

ORIGINAL

BREVARD County
BOARD OF COUNTY COMMISSIONERS

FLORIDA'S SPACE COAST

OFFICE OF THE COUNTY ATTORNEY, 2725 Judge Fran Jamieson Way, Viera, Florida 32940

(321)633-2090
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May 6, 2004

Blanca Bayo, Director
Division of Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED FPSC
04 MAY - 7 AM 10:18
COMMISSION
CLERK

Re: In Re: Application for Certificate
To Provide Water Service in Volusia and
Brevard County By Farmton Water Resources, LLC.
Docket No. 021256-WU

Dear Ms. Bayo:

I have enclosed an original and fifteen copies of Brevard County's Prehearing Statement to be filed in the above-referenced matter.

Sincerely,

Scott L. Knox
County Attorney

- CMP _____
- COM 3 :md
Enclosures
- CTR _____
- ECR _____ cc: Jennifer A. Rodan, Esquire
Edward P. de la Parte, Jr., Esquire
- GCL _____ William J. Bosch, III, County Attorney
- OPC _____ F. Marshall Deterding, Esquire
- MMS _____ \pleadings\farmton5814.1
- RCA _____
- SCR _____
- SEC 1 + cover Htr.
- OTH _____

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FPSC-COMMISSION CLERK

STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

IN RE:)
)
Application of Farmton Water Resources,)
LLC for original Water Certificate in Volusia) DOCKET NO. 021256-WU
and Brevard Counties, Florida)
_____)

PREHEARING STATEMENT

Brevard County, by and through its undersigned attorney, hereby files its pre-hearing statement in the above-styled docket as follows:

(a) Witnesses:

1. Dick Martens concerning matters set forth in his prefiled testimony
2. Mel Scott concerning matters set forth in his prefiled testimony
3. Valerie James concerning matters set forth in her prefiled testimony
4. All witnesses providing prefiled testimony.

(b) Exhibits:

1. All exhibits attached to prefiled testimony of Brevard County witnesses, to include enlarged or mounted copies of comprehensive plan and tables.
2. All exhibits filed by other parties or intervenors.
3. Copies of portions of Brevard County comprehensive plan referenced in the prefiled testimony of Howard Landers.

(c) Brevard County's Basic Position: The Farmton application for a certificate of authorization should be denied.

(d), (e) and (f) Issues of Fact and Law; Stipulated Issues:

1. What is the authority of local governments to prevent the establishment of water service territories and what is the effect of that authority, if any, on the Public Service Commission's authority to issue certificates of authorization?

Brevard County Position: The County has adopted an ordinance establishing a water and sewer district under the authority vested in counties under chapter 153, part II, Florida Statutes. In accordance with section 153.86, Florida Statutes, the District governing body must consent before Farmton can construct a water supply system.

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Farmton has not received such consent. Consequently, Farmton cannot demonstrate the legal ability to serve as required by section 367.045(2)(b), Florida Statutes.

Witness: Dick Martens

2. Is the service proposed by Farmton exempt from PSC regulation?

Brevard County Position: Any proposal for bulk service may be exempt to the extent provided by law.

3. Has Farmton met the filing and notice requirements of section 25-30.033 FAC?

Brevard County Position: No position.

4. Is there a need for service in Farmton's proposed service territory and, if so, when will service be required?

Brevard County Position: There is no need for service.

Witness: Dick Martens

5. Is Farmton's application inconsistent with Brevard County's or Volusia County's comprehensive plan?

Brevard County Position: The application is inconsistent with the Brevard County plan.

Witnesses: Dick Martens, Mel Scott

6. Will the certification of Farmton result in the creation of a utility which will be in competition with, or duplication of, any other system?

Brevard County Position: Yes, any newly constructed water system will duplicate existing Brevard County facilities.

Witness: Dick Martens

7. Does Farmton have the financial ability to serve the requested territory?

Brevard County Position: No position.

8. Does Farmton have the technical ability to serve the requested territory?

Brevard County Position: No position.

9. Does Farmton have sufficient plant capacity to serve the requested territory?

Brevard County Position: No.

Witness: Dick Martens

10. Has Farmton provided evidence that it has continued use of the land upon which the utility treatment facilities are or will be located?

Brevard County Position: No position.

11. Is it in the public interest for Farmton to be granted a water certificate for the territory proposed in its application?

Brevard County Position: No.

Witnesses: Dick Martens, Mel Scott, Valerie James

12. What is the appropriate return of equity for Farmton?

Brevard County Position: No position.

13. What are the appropriate potable water, fire protection, and bulk raw water rates and changes for Farmton?

Brevard County Position: No position.

14. What are the appropriate service availability charges for Farmton?

Brevard County Position: No position.

15. What is the appropriate ADUDC rate for Farmton?

Brevard County Position: No position.

(h) Pending Motions or Other Matters:

1. Brevard County's Request for Official Recognition of rules and statutes.

(i) **Brevard's Pending Requests for Confidentiality:**

1. None

(j) **Order Requirements:**

1. None

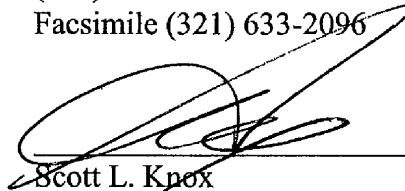
(k) **Objections to Qualifications:**

1. None

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was mailed by U.S. Mail to F. Marshall Deterding, Esquire, 2548 Blairstone Pines Drive, Tallahassee, Florida, 32301, Edward P. de la Parte, Jr., Esquire, 101 E. Kennedy Blvd., Suite 3400, Tampa, Florida, 33602-5195, Jennifer A. Rodan, Esquire, Office of General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850 and William J. Bosch, III, County Attorney, 123 West Indiana Ave., DeLand, Florida, 32720-4613, on this the 6th day of May, 2004.

OFFICE OF THE COUNTY ATTORNEY
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Scott L. Knox
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Florida Bar No. 211291
Attorney for Brevard County