal with the County's water systems in
13 the area. Could you briefly -- we have had testimony here
14 today as to water, I believe, furnished by the County at the
15 Hill n' Dale subdivision, the Lakeside Acres subdivision, and
16 the Dogwood Estates.

17 Are you aware of any other areas the County provides
18 service to?

19 A We also provide water service to the Holiday Inn,
20 which is in the southeast corner of the service area.

21 Q Is that here in this area?

22 A Yes, sir.

23 Q All right. There was a mention of a Budget Inn by
24 Mr. Green when he was testifying. Are you familiar with their
25 proposed development?

1 A Yes, sir. They came in and requested service two
2 years ago, I believe, and they're adjacent to the Holiday Inn,
3 just to the west of it.

4 Q And would the Hernando County Water District be able
5 to provide service to that development should they come in and
6 ask for service?

7 A We indicated at the time we could provide water
8 service. We could not provide wastewater service. It was not
9 available.

10 Q Okay. The area that is outlined in blue, the
11 proposed service area we're discussing today, is there any
12 reason that you know of why there are not more water systems
13 in the area?

14 A Primarily just sparsely developed. Most of the
15 areas other than the areas shown as subdivisions are either
16 agricultural or rural agriculture, and it's just not
17 economically feasible for a central water system.

18 Q Okay. There's been some discussion here as to the
19 County's long-term five-year plan to develop an eastern
20 Hernando well field. Are you familiar with that?

21 A Yes, sir, I am.

22 Q Could you expand upon that just slightly for the --

23 A Yes, sir. In 1986, the County, the Water and Sewer
24 District, commissioned Coastal Engineering to do a water, both
25 an east and west well field study for us to identify needed

1 well fields in the east side of the County and on the west
2 side of the County.

3 Two areas of recommended by Coastal Engineering to
4 service the east side of the County were along the I-75
5 corridor west of I-75 and south of State Road 50.

6 Q Would that be somewhere in this general vicinity?

7 A Yes, sir. It was from one mile to two miles south
8 of 50.

9 Q Okay. And do you know if the Hernando County Water
10 and Sewer District board has taken formal action on adopting
11 that five-year plan?

12 A Yes, sir, they have adopted it. The department is
13 presently developing a proposal and scope of work to go out
14 for competitive bids to engage a consultant for the design of
15 the well field. It was originally scheduled earlier but was
16 postponed while we were citing a landfill. We didn't want it
17 to be in conflict with the new well field.

18 Q Okay. There's been mention made here of a five-
19 mile service area with the City of Brooksville, an interlocal
20 agreement, and issues relating to that. Are you familiar with
21 that service area and the agreement?

22 A Yes, sir.

23 Q Do you deal with the providing of service to
24 developments through review procedures with the County and on
25 behalf of the water and sewer district?

1 A Yes, sir.

2 Q Could you tell me just shortly how that five-mile
3 service area agreement in actuality works?

4 MR. PINGEL: Your Honor, I'm going to object.

5 The agreement has been introduced into evidence, and
6 it speaks for itself. And to have him interpret the
7 agreement, I think, is improper. They have had the
8 opportunity to introduce it for your review, and that
9 should be sufficient.

10 MR. HYSLOP: I didn't ask him to interpret what
11 the wording of the agreement was. I asked him in his
12 capacity and through the development process he knows how
13 the agreement actually works. I think that -- what the
14 agreement says, it's clear from its face. How it works
15 on a day-to-day basis is something that is within Mr.
16 Holbach's knowledge.

17 HEARING OFFICER: All right. He can answer that.

18 A Generally when a developer comes in to request
19 service within the five-mile service area, we refer them to
20 the City of Brooksville. If the City of Brooksville cannot
21 provide service and we can, we will provide service.

22 Q Okay. And then a portion of this area is within
23 that five-mile service area, correct?

24 A The majority of it is.

25 Q Do you review or someone under your direction review

1 proposed subdivisions in the County?

2 A Yes, sir.

3 Q Is that something you have hands-on dealings with?

4 A It can be jointly, depending on the subdivision, the
5 size. Whether I would actually be the one or not -- the
6 bigger ones I usually participate in.

7 Q Okay. I'd like to point out to you Section 2672 of
8 the Hernando County Code entitled Water Supply and
9 Distribution System, and ask that you read the first sentence
10 of that.

11 A It states that a central water supply distribution
12 system shall be provided when required by appropriate State
13 and federal regulations as interpreted by the County
14 sanitariums and pollution control director.

15 Q Okay. The chapter that this deals with is entitled
16 what?

17 A Subdivisions Regulations, Chapter 26.

18 Q Okay. Now in your day-to-day operations, when people
19 come in to present subdivisions to the County, do you, in
20 fact, look to see through the County sanitarium and through
21 the County Water and Sewer District staffs whether or not a
22 central water supply and distribution system will be required?

23 A We would look at that in part of the participating
24 on the development review committee with the County. We don't
25 have statutory authority as a regulator, but we would look

1 based on thresholds of service and also at what the
2 developer's requesting.

3 Q Okay. I'd like for you to also read from Section
4 2674, the entire section designated A, down to where it starts
5 State of Florida.

6 A In those instances where a centralized water supply
7 and distribution system and/or a central sewage collection and
8 treatment system are required to be provided, such water
9 and/or sewer facility shall be dedicated to the County so the
10 County will become the owner of said system upon the request
11 of the County of such facilities to be committed to it. The
12 dedication of the water and/or sewer facility shall be made
13 either by the inclusion on the base of the record plat or the
14 dedication substantially in the following --

15 Q Then it goes into the form. So in your experience
16 with the County, has the County on subdivisions, when it's
17 been deemed that a central water supply and distribution
18 system is necessary, followed through and required that the
19 system be dedicated to the County?

20 A Yes, sir, in our service areas.

21 Q Okay. I'd like you to read one more thing. Section
22 2877 of the Hernando County Code under utilities, and I'd like
23 you to read the sentence I have marked here.

24 A The district hereby created and established shall
25 embrace all of the unincorporated areas of the County.

1 Q And the district they're referring to is what
2 district?

3 A The Hernando County Water and Sewer District.

4 Q Okay. You have let us know that the Hernando County
5 Water and Sewer District incorporates all the unincorporated
6 areas of the County through subdivision procedures. If it's
7 required, then requires all the dedication of all lines and
8 facilities to the County. And you're involved in the planning
9 process for the County. Is that accurate, for water utility
10 services?

11 A Yes, I am involved with the utilities.

12 Q Okay. And in the area outlined in blue, should a
13 proposed subdivision come in and request service, how would
14 that request be handled?

15 A We would look at what facilities we had in the area,
16 what the demand would be as specified by the developer's
17 engineer, and approach it from that point of whether we should
18 extend service or if it would be necessary to put in new wells
19 for water or the like.

20 Q Okay. And do you know what the policy of the
21 Hernando County Water and Sewer District and Hernando County
22 are as to whether or not the County and/or the district
23 desires and is trying to provide service to everybody in the
24 unincorporated area?

25 A The policy of the district since I have been here is

1 for the County to provide the service.

2 Q In the area outlined in blue, you mentioned the
3 Budget Inn at one time came and requested service. Can you
4 think of any other, either individuals or developers of large
5 or small tracts, that have come and requested water service
6 from the County or the Water and Sewer District?

7 A Not in that area. That request would have been
8 immediately south of State Road 50.

9 Q If the application were ruled favorably upon and a
10 certificate were granted to Conrock to service this area,
11 would -- the entire area outlined in blue -- would that
12 service be a duplication of our system or a portion of the
13 system of Hernando County or the Hernando County Water and
14 Sewer District?

15 A Only theoretically if lines were extended throughout
16 the area. That's -- duplication only takes place once
17 constructed. The lines that they proposed initially would
18 not.

19 Q But if they eventually extended lines to service the
20 entire area outlined in blue, would that entail some
21 duplication of County lines?

22 MR. PINGEL: Your Honor, I object. This is calling
23 for sheer speculation on his part, and a proper predicate
24 hasn't been laid for him to even render an opinion in
25 regard to what may occur in the future.

1 MR. HYSLOP: I believe that the application is to
2 serve the entire area outlined in blue by the applicant,
3 and whether Mr. Holbach in his position knows where the
4 County lines are, I think he'd be able to testify as to
5 whether or not if the service was made throughout the
6 territory, which the applicant says he wants to serve the
7 whole thing, whether or not that would duplicate any of
8 our system.

9 I think it's an appropriate question, and he's the
10 knowledgeable person that could answer that.

11 HEARING OFFICER: Let's see if he knows where the
12 lines are. It sounds like he's just concluding the
13 legal issue of duplication.

14 MR. HYSLOP: Okay.

15 HEARING OFFICER: He's a fact witness.

16 Q (By Mr. Hyslop) Could you tell me where, in fact,
17 the Hernando County Water and Sewer District has water lines
18 inside the blue --

19 A We serve Dogwood Estates, Lakeside Acres, Hill n'
20 Dale, and also the Holiday Inn. We have Braewood immediately
21 south of the service area, and Cedar Lane to the south of the
22 service area.

23 Q And lines are actually in place in these areas you
24 have just mentioned?

25 A They're provided in those specific subdivisions.

1 Q And services is provided through those lines to
2 those subdivisions by the Water and Sewer District?

3 A Yes, sir.

4 Q And should Conrock put lines throughout the area
5 that they have requested permission for, would lines they
6 placed, if they placed them everywhere, duplicate the lines
7 you just talked about?

8 MR. PINGEL: Again, same objection, Your Honor.
9 It's calling for speculation on his part.

10 HEARING OFFICER: Overruled.

11 A That is possible.

12 MR. PINGEL: Your Honor, I'm gong to move to strike
13 that response as not being relevant to the issues we're
14 talking about. Anything is possible. And I think the
15 standard that we should discuss today is whether or not
16 it's probable.

17 HEARING OFFICER: I don't know that that's proper or
18 strikable. It seems like it goes to enhance with very
19 little weight.

20 MR. PINGEL: I'll accept that.

21 Q (By Mr. Hyslop) Does Hernando County Water and
22 Sewer District provide sewer service?

23 A Yes, sir.

24 Q Would Hernando County Water and Sewer District --
25 let me ask it a different way. Does the Hernando County Water

1 and Sewer District normally provide sewer to people who get
2 water from other sources?

3 A I'm unaware that we service anywhere we don't
4 already service the water.

5 Q Do you believe, or to your knowledge, is the
6 Hernando County Water and Sewer District in Hernando County
7 adequately funding the operation of their water distribution
8 system?

9 A Yes, sir.

10 Q Okay. And have there been any shortfalls of money,
11 any suggestions of bankruptcy, anything, any problems on those
12 lines from the --

13 A Not that I'm aware of, sir.

14 MR. HYSLOP: I have no further questions.

15 CROSS EXAMINATION

16 BY MR. PINGEL:

17 Q Mr. Holbach, I assume you're familiar with the
18 intergovernmental or interlocal agreement.

19 A Is that a question?

20 Q Yes.

21 A Yes, sir.

22 Q You have spent some time reading portions of
23 ordinances to Mr. Ruff. Will you agree with me that the
24 interaction between the interlocal agreement and ordinances
25 that you read to Mr. Ruff create a situation of dual service?

1 A No, I don't see that. I think the County
2 participates with the City on a cooperative arrangement to see
3 that services are provided. We're not in that competitive
4 posture.

5 Q All right. Within the five-mile limit the City has
6 priority as to whether or not they're going to service that
7 area?

8 A Yes, sir, we look to them for first right of
9 refusal.

10 Q Okay. And at this point within the, within that
11 five-mile service area, the County services two subdivisions,
12 is that correct?

13 A Three, sir -- or, two, yes. One is just outside of
14 it.

15 Q Do you foresee any duplication of services if the
16 area continues to grow and the City decides that they want to
17 go ahead and service that entire area, the five-mile service
18 area?

19 A Obviously if the City wanted to extend into it, they
20 would have the right to. It certainly wouldn't be cost-
21 effective.

22 Q That's not my question. My question is, would you
23 foresee any duplication of services if the City decided to go
24 ahead in the future and provide service within that five-mile
25 statutory area?

1 A Yes, it's possible.

2 Q Do you think it's likely?

3 A No, sir.

4 Q Do you think it's likely that Conrock Utility is
5 going to create a situation of duplication of services in the
6 same area?

7 A Not without customers, no, sir.

8 Q I'm talking about in the future.

9 A No, sir.

10 Q If there's growth in that area.

11 A I would suspect not if they have the franchised
12 area, we would function the same way.

13 Q Okay. So in your mind, as I think you said you
14 were, what, utilities engineer?

15 A Engineering coordinator.

16 Q I'm sorry, engineering coordinator. Within the
17 five-mile service area which is outside the City limits,
18 there's really not an issue as far as duplication of services
19 whether it's provided by the City or whether it's provided by
20 Conrock Utilities?

21 A Services are not being duplicated at this point in
22 time.

23 Q No, that's not my question.

24 A Well, then I misunderstood it.

25 Q My question is, would you foresee a problem in the

1 future? And I believe you have indicated that you don't think
2 it's likely. And, so my question to you is, obviously you
3 don't consider that an issue, is that correct?

4 A What as an issue?

5 Q Duplication of service.

6 A By the City, by the County, by Conrock?

7 Q Whoever. Whoever may have the franchise in the area
8 or elect to provide service in that area.

9 A I would doubt it.

10 Q Okay. Let me show you what I'll identify as
11 Respondent's Exhibit Number 8, and ask you if you have ever
12 seen this document.

13 A Yes, sir.

14 (Whereupon, Respondent's Exhibit Number 8 was marked
15 for identification.)

16 Q (By Mr. Pingel) Could you identify this document,
17 please?

18 A It's a drawing in support of interrogatory number
19 four.

20 Q Okay. Who prepared this drawing?

21 A I did, sir.

22 Q Okay. What does this drawing reflect?

23 A It was an attempt to show the service areas and
24 where the County and the City had present service.

25 Q All right. If you will, on this document that you

1 prepared, show where the East Hernando Well Field will be
2 located if it appears at any point on this document.

3 A Here is one site, and there's another one just south
4 of that, are the two site that are proposed by Coastal.

5 Q Okay. The one site that you have drawn, how far is
6 that from the subject area?

7 A It's roughly a mile south of it.

8 Q And that borders I-75, is that correct?

9 A It's over along the I-75 corridor.

10 Q All right. And the other well field that is being
11 proposed by Coastal, where is that in location?

12 A It's roughly half a mile south of the subject area.

13 Q Why don't you go ahead and write proposed well field
14 on there? I just want to clarify one thing. You have a
15 legend and in bold stripes, you have represented the
16 subdivisions that are serviced within the subject area by the
17 County, is that correct?

18 A Yes, sir.

19 Q You mentioned that the County services the Holiday
20 Inn which is on the eastern part of the subject area, and yet
21 there's no indication by bold striping that it's serviced by
22 the County.

23 A Obviously I missed that. It was drawn in, and I
24 wrote Holiday Inn next to it.

25 MR. PINGEL: Your Honor, I move to introduce this

1 into evidence as Respondent's Exhibit Number 8.

2 MR. HYSLOP: No objection.

3 HEARING OFFICER: Intervenor have any objection?

4 MR. SCHWARTZ: No, sir.

5 HEARING OFFICER: Respondent's 8 is admitted.

6 (Whereupon, Respondent's Exhibit Number 8 was
7 received into evidence.)

8 Q (By Mr. Pingel) Are you familiar with Spring Hill
9 Utilities?

10 A Yes, sir.

11 Q Where is that located in the County?

12 A It's in the southwest quadrant of the County.

13 Q Does that utility have the capability to serve a
14 potential 70,000 units?

15 A Yes, sir.

16 Q Okay. Does the County operate that utility?

17 A No, sir, it's a private utility owned by Deltona
18 Corporation.

19 Q Was that utility made available for purchase by the
20 County?

21 A Not since I have been here.

22 Q You have been here for a period of, what, three
23 years?

24 A A little over three, yes.

25 Q Okay. In the County's comprehensive plans, is there

1 any mention whatsoever about the development of water services
2 in the subject area?

3 A I don't know. I'm not familiar with that without
4 reading it again.

5 Q Are you aware of any mention in any County
6 resolutions, ordinances, comprehensive plans to develop a
7 water system in the subject area?

8 A The County has a potable water subelement in the
9 comp plan. Basically what the district has done for providing
10 water supply is on an as-needed basis when development is
11 ready to occur. We don't go out and put lines and wait for
12 growth to happen.

13 Q Does the term inverse condemnation mean anything to
14 you?

15 A You read a number of ordinances to Mr. Ruff, and
16 they deal with developers. Do those ordinances apply to a
17 situation where you have a private utility that wants to
18 provide service?

19 MR. HYSLOP: I object to the question. I think he's
20 asking Mr. Holbach to give a legal conclusion or legal
21 opinion, and I believe that's beyond his authority.

22 MR. PINGEL: Your Honor, he read these ordinances,
23 and if I understood what they said, they dealt strictly
24 with developer, developer. And my questions is whether
25 or not they apply to a private utility applicant.

1 HEARING OFFICER: His reading them doesn't mean he
2 understands the legal nature of them sufficient to render
3 an opinion. Sounds like you're asking him for a legal
4 interpretation rather than how he enforces an ordinance.
5 If you can differentiate, I'll let you get it in.

6 Q (By Mr. Pingel) All right. Do you treat a -- under
7 the ordinances, would you treat an applicant who wanted to
8 provide private water system in an area such as the subject
9 area any different than the developers in that subject area?

10 A The only experience I have had has been, we have had
11 developers, have had to put in a water system in order to
12 provide water to his development. In that case, we have
13 entered into a water and sewer agreement, and the system has
14 been deeded over to the County.

15 Q That was something that, prior to the development,
16 they were obligated to dedicate their water system to the
17 County?

18 A Yes, sir. We have never approached a private
19 utility and tried to take them over or have them deed over.
20 It's only been to a developer.

21 Q What are the ramifications, if you know, if a
22 developer refused to go along with the arrangement of
23 dedicating the water lines over to the County?

24 A I would imagine they'd have a hard time getting
25 platting since the water and sewer agreements require it.

1 MR. PINGEL: All right. I don't have any further
2 questions.

3 MR. EPPLEY: I do not have any questions.

4 HEARING OFFICER: Commission have any?

5 CROSS EXAMINATION

6 BY MR. SCHWARTZ:

7 Q Can you repeat your name for me?

8 A Yes, it's Alan Holbach.

9 Q Mr. Holbach, you mentioned you are a Class A
10 operator of a water --

11 A Certified water operator in the State of Maryland.

12 Q Can you explain to me what is required to obtain
13 that status?

14 A Education and experience in water treatment.

15 Q More specifically if you could, please.

16 A In the State of Maryland it required --

17 Q I'm concerned about the State of Florida.

18 A I'm not certified in the State of Florida.

19 Q Do you have any personal knowledge of what those
20 requirements are?

21 A They're both with experience in operating a certain
22 size facility and educational requirements and also passing a
23 written exam.

24 Q Do you know how extensive those --

25 A I have not sat for the exam in the State of Florida.

1 Q I'm not asking that. I am just asking if you have
2 personal knowledge of what kind of experience is required.

3 A No, sir, I do not.

4 Q How long did it take for you to get your license in
5 Maryland, was it? Just curious.

6 A For A certification?

7 Q Uh-huh.

8 A A certification I had been -- that was in 1977, so I
9 had been in business for seven years at that point in time,
10 around eight years.

11 Q Okay. Do you have any reason to believe that the
12 service that the County is providing within the blue line, I
13 guess Dogwood and a couple others you mentioned, is not
14 adequate water service?

15 A No, sir.

16 Q Now you were asked to point out on the map which
17 developments are currently being served by the County. Could
18 you show me what distribution lines, where those distribution
19 lines might be?

20 A The lines are all internal to the subdivisions.

21 Q Okay. Could you show me on this map within the blue
22 lines here what areas are projected to be served by this East
23 Hernando County Well Field?

24 A At the present time we show extending a distribution
25 line along State Road 50 down to Lockhart Road.

1 Q Where's Lockhart Road, if you could show me?

2 A I'm sorry, it would be past Lockhart Road. It would
3 be down to the Hill n' Dale subdivision, and then shortly
4 thereafter, we would want to extend over to Lakeside, so that
5 would be interconnected.

6 Q Lakeside up here?

7 A Yes, sir.

8 Q Is this still 50, this is all 50 up here?

9 A 50 angles up.

10 Q So this is 50 up here, so it would be from here up
11 to here. Okay. Do you know how far along in this design or
12 construction phase the East Hernando County Well Fields are at
13 this point?

14 A We're preparing the specifications to go out for a
15 selection of an engineer at the present time.

16 Q Is there presently a need for service right out
17 here?

18 A There had been requests for commercial development
19 south of State Road 50 in that area you were just pointing at.
20 They have requested both water and sewer service.

21 Q They have requested the County's service?

22 A Yes, sir, we have talked to various developers.

23 Q Okay. I know you were just asked a question on this
24 before, but I'm not sure I understood your answer. Is the
25 requirement for dedication of, is it facilities, is it just

1 distribution lines? Is it for facilities themselves, water
2 facilities? What's required to be donated?

3 A Basically it's to place the water and sewer lines
4 and supply facilities, treatment facilities.

5 Q So it's donation of the, dedication of the entire
6 system?

7 A If it's developer constructed, yes.

8 Q If it's developer constructed, okay. I have some
9 questions as to the comprehensive plan. I have a feeling you
10 said you are not really that knowledgeable about --

11 HEARING OFFICER: Let's keep it to the scope of
12 direct.

13 Q (By Mr. Schwartz) Okay. How would the Conrock
14 being granted the certificate to serve within this area affect
15 your financial ability to pay off your bonds and so forth?
16 What kind of hardship, if any, would that impose on you?

17 A Under present time, none.

18 MR. SCHWARTZ: I don't have any further questions.

19 HEARING OFFICER: Redirect?

20 MR. HYSLOP: I have a couple of things.

21 REDIRECT EXAMINATION

22 BY MR. HYSLOP:

23 Q The request for service that you spoke about just a
24 moment ago south of State Road 50, that would be outside the
25 proposed service area, is that correct?

1 A Yes, sir.

2 Q And you had some discussions with, about the Spring
3 Hill Utility system and dedication of lines and so forth. Are
4 you familiar with what the County calls tri-party agreement?

5 A Yes, sir.

6 Q Could you briefly explain if a development goes in
7 and they're serviced by the Spring Hill water system, what
8 does the tri-party agreement accomplish for the water/sewer
9 district and/or the County?

10 A Under the tri-party arrangement where Spring Hill
11 Utilities was to provide water and wastewater service outside
12 of their certificated areas, the agreement would put the
13 facilities in County ownership and give the County the right
14 at that point in time. If they could provide the service,
15 they could take them back over.

16 Q So in these tri-party agreements that Deltona or the
17 Spring Hill Utility Company enters into with the County for
18 water service and for sewer service incidentally, the lines at
19 such time as the County might acquire the system would then
20 have no value if such an acquisition to the Spring Hill
21 Utilities, is that correct?

22 A That is correct.

23 MR. HYSLOP: No further questions.

24 HEARING OFFICER: You may step down.

25 MR. HYSLOP: I have no other witnesses.

1 HEARING OFFICER: County rests.

2 MR. SCHWARTZ: Mr. Hearing Officer, I'd like to
3 at this time move all of our Intervenor's exhibits into
4 evidence if they have not been done so at this point.

5 HEARING OFFICER: Any objection to any of those?
6 They're admitted. Intervenor have any witnesses?

7 MR. SCHWARTZ: No witnesses, sir.

8 HEARING OFFICER: All right. I presume the
9 Commission is going to have this transcribed? All right.
10 You've got a right to file proposed findings of fact and
11 conclusions of law in the form of a proposed order, and
12 I usually start that time running from the date the
13 transcript is filed. If you want the benefit of the
14 transcript in preparing them, that way you would have it.

15 How many days do you need to prepare those? Your
16 time doesn't run until the transcript is filed.

17 MR. SCHWARTZ: 15 days.

18 HEARING OFFICER: Is that agreeable with everybody,
19 15 days?

20 MR. PINGEL: 15 days after the transcript is filed?

21 HEARING OFFICER: Correct, according to the civil
22 rules. Is that all right with everybody?

23 MR. PINGEL: That's fine.

24 MR. HYSLOP: Proposed orders from everybody or just
25 the Public Service Commission?

1 HEARING OFFICER: It's a right everybody's got.
2 I've. You've got a position you want to advance in this
3 proceeding, you have a right to file those. The only
4 thing I ask is you keep your proposed findings of fact
5 separate from your discussion and conclusions of law and
6 citation of authority and so forth. The Bal Harbour
7 Beach Club case requires me to make a specific ruling
8 on each finding of fact, even though I treat the subject
9 matter of it in my recommended order anyway.

10 Deplorable opinion, but we've got to live with it.
11 So is there any question about those pleadings before we
12 close out?

13 MR. HYSLOP: One question on the brief. You want
14 us to do it on the newspaper circulation?

15 HEARING OFFICER: You can include that in your
16 discussion and conclusion of law, if you like, all on the
17 same document.

18 MR. HYSLOP: Is it appropriate to include an
19 affidavit with that from the newspaper?

20 HEARING OFFICER: Well, the affidavits aren't
21 evidence unless it's stipulated. This is the time to
22 put on evidence here today. So I would say no, unless
23 the parties reach some post-hearing agreement about
24 submission of a late exhibit or something.

25 All right. Anything else? Hearing is adjourned.

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Thank you.

(Whereupon, the hearing was concluded at 7:30 p.m.)

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STATE OF FLORIDA
COUNTY OF HERNANDO

I, HOLLY L. KIRCHMAN, Notary Public, State of Florida at Large; Deputy Official Court Reporter, Fifth Judicial Circuit,

DO HEREBY CERTIFY that proceedings were had in the captioned matter at the time and place set forth herein; that I was authorized to and did report stenographically said proceedings; and that the foregoing pages, numbered 1 through 213, inclusive, constitute a true and correct transcript of said proceedings as had.

WITNESS MY HAND AND OFFICIAL SEAL this 2nd day of October, 1989, at Spring Hill, Hernando County, Florida.

My Commission Expires:
September 27, 1992

Holly L. Kirchman
HOLLY L. KIRCHMAN, Notary Public,
State of Florida at Large; Deputy
Official Court Reporter, Fifth
Judicial Circuit