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DIRECT TESTIMONY OF RICHARD E. HOWELL  
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION  
ON BEHALF OF  
CHARLOTTE COUNTY, A POLITICAL SUBDIVISION OF  
THE STATE OF FLORIDA  
CONSOLIDATED DOCKET NOS. 980261-WS & 970657-WS

DOCUMENT NUMBER-DATE  
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FPC-RECORDS/REPORTING

1  
Story:

1       **Q.    WHAT IS YOUR NAME AND BUSINESS ADDRESS ?**

2       A.    My name is Richard E. Howell and my business address is 20101 Peachland  
3       Blvd., Port Charlotte, Florida, 33954.

4       **Q.    BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR**  
5       **POSITION ?**

6       A.    I am currently employed by the Board of County Commissioners of Charlotte  
7       County, Florida, as the Director of the Charlotte County Utilities Department  
8       (CCU).

9       **Q.    HOW LONG HAVE YOU BEEN EMPLOYED BY CHARLOTTE**  
10       **COUNTY?**

11      A.    Approximately four years.

12      **Q.    PRIOR TO YOUR EMPLOYMENT WITH CHARLOTTE COUNTY,**  
13      **HAVE YOU HELD SIMILAR POSITIONS IN THE WATER AND**  
14      **WASTEWATER INDUSTRY?**

15      A.    Yes. I have been employed in the water and wastewater industry in Florida  
16      for over twenty years and served as the Director of Utility Services for St.  
17      Lucie County prior to my employment with Charlotte County. Prior to that  
18      I was Deputy Director of Utilities for Sarasota County, Florida, where I was  
19      responsible for the Utility Operations Division and the Franchise Regulation  
20      Division providing regulatory services to approximately 70 privately owned  
21      utilities located in that county. I was also employed as the Assistant General  
22      Manager of Siesta Key Utilities, a privately owned water and wastewater

1 utility located in Sarasota County, Florida.

2 **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND ?**

3 A. I hold a Bachelor of Arts degree in Business Administration from the  
4 University of South Florida and have done some graduate work at the  
5 Graduate School of Business at the same university.

6 **Q. HAVE YOU RECEIVED ANY OTHER TRAINING OR EXPERIENCE  
7 RELATED TO THE WATER AND WASTEWATER INDUSTRY ?**

8 A. Yes. I have completed numerous training courses in the water and  
9 wastewater field and hold certification by the State of Florida as a wastewater  
10 treatment operator, water treatment operator and water distribution  
11 technician. Additionally, I have completed several levels of regulatory  
12 studies sponsored by the National Association of Regulatory Utility  
13 Commissioners, including Advanced Regulatory Studies at the Michigan  
14 State University Graduate School of Business. I have also attended numerous  
15 technical seminars through various organizations on the subject of water and  
16 wastewater operations and management and participated in the establishment  
17 of the Utility Management Institute in conjunction with the University of  
18 Florida TREEO Center.

19 **Q. ARE YOU A MEMBER OF ANY TRADE AND/OR PROFESSIONAL  
20 ORGANIZATIONS ?**

21 A. Yes. I am an active member of the American Water Works Association  
22 (AWWA) and serve on several national standards committees as well as

1 represent AWWA as a Peer Review Team Leader for the QualServe  
2 Program. I am also a member of the Water Environment Federation and the  
3 Florida Water & Pollution Control Operators Association.

4 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE A REGULATORY**  
5 **AGENCY ?**

6 A. Yes. I have testified before the Board of County Commissioners and the  
7 Hearing Examiners of both Sarasota County and St. Lucie County as well as  
8 the Board of County Commissioners of Charlotte County. I have also  
9 testified in regulatory hearings before the Southwest Florida Water  
10 Management District, Florida Department of Environmental Regulation and  
11 Hearing Officers (Administrative Law Judges) for the Florida Department of  
12 Administrative Hearings. I have also testified in judicial hearings relating to  
13 utility regulatory matters.

14 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**  
15 **MATTER ?**

16 A. The purpose of my testimony is to explain to the Commission the reason for  
17 the filing by Charlotte County of its Objection to the Amended Application  
18 for Territory Amendment submitted by Florida Water Services.

19 **Q. WHY IS THE TERRITORY AMENDMENT SOUGHT BY FLORIDA**  
20 **WATER SERVICES OF INTEREST TO CHARLOTTE COUNTY ?**

21 A. The property contained within the amended application includes an area  
22 consisting of approximately 50 residential lots known as the Links

1           Subdivision. That property is located within the service area of the Charlotte  
2           County Water and Sewer District Number 1 as set forth in Resolution  
3           Number 91-79 of the Board of County Commissioners of Charlotte County.  
4           A copy of that resolution as recorded in the official records of the Clerk of  
5           the Circuit Court of Charlotte County is attached hereto as Exhibit A.

6           **Q.    DOES CHARLOTTE COUNTY UTILITIES HAVE THE CAPACITY**  
7           **AND CAPABILITY TO PROVIDE WATER AND WASTEWATER**  
8           **SERVICE TO THE LINKS SUBDIVISION ?**

9           A.    Yes. Charlotte County Utilities has the treatment capacity to provide water  
10           and wastewater service to the Links Subdivision and has the capability and  
11           lines available to do so. For more details I direct your attention to Charlotte  
12           County's response to the Commission staff's First Request for Production of  
13           Documents and First Set of Interrogatories.

14           **Q.    HOW DO YOU RESPOND TO THE COMMENT THAT CCU WOULD**  
15           **HAVE TO EXTEND LINES UNDER INTERSTATE HIGHWAY 75 IN**  
16           **ORDER TO PROVIDE SERVICE ?**

17           A.    The statement is incorrect. CCU has water distribution and wastewater  
18           collection facilities on both sides of Interstate 75 and is currently providing  
19           water and wastewater services to properties adjacent to the Links  
20           Subdivision. For more details I direct your attention to Charlotte County's  
21           response to the Commission staff's First Request for Production of  
22           Documents and First Set of Interrogatories.

1       **Q.    WOULD YOU AGREE THAT THERE IS A DISPUTE BETWEEN**  
2       **FLORIDA WATER SERVICES AND THE COUNTY REGARDING**  
3       **WATER AND WASTEWATER CAPACITY CHARGES ?**

4       A.    Yes.

5       **Q.    WOULD YOU BRIEFLY DESCRIBE THE NATURE OF THAT**  
6       **DISPUTE?**

7       A.    Florida Water Services has refused to pay to the County charges and fees  
8       owed for connection charges, capacity reservation fees and previously  
9       unreported usage charges as provided for in the Substitute Water and Sewer  
10      Agreement dated October 7, 1988, between Deep Creek Utilities  
11      (predecessor to FWS) and General Development Utilities (predecessor to  
12      CCU). Essentially the nature of the dispute is that FWS feels that they should  
13      only be responsible for rates and charges that were in effect at the time of the  
14      agreement in 1988, in spite of specific language within the agreement to the  
15      contrary.

16      **Q.    HAS THE COUNTY ATTEMPTED TO ALTER THE BULK SALE**  
17      **AGREEMENT WHICH ESTABLISHED THE CONNECTION**  
18      **CHARGES FLORIDA WATER SERVICES WAS TO PAY ?**

19      A.    Yes. At one point during negotiations with FWS, around May, 1997, CCU  
20      agreed to consider an amendment to the agreement which was to be drafted  
21      by FWS to more accurately relate to current system ownerships and fee  
22      structures. The suggested draft was never submitted by FWS.

1 Q. HAS THE COUNTY TAKEN ACTION TO AMEND THE  
2 AGREEMENT BY EITHER RESOLUTION OR ORDINANCE ?

3 A. No.

4 Q. HAS THE COUNTY EVER UNILATERALLY AMENDED THE  
5 AGREEMENT BETWEEN ITSELF AND FLORIDA WATER  
6 SERVICES ?

7 A. No. Charlotte County Utilities continues to administer the agreement as it  
8 was written and executed in 1988.

9 Q. WOULD YOU COMMENT ON THE STATEMENT THAT  
10 "INCREASES IN CONNECTION CHARGES MUST BE  
11 ATTRIBUTABLE TO THE HIGHER THAN EXPECTED PRICE THE  
12 COUNTY WAS FORCED TO PAY IN A QUICK TAKE  
13 CONDEMNATION PROCEEDING FOR THE FORMER GENERAL  
14 DEVELOPMENT UTILITIES' SYSTEMS" ?

15 A. The statement is not accurate and is misleading. At the time of the  
16 acquisition of General Development Utilities by the County, several system  
17 deficiencies existed which resulted in the issuance of a Consent Order by the  
18 Florida Department of Environmental Regulation. Upon acquisition, the  
19 County expended in excess of \$40 Million to upgrade and replace existing  
20 plant facilities, which serve Deep Creek customers as well as others, in order  
21 to achieve compliance with FDER requirements. In my opinion, these  
22 expenditures are the most significant factor attributing to the revision of

1 connection fees. More specific analysis of connection fee calculations were  
2 presented at public hearings at the time of adoption by the Board of County  
3 Commissioners and are available to FWS. Finally, it is the County's policy,  
4 regarding connection fees, to recover actual costs from future users.

5 **Q. WOULD YOU COMMENT ON THE STATEMENT THAT**  
6 **INCREASES IN CONNECTION CHARGES ARE ATTRIBUTABLE**  
7 **"TO THE COUNTY'S UTILITY DECISIONS AND PRACTICES" ?**

8 A. I do not understand the comment. To the best of my knowledge, the utility  
9 decisions and practices exhibited by Charlotte County are consistent with  
10 industry practices and statutory guidelines for publicly owned utilities. The  
11 County follows generally accepted accounting principles utilized by  
12 governmental entities.

13 **Q. DOES THE AGREEMENT ALLOW THE COUNTY TO STOP**  
14 **FLORIDA WATER SERVICES FROM MAKING ADDITIONAL**  
15 **CONNECTIONS ? IF SO, PLEASE EXPLAIN.**

16 A. Yes. Paragraph 7 of the agreement specifically states that, "Upon failure or  
17 refusal of Deep Creek (now FWS) to remit the amounts due in such timely  
18 fashion for reserve capacity, CCRC or plant connection charges, GDU (now  
19 CCU) may, upon thirty (30) days written notice to Deep Creek (now FWS),  
20 notify any and all affected regulatory agencies that no further water and/or  
21 sewer connections should be honored or permitted with the Properties and,  
22 thereafter, cease said connections until said charges are paid."



1       **Q.     PLEASE EXPLAIN UNDER WHAT CIRCUMSTANCES WOULD**  
2       **YOU ADVISE THE COUNTY TO STOP FLORIDA WATER**  
3       **SERVICES FROM MAKING ADDITIONAL CONNECTIONS ?**

4       A.     At the present time the amount of monies owed to CCU by Florida Water  
5       Services has accumulated to a magnitude that has a significant impact upon  
6       the ratepayers of the County system. Numerous attempts by the County to  
7       resolve the issues have been futile. I have advised the Board of County  
8       Commissioners of the circumstances and have been directed by them to  
9       utilize any and all legal remedies to effect payment of the past due charges  
10      and avoid further impact to the customers. Based upon that direction, CCU  
11      has retained outside legal counsel to commence appropriate legal action.  
12      Since the County has no desire to inflict hardship upon customers and  
13      developers in the Deep Creek area, we are attempting , through counsel, to  
14      resolve the issue and have transmitted to FWS a final demand for payment  
15      prior to withholding further connections to the system.

16      **Q.     HOW LONG HAS THIS DISPUTE BETWEEN THE COUNTY AND**  
17      **FLORIDA WATER SERVICES BEEN GOING ON ?**

18      A.     The dispute of payments for Connection Fees , Accrued Guaranteed Revenue  
19      Fees (AGRF or CCRC) and Guaranteed Revenue Fees (Capacity Reservation  
20      Charges) has been ongoing since 1996.

21      **Q.     BRIEFLY EXPLAIN WHAT ATTEMPTS THE COUNTY HAS MADE**  
22      **TO RESOLVE THIS DISPUTE.**

1       A.     During the rate review process and public hearings held in June of 1996, the  
2             Board of County Commissioners, at the request of Southern States Utilities  
3             (now FWS), specifically scrutinized the bulk services charges and, as a  
4             result, lowered the bulk service water charges to FWS. Shortly thereafter,  
5             FWS began withholding payment of the aforementioned disputed charges.  
6             Numerous meetings and conferences have been held with representatives of  
7             Charlotte County and Florida Water Services in an attempt to resolve the  
8             issues. At several meetings, agreements appeared to have been achieved and  
9             written assurances were obtained from FWS indicating that they  
10            acknowledged the debt and full payment would be made by specified dates.  
11            Each time the specified date passed, the negotiating process would start all  
12            over. Most recently, after meetings which included representatives of FWS,  
13            the Charlotte County Administrator and one County Commissioner, FWS  
14            requested, and was granted, an extension of 120 days to pay the disputed  
15            charges. That 120 extension expired in July, 1998. FWS has now reversed its  
16            position once again and is now claiming that they are owed money by CCU.

17       **Q.     HOW MUCH MONEY DOES THE COUNTY MAINTAIN THAT**  
18             **FLORIDA WATER SERVICES OWES IT AS A RESULT OF THIS**  
19             **DISPUTE?**

20       A.     As of October 1, 1998 the total amount due from FWS for capacity  
21             reservation, connection fees and previously unreported consumption is  
22             \$909,253.52. See Exhibit B attached to my testimony.

1       **Q.    BASED ON YOUR UNDERSTANDING OF THE SUBSTITUTE**  
2           **WATER AND SEWER AGREEMENT REFERRED TO**  
3           **EARLIER IN YOUR TESTIMONY, CAN FWS SERVE THE**  
4           **LINKS SUBDIVISION, PURSUANT TO THAT AGREEMENT,**  
5           **WITHOUT AN ADDENDUM TO THAT AGREEMENT?**

6       **A.    No.**

7       **Q.    DOES THAT CONCLUDE YOUR DIRECT TESTIMONY ?**

8       **A.    Yes.**

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**R E S O L U T I O N**  
**N U M B E R 91-79**

**A RESOLUTION ESTABLISHING THE CHARLOTTE COUNTY WATER AND SEWER DISTRICT NO. 1 AND SETTING FORTH THE BOUNDARIES THEREOF.**

**BE IT RESOLVED** by the Board of County Commissioners of Charlotte County, Florida:


1. Pursuant to Chapter 153.08, Fla. Stat., the Charlotte County Board of County Commissioners hereby establishes the Charlotte County Water and Sewer District No. 1 to consist of all of the real property currently receiving water and/or sewer service from General Development Utilities, Inc., in the County, except those properties presently receiving water and sewer service from a source other than General Development Utilities, Inc., directly or indirectly, and including all real property to be served by the County from the Acquired Facilities of GDU. The physical boundaries and outline of the Charlotte County Water and Sewer District No. 1 are set forth on Exhibit "A" attached to this resolution and by reference made a part hereof.

2. The Board of County Commissioners deems it necessary to create the Charlotte County Water and Sewer District No. 1 to facilitate its acquisition of the water and sewer assets of General Development Utilities, Inc., located within that District in order to protect the health, safety and welfare of the residents and property located therein and to properly finance the acquisition of said Utility assets by customers of General Development Utilities, Inc., located therein and by vacant properties located

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1  RETURN TO COMMISSION MINUTES  
MURDOCK

CERTIFIED, TRUE COPY  
OF THE ORIGINAL  
BARBARA T. SCOTT  
CLERK OF THE CIRCUIT COURT  
CHARLOTTE COUNTY, FLORIDA

BY   
DEPUTY CLERK

APR 20 1991

therein which can be served by the water and sewer assets currently owned by General Development Utilities, Inc., as expanded from time to time.

3. Creating a separate water and sewer district within Charlotte County is further made necessary by the desire and determination of the Board of County Commissioners to provide water and sewer service throughout other areas of Charlotte County currently served by private utilities whose rate structure, customer base, etc., may require different service criteria and which are not presently capable of interconnection with the Utility within the Charlotte County Water and Sewer District No. 1.

4. Pursuant to Chapter 153, Fla. Stat., the Board of County Commissioners resolves to exercise the powers granted by Chapter 153, Fla. Stat., Part I, by acquiring, owning, operating and expanding water and sewer utility services within the District set forth above, and to that end to acquire the water and sewer assets of General Development Utilities, Inc., located within said District. In choosing to exercise the powers granted by Chapter 153, Fla. Stat., the Board of County Commissioners has caused to be made such surveys, investigations, studies, borings, maps, plans, drawings and estimates of costs and of revenues as it deems necessary to have prepared for it so that the Board has available to it a Comprehensive Study and Report contemplated by Chapter 153, Fla. Stat. Said Comprehensive Study and Report has been considered and the results thereof set forth both in the resolution and said Comprehensive Study and Report. Said Comprehensive Study and


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Report has been prepared for the Board by the Water and Sewer Utility Acquisition Team for the acquisition of the water and sewer assets of General Development Utilities, Inc., in the District, which Report has been presented in writing and orally before the Board of County Commissioners. By virtue of said Report and by virtue of the other information made available to it through public hearing, the Board of County Commissioners determines that the acquisition of the water and sewer assets and facilities of General Development Utilities, Inc., used within the Charlotte County Water and Sewer District No. 1 should be made to protect the health, welfare and safety of the residents and property owners within said District No. 1 and to render fire protection to the inhabitants of the County residing within said District.

PASSED AND DULY ADOPTED this 23rd day of April, 1991.

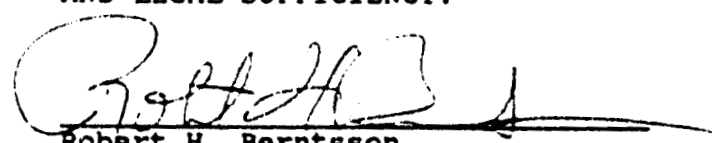
BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

By   
Wm. D. Noel, Jr., Chairman

ATTEST:  
Barbara T. Scott, Clerk of  
Circuit Court and Ex-officio  
Clerk to the Board of County  
Commissioners

By   
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
Robert H. Berntsson  
Chief Assistant County Attorney

ja:\res\W&SDIS/041991

SARASOTA COUNTY

DESOTO COUNTY

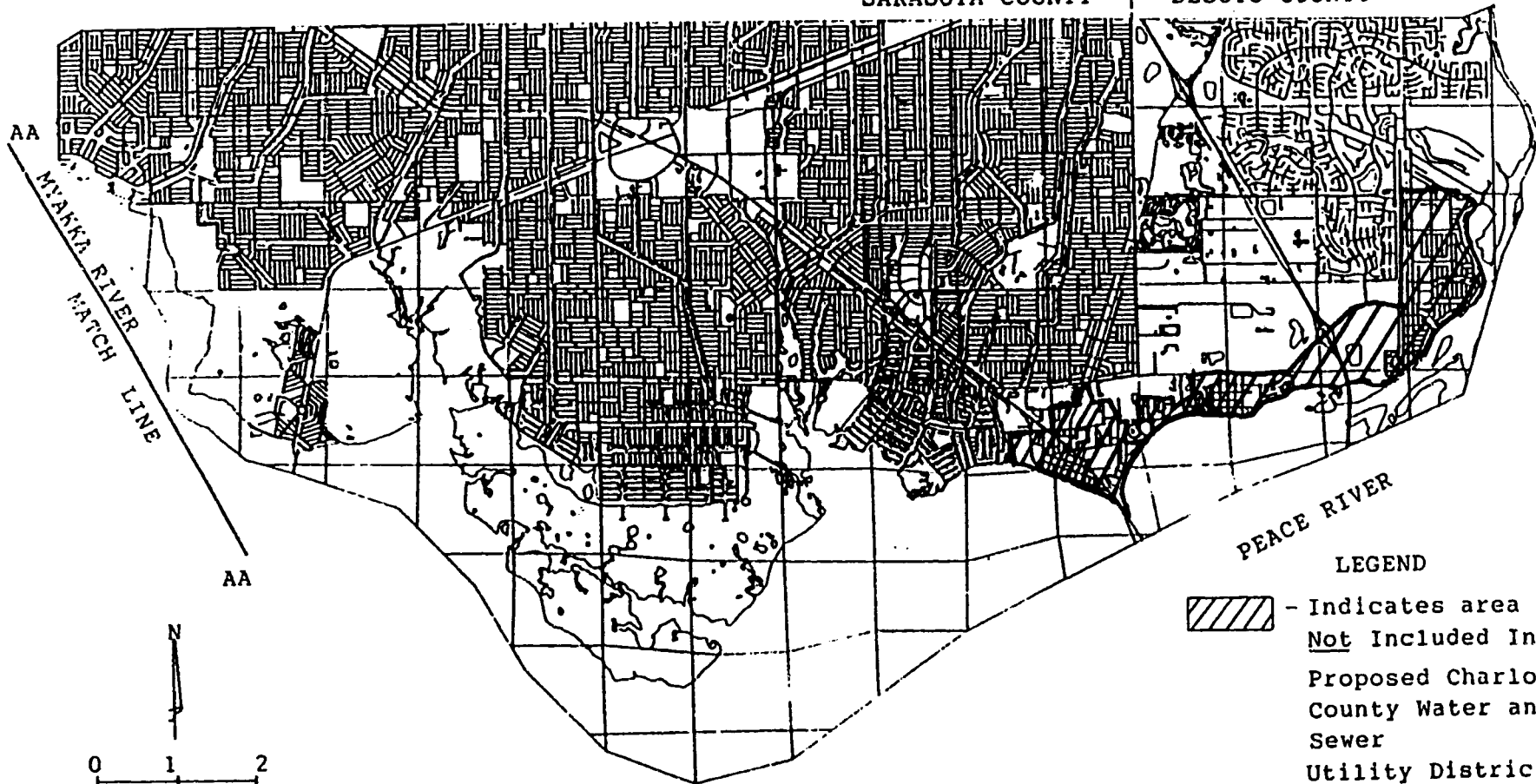

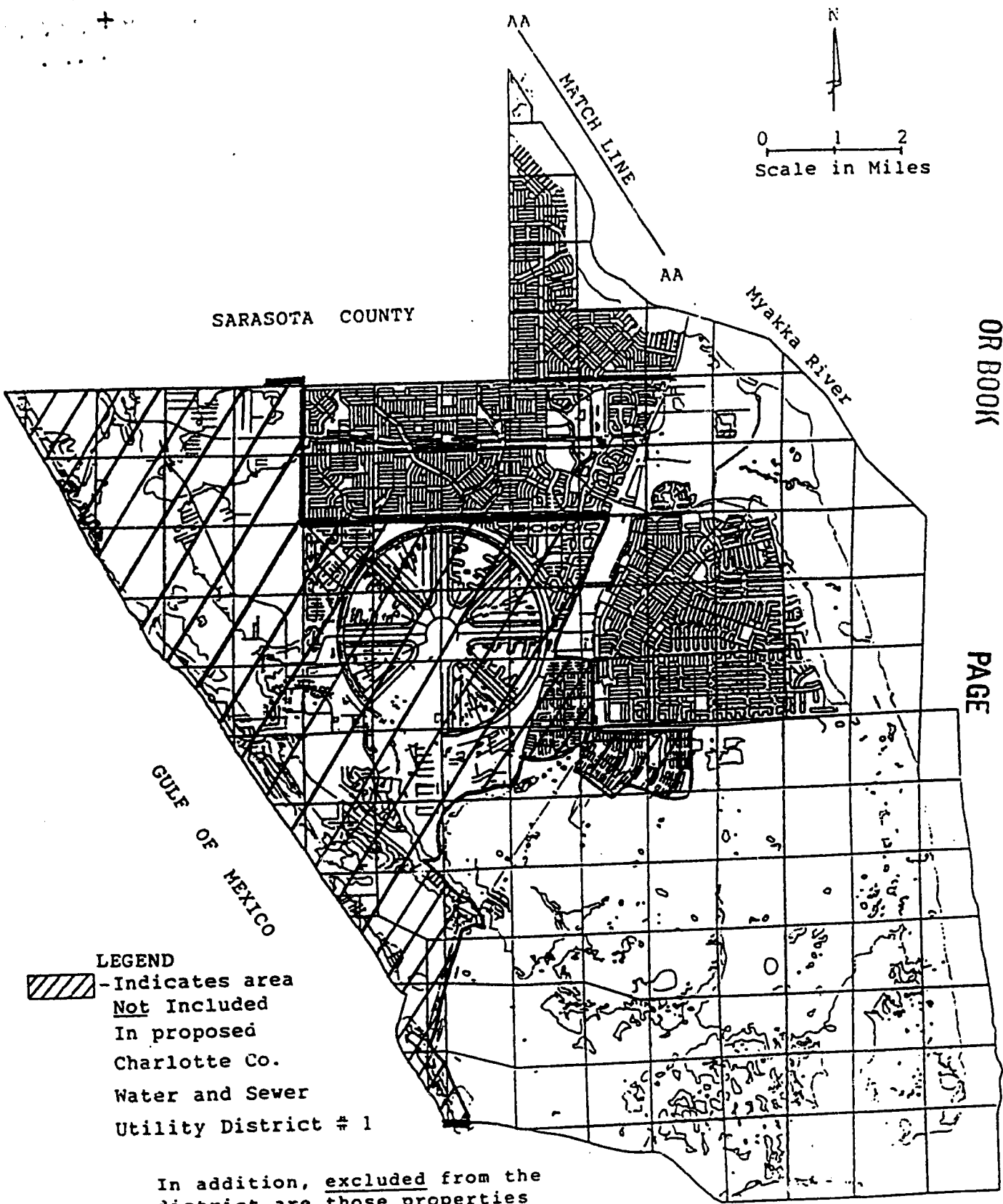


EXHIBIT A  
1 of 2

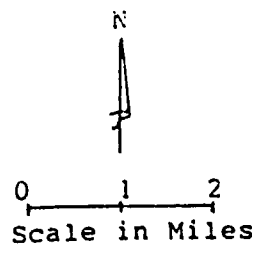
LEGEND

-  - Indicates area Not Included In Proposed Charlotte County Water and Sewer Utility District # 1

In addition, excluded from the district are those properties presently receiving water and sewer service from a source other than General Development Utilities, Inc., directly or indirectly.




SARASOTA COUNTY



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**LEGEND**

 -Indicates area Not Included In proposed Charlotte Co. Water and Sewer Utility District # 1

In addition, excluded from the district are those properties presently receiving water and sewer service from a source other than General Development Utilities, Inc., directly or indirectly.



**CHARLOTTE COUNTY UTILITIES**  
**BREAKOUT OF AMOUNTS DUE FROM FWS**  
**as of October 1, 1998**

<u>Unreported prior usage - thru 6/98:</u>		<u>Total</u>
Kingsway Villas (DeSoto)	\$ 44,043.21	
Deep Creek Elementary-Sewer	\$ 38,387.59	
Harbour Heights-Sewer	\$ 51,472.01	
	\$	133,902.81
 <u>Penalties:</u>		 \$ - 14,725.27
	<u>Subtotal</u>	<u>\$ 148,628.08</u>
 <u>Guaranteed Revenue Fees (both Water &amp; Sewer) - Past Due:</u>		 \$ 534,684.17
 <u>Connection Fees (both Water &amp; Sewer) - Past Due:</u>		 \$ 225,941.27
	<u>Subtotal</u>	<u>\$ 760,625.44</u>
	<u>TOTAL DUE</u>	<u>\$ 909,253.52</u>

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for )  
certificates to operate a water )  
and wastewater utility in )  
Charlotte and DeSoto Counties )  
by Lake Suzy Utilities, Inc. )  
\_\_\_\_\_ )

DOCKET NO. 970657-WS

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and

In Re: Application for )  
Amendment of Certificates Nos. )  
570-W and 496-S in Charlotte )  
County by Florida Water Services )  
Corporation. )  
\_\_\_\_\_ )

DOCKET NO. 980261-WS

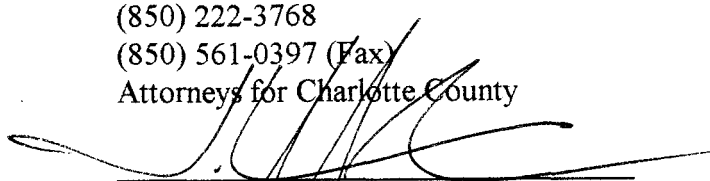
CHARLOTTE COUNTY'S  
NOTICE OF FILING

CHARLOTTE COUNTY, by and through its undersigned attorneys, hereby notices the filing  
of the Prefiled Direct Testimony of Richard E. Howell.

Respectfully submitted this 16<sup>th</sup> day of October, 1998.

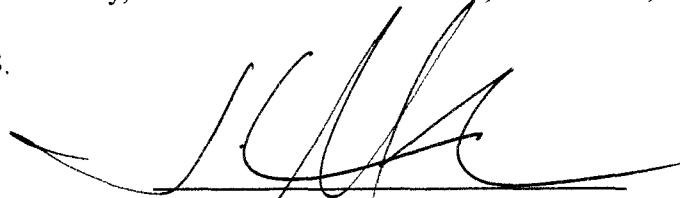
Renee Lee, County Attorney  
Charlotte County Attorney's Office  
18500 Murdock Circle  
Port Charlotte, Florida 33949

KNOWLES, MARKS, & RANDOLPH, P.A.  
215 South Monroe Street, Suite 130  
Tallahassee, Florida 32301  
(850) 222-3768  
(850) 561-0397 (Fax)  
Attorneys for Charlotte County

  
\_\_\_\_\_  
John R. Marks, III  
Fla. Bar No. 143026  
For the Firm

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and one copy of the foregoing has been furnished by hand delivery to Blanco Bayo, Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 and Bobbie Reyes, Esquire, Florida Public Service Commission, Legal Division, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850; and by U.S. Mail to Matthew J. Feil, Esquire, Florida Water Services Corporation, Post Office Box 609520, Orlando, Florida 32860-9520; Charlotte L. Sopha, Haus Development, Inc., Post Office Box 3024, Port Charlotte, Florida 33949, Frederick Bechtold, Esquire, Vorbeck & Vorbeck, 207 Magnolia Street, Arcadia, Florida 34266, and Martin S. Friedman, Esquire, Rose, Sundstrom & Bentley, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301, this 16<sup>th</sup> day of October, 1998.



John R. Marks, III