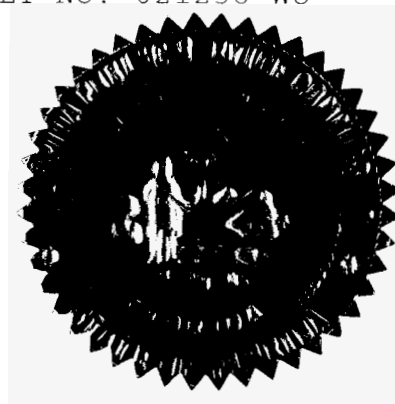


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 021256-WU

In the Matter of:

APPLICATION FOR CERTIFICATE
TO PROVIDE WATER SERVICE IN
VOLUSIA AND BREVARD COUNTIES
BY FARMTON WATER RESOURCES,
LLC.



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Volume 2

Pages 135 through 305

PROCEEDINGS: HEARING

BEFORE: COMMISSIONER J. TERRY DEASON
COMMISSIONER LILA A. JABER
COMMISSIONER RUDOLPH "RUDY" BRADLEY

DATE: Tuesday, June 22, 2004

TIME: Commenced at 9:30 a.m.
Concluded at 5:35 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: TRICIA DeMARTE, RPR
Official FPSC Reporter
(850) 413-6736

APPEARANCES: (As heretofore noted.)

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P R O C E E D I N G S

(Transcript follows in sequence from Volume 1.)

COMMISSIONER DEASON: Call the hearing back to order.

Mr. Wharton, Mr. Deterding, you may call your next witness.

MR. DETERDING: Thank you, Commissioner. We call Charles Drake.

CHARLES W. DRAKE

was called as a witness on behalf of Farmton Water Resources, LLC and, having been duly sworn, testified as follows:

D I R E C T E X A M I N A T I O N

BY MR. DETERDING:

Q Mr. Drake, have you been sworn?

A Yes, I have.

Q Please state your name and employment address.

A Charles W. Drake, Hartman & Associates, Incorporated, 201 East Pine Street, Orlando, Florida 32801.

Q Have you been retained by Farmton to provide testimony and expert opinions in this proceeding?

A Yes, I have.

Q Did you prepare in conjunction with my office a document referred to as prefiled direct testimony of Charles W. Drake consisting of three pages?

A Yes, I have.

Q If I ask you those same questions today, would your answers be the same?

1 A Yes, they would.

2 Q Do you have any corrections to make to that
3 testimony?

4 A No, I don't.

5 Q Did you prepare in conjunction with the preparation
6 of your direct testimony an exhibit which was marked as CWD-1?

7 A Yes, I did.

8 Q Do you have any corrections to that exhibit?

9 A No, I don't.

10 MR. DETERDING: Commissioner, I assume that is --

11 COMMISSIONER DEASON: That is Exhibit 6 and it has
12 been identified and admitted.

13 MR. DETERDING: Thank you.

14 BY MR. DETERDING:

15 Q Mr. Drake, please provide the Commission with a
16 summary of your direct testimony.

17 A It's pretty simple, that Farmton Water Resources has
18 the ability and is best suited to provide water services to
19 customers in the proposed certificated area primarily because
20 of the many functions and activities that occur on the land and
21 also the physical features of the land, the wetlands, surface
22 water bodies, the mitigation banks that are on the property,
23 also the silviculture operations and the hunting club that
24 makes it much easier, more efficient, and better directed to --
25 by one company that understands all the aspects of that land

1 For them to operate these facilities rather than someone else
2 coming in not understanding all the activities and all the
3 features that are on that property. That's it.

4 MR. DETERDING: Commissioner, we request that his
5 direct testimony be inserted in the record as though read.

6 COMMISSIONER DEASON: Without objection, it shall be
7 so inserted.

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1 Q. State your name and address.

2 A. Charles W. Drake, P.G., Hartman & Associates, Inc., 201 E.
3 Pine Street, Orlando, Florida 32801.

4 Q. Mr. Drake, are you a registered professional geologist in
5 the State of Florida?

6 A. Yes. My registration number is 00037.

7 Q. Mr. Drake, what is your area of specialty in your practice?

8 A. I specialize primarily in hydrogeology and related issues
9 that involve water supply.

10 Q. What is hydrogeology?

11 A. It is the science that studies the occurrence and movement
12 of groundwater and aspects of surface water.

13 Q. Have you ever been qualified as an expert witness in water
14 supply and hydrogeological issues?

15 A. Yes, I have on several occasions over the past 18 years.

16 Q. In what areas are you going to provide testimony in this
17 matter?

18 A. In water supply and hydrogeology associated with the
19 application of Farmton Water Resources, LLC, for the Florida
20 Public Service Commission original water certificate.

21 Q. Was the application for certificate and supporting financial
22 engineering and technical information prepared by your firm?

23 A. Yes, our firm prepared the engineering, accounting,
24 hydrogeological and utility management aspects of the
25 application on behalf of our client, Farmton Water

1 Resources, LLC, which were included in Composite Exhibit
2 "GCH-1".

3 Q. Was the application submitted to the Public Service
4 Commission?

5 A. Yes, this has been presented as Exhibit GCH-1.

6 Q. Are the matters contained in the application and supporting
7 reports true and accurate representations to the Florida
8 Public Service Commission in your opinion?

9 A. Yes, they are.

10 Q. Have you had occasion to review the water use permitting
11 issues in this region?

12 A. Yes. The St. Johns River Water Management District has
13 issued reports on the resources of Volusia and Brevard
14 counties, and there appears to be, in their opinion, a
15 limitation on the available groundwater supplies in this
16 region of existing water utilities.

17 Q. Does Farmton have the technical ability to serve the
18 requested territory?

19 A. Yes, as provided in the application and supporting
20 documents.

21 Q. Does Farmton have, or are they implementing, sufficient
22 water withdrawal capacity to serve the requested territory?

23 A. Yes, based upon our analysis, which is reflected in the
24 application and supporting documents. Farmton has the
25 existing capacity to serve all of the needs for existing

1 services and they are in the best position to be able to
2 obtain the water needed for the other proposed services.

3 Q. Does Farnton Water Resources, LLC have continued use of the
4 land upon which the utility facilities are or will be
5 located?

6 A. Yes they do, and the Company provided that information to
7 the FPSC as part of the application.

8 Q. Who is providing the financial testimony in this case?

9 A. Ms. Tara L. Hollis, C.P.A.

10 Q. Are you expecting to provide rebuttal testimony?

11 A. To the extent that it is needed, yes.

12 Q. Do you have a resume?

13 A. Yes, that is attached as Exhibit CWD-1.

14 Q. Does this conclude your Direct Testimony?

15 A. Yes.

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1 MR. DETERDING: And we tender the witness for cross

2 COMMISSIONER DEASON: Very well. Mr. Knox. Okay.

3 Mr. McNamara.

4 MR. McNAMARA: Thank you, Commissioner.

5 CROSS EXAMINATION

6 BY MR. McNAMARA:

7 Q Mr. Drake, I'd like to start off just talking a
8 little bit about the proposed retail service that you've talk
9 about in your direct testimony that Farmton Water Resources i
10 intending to provide. For retail service, isn't it true that
11 Farmton is proposing to use only a series of seven to eight
12 local wells for such service?

13 A For the currently known existing and proposed
14 service, yes, that excludes any future use.

15 Q But as far as what they are applying for here today
16 it includes only those seven to eight wells; correct?

17 A Yes.

18 Q And these seven to eight wells are spread out over
19 the approximately 50,000 acre service area; correct?

20 A Yes, it is.

21 Q And the largest of these wells is a four-inch well;
22 correct?

23 A Yes, sir.

24 Q And the smallest of the wells, as I understand it,
25 a one-and-a-half-inch well; correct?

1 A I believe so.

2 MR. KNOX: Excuse me, Mr. Chairman. Could we get the
3 witness to lift his microphone, so we can hear him down here?

4 THE WITNESS: I'm sorry. Yes, it is.

5 BY MR. McNAMARA:

6 Q Isn't it true that one of the local governmental
7 entities, whether it be the counties or local city, could put
8 in the same type of local wells with local treatment that
9 Farmton proposes to provide for retail service?

10 A Yes, they could. But the actual physical location is
11 best directed by the landowner, so it wouldn't interfere with
12 the mitigation banks that are on the property, the wetlands
13 that are out there, the silviculture operations. The siting of
14 that well and its operation would be best directed by the
15 landowner.

16 Q But isn't it true that the landowner could direct
17 those things through an agreement with one of the local
18 governmental entities to put in a well as a local system?

19 A If they could reach that agreement, yes. But in many
20 cases the landowner and utility don't come to that agreement
21 because of their perspectives on that water supply issue.

22 Q But isn't it true in this particular situation that
23 Farmton has never asked any of the local governments to come in
24 and provide such service?

25 A To my knowledge, they haven't.

Q They have not?

2 A To my knowledge, they have not.

3 Q As we sit here today, you as an expert for Farmton
4 Water Resources are not aware of any plans to develop
5 residences in the proposed service area; correct?

6 A That's correct.

7 Q And you're not aware of any plans for further
8 commercial development in the proposed service area; correct?

9 A That's correct.

10 Q Let's talk a little bit about bulk water. As we sit
11 here today, you're not aware of any agreements for Farmton
12 Water Resources to provide bulk water to any other entity; is
13 that correct?

14 A That's correct, no agreements.

15 Q And in the past there have been some discussions with
16 the City of Titusville and possibly with WAV, which is the
17 Water Authority of Volusia; correct?

18 A Yes.

19 Q But as far as you know, there have been no
20 discussions between Farmton Water Resources and any
21 nongovernmental entity to provide bulk water services; correct?

22 A That I know of. I don't know of any others besides
23 those two you just mentioned.

24 Q With respect to the fire protection wells that are to
25 be provided pursuant to the application, isn't it true that

1 currently the Miami Corporation has two fire protection wells
2 on its property?

3 A Yes.

4 Q And the application proposes that Farmton Water
5 Resources would add ten additional fire protection wells;
6 correct?

7 A Yes, sir.

8 Q Is there anything in the PSC regulations or statutes
9 that would prohibit the Miami Corporation from putting in ten
10 additional fire protection wells to serve itself?

11 A I'm not familiar with all the PSC regulations But I
12 think it was mentioned earlier, because these are each
13 individual activities, they each have an impact on the
14 activities on the property, it makes sense to have all these
15 activities coordinated in one fashion by one -- or by the
16 landowner and have those activities regulated.

17 Q But if the Miami Corporation were to choose to put in
18 additional fire protection wells for itself on its own property
19 and put in its own private fire protection wells, nothing would
20 stop it from doing that, would it?

21 A Only unless they -- you know, they trip certain water
22 management district thresholds, and they couldn't get a permit
23 by the water management district.

24 Q But other than that, there would be nothing else to
25 prohibit it?

1 A None that I know of.

2 Q Is there anyone that's currently employed by Farmton
3 as an employee that has experience in providing a water supply
4 as an investor-owned utility?

5 A I don't know.

6 Q Let's talk a little bit about the proposed retail
7 service for the Miami Tract Hunt Club. There were two wells at
8 two campsites that existed prior to this application being
9 filed; correct?

10 A Yes, sir.

11 Q At the time the application was filed, did you know
12 the size of those wells?

13 A I think they were either one-and-a-half- or two-inch
14 wells.

15 Q And were those wells that were operated with a hand
16 pitcher pump?

17 A I believe so, yes.

18 Q There's no electricity at these campsites, is there?

19 A Currently not. But there are plans to run
20 electricity back there or to have the pumps operated by solar
21 power.

22 Q Is there a plan to run electricity to all four
23 campsites?

24 A Not at this time. We're looking into -- and solar
25 power can be used to operate the pumps.

1 Q Is there any reference in the PSC application to the
2 use of solar power?

3 A I don't believe so.

4 Q Prior to preparing the application in this case, you
5 did not conduct any study to determine how many people use the
6 campsites; correct?

7 A I did not.

8 Q And you were the primary person at Hartman &
9 Associates working on this project; correct?

10 A Well, that second part is correct. I was the
11 primary -- or am the primary person. Talking with
12 Mr. Underhill, each camp, I think, can have up to 25 families
13 per campsite, if I remember the number correctly. So there
14 were some discussions about how many people could potentially
15 be at each -- how many families could be at each campsite. So
16 in that respect, yes. We were estimating water use based on
17 that.

18 Q And those discussions were there could be 25 families
19 at each of the four campsites?

20 A There may have been more, but I think that's about
21 right.

22 Q You believe it was 25 at each of the four campsites?

23 A I think we discussed that in the -- the total number
24 of families that have a lease on the property is in the
25 application and our engineering report.

1 Q In preparing your opinions in this case, you did not
2 conduct any study of the actual water usage by the Miami Tract
3 Hunt Club; isn't that correct?

4 A We don't have any records of how much water has been
5 used historically.

6 Q You did not install any meters on their existing
7 wells to determine how much water they were using; correct?

8 A No, we didn't.

9 Q You did not personally conduct any interviews of the
10 Miami Tract Hunt Club representatives to determine how much
11 water they were using; correct?

12 A That's correct. My discussions were mostly with
13 Mr. Underhill.

14 Q I couldn't hear the last part of your --

15 A My discussions were mostly with Mr. Underhill.

16 Q And did he give you any specific references as to how
17 much water the Miami Tract Hunt Club was using from the two
18 existing wells?

19 A No, just the number of people.

20 Q You testified in your deposition that for the flows
21 anticipated at the campsites, a five-eighths-inch meter would
22 be sufficient. Do you recall that?

23 A I believe it was five-eighths by three-quarters is
24 what we had specified in the engineering report.

25 Q And that was what you had specified for the

1 campsites?

2 A I believe so.

3 Q And you believe that would be sufficient for the
4 flows that were anticipated?

5 A I believe so.

6 Q Let's talk a little bit about the Miami Corporation
7 headquarters. Are you familiar with those headquarters?

8 A Yes, I am.

9 Q And those are located within the proposed service
10 area?

11 A Yes.

12 Q And the headquarters are made up of a small single
13 family house; correct?

14 A Yes, sir.

15 Q And there's an adjacent residence; correct?

16 A Yes, sir.

17 Q And those are currently served by one well?

18 A I believe just one well, yes.

19 Q Do you know the size of that well?

20 A I believe that's a four-inch well.

21 Q Do you know what size it is? I couldn't hear what
22 you said

23 A A four-inch well.

24 Q A four-inch well.

25 Is there a meter on that well?

A No, sir, not that I know of.

2 Q Did you do any study of the amount of water
3 historically used at the Miami Corporation headquarters?

4 A No, sir, I didn't.

5 Q And you did not install any meter to determine what
6 the amount of water being used was?

7 A No, I didn't.

8 Q With respect to the Clark Cattlehouse, is there
9 currently a well there as well?

10 A Yes, there's a smaller diameter well at the Clark
11 Cattlehouse.

12 Q What is the size of that well?

13 A It's in the one-and-a-half-inch to two-inch range, I
14 believe.

15 Q Is it fair to say you don't know what the historical
16 water usage was there?

17 A That's correct.

18 Q And you did not do any study to try to determine the
19 historical water usage?

20 A No, I didn't.

21 Q Did not install any meter to determine how much water
22 was used?

23 A No, sir.

24 Q I'm going to ask you, if you would, to take a look at
25 the large map that was prepared by Mr. Hartman that is next to

1 you. And there are some wells proposed for a first phase of
2 bulk service. Can you identify for me where those are located?

3 A Yes, sir.

4 COMMISSIONER DEASON: We have a portable microphone
5 that you may wish to utilize.

6 THE WITNESS: The first phase of the bulk water
7 supply wells would run along in this direction from southeast
8 to northwest, and then Phase II to the southwest.

9 BY MR. McNAMARA:

10 Q Are those, generally speaking, in the vicinity of the
11 Florida East Coast Railroad?

12 A Yes, sir, the Phase I wells that run southeast to
13 northwest are.

14 Q Are you familiar with the City of Titusville's
15 consumptive use application for wells along the Florida East
16 Coast right-of-way?

17 A Yes, sir, I am.

18 Q Are these generally in the same location?

19 A Yes, the Phase I wells are generally in that same
20 area.

21 Q And your Phase I well, have you identified exact
22 legal description locations for where you propose to put those
23 wells?

24 A I don't think we identified a latitude and longitude
25 for those first phase wells.

1 Q Do you have an opinion as to whether those wells will
2 potentially interfere with the City of Titusville's wells
3 should its consumptive use permit be granted?

4 A They could if those wells are permitted, but as far
5 as I know now those wells are still be evaluated. Titusville's
6 application is still being evaluated by the water management
7 district. And this wouldn't -- we wouldn't supersede their use
8 or they supersede ours necessarily.

9 Q You were the project manager on this project for your
10 firm; is that correct?

11 A Yes, sir.

12 Q Can you tell me how much your firm has been paid for
13 handling this PSC application for Farnton Water Resources?

14 A It's just over \$200,000.

15 Q Do you recall what your initial estimate was to
16 provide these services for Farnton Water Resources?

17 A You probably have that letter from our files. I'm
18 thinking the estimate -- the first estimate without the
19 hearings that we're part of now was in the \$50,000 to \$75,000
20 range to just prepare the application and submit it to the PSC,
21 but it did not -- at that time did not include the proceeding
22 we're in today.

23 Q When were you initially retained to prepare the
24 application?

25 A I believe it was in the -- I can't remember if it was

1 the early or -- I think it was the early part of 2001.

2 Q Do you know when the City of Titusville applied for
3 its consumptive use application for the wells along the Florida
4 East Coast Railroad right-of-way?

5 A It was in the year 2000 or 2001, I believe.

6 MR. McNAMARA: Thank you. That's all I have for now

7 COMMISSIONER DEASON: Mr. Knox.

8 MR. KNOX: I have no questions for this witness.

9 COMMISSIONER DEASON: Very well. Mr. Bosch.

10 MR. BOSCH: No questions.

11 COMMISSIONER DEASON: Staff.

12 MS. FLEMING: We have no questions.

13 COMMISSIONER DEASON: Commissioner.

14 Redirect.

15 MR. DETERDING: Just a few.

16 REDIRECT EXAMINATION

17 BY MR. DETERDING:

18 Q Mr. Drake, you were asked about the number of people
19 or the number of sites at the hunt club campsites. Who's in
20 the best position to provide that type of information
21 concerning the hunt clubs?

22 A Mr. Underhill is.

23 Q Okay. Who is the person who is in the best position
24 to describe the size of the metering systems proposed for each
25 of the sites, service sites?

1 A I couldn't understand the question. Could you
2 repeat that?

3 Q Who is in the best position to describe and outline
4 the size of the various metering systems proposed by Farmton
5 for the different customers?

6 A Mr. Hartman is the engineer and he would be the best
7 to do that.

8 MR. DETERDING: That's all I have. Thank you.

9 COMMISSIONER DEASON: Okay. Very well. Thank you,
10 Mr. Drake.

11 Mr. Deterding, you may call your next witness.

12 MR. DETERDING: We call Earl Underhill.

13 EARL M. UNDERHILL

14 was called as a witness on behalf of Farmton Water Resources,
15 LLC and, having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. DETERDING:

18 Q Mr. Underhill, have you been sworn?

19 A Yes, sir, I have.

20 Q Please state your name and employment address.

21 A Earl M. Underhill, 1625 Maytown Road, Osteen, Florida
22 32764.

23 Q And are you employed by Farmton?

24 A Yes, I am.

25 Q And in what capacity?

1 A I'm the vice president for operations.

2 Q Did you prepare testimony in conjunction with my
3 office labeled prefiled direct testimony of Earl Underhill?

4 A Yes, I did.

5 Q And that consists of ten pages?

6 A If you say so.

7 Q Make sure.

8 A Yes, ten pages.

9 Q If I ask you those same questions here today, would
10 your answers be the same?

11 A Yes, they would.

12 Q Do you have any corrections to make to that
13 testimony?

14 A Yes, I do. I have two corrections. The first one
15 has to do with the length of the procedure that we're in. I
16 stated that I had been with Miami Corporation for 24 years,
17 it's now been 25 years.

18 And the second one is on Page 3, Line 6, where it
19 discusses the Volusian Water Alliance transitioning to a new
20 organization. That organization has since been formed. It's
21 the Water Authority of Volusia that has been discussed here.
22 It has new powers to implement the plans of the Volusian Water
23 Alliance. So it's distinctly different from the Volusian Water
24 Alliance. It is also different in that agriculture and private
25 landowners are not permitted to be participants in the planning

1 process of the water resources in Volusia County. So that's an
2 important difference.

3 Q Okay. You had no exhibits to your direct testimony;
4 correct?

5 A That's correct.

6 Q Could you please provide the Commission with a
7 summary of your direct testimony?

8 A Yes, I will. The landowner, being Miami Corporation,
9 has long felt that the operation on Farmton needed to -- excuse
10 me, operation of the numerous water facilities, wells, and
11 resources on Farmton needed to be centralized into a separate
12 entity. In order to properly plan for the future needs and
13 provide water not only to our lands but to other properties
14 that may wish to obtain water from these lands, we felt it was
15 best to operate a regulated utility under the scrutiny of the
16 Public Service Commission for the good of all current and
17 future customers within that territory and those who might seek
18 bulk water service for use outside the territory.

19 Because of our unique relationship with the
20 landowner, being Miami Corporation, and because there are no
21 other utilities operating within the immediate area, we believe
22 that we are by far best able to manage the water resource and
23 provide water service when needed within the territory.

24 Are there needs for service within the territory?

25 Yes, there's significant needs, needs at my office. We have

1 five people who work out of that office on a daily basis. We
2 have a caretaker who lives there with a significant other. The
3 logging crews constantly are coming in, getting water from that
4 site, and we have the Miami Tract Hunt Club. Membership in
5 that hunt club consists of 261 member families. A member
6 family is the primary member, a spouse, and children age 21 and
7 under.

8 Miami Tract Hunt Club came to me some time ago and
9 asked that we assist them in providing water services at the
10 check stations and at the campgrounds. The letter that was
11 included in the application specifically spoke to the
12 campsites. And we have provided water at two of the campsites.

13 Secondly, we have a need for continuing fire
14 protection services throughout Farmton and located in the
15 proposed territory. And finally, it appears that there's a
16 growing need for bulk water service in the area.

17 What are our future needs? I would say to you that
18 they're really unknown, but I would also say to you that we at
19 the current time do not have any immediate needs or any
20 immediate plans for development. Granted, there are enclaves
21 that we totally surround, have numerous residences that may and
22 actually have come to me since this application was filed
23 asking if they could be served by Farmton Water Resources. So
24 it's certainly conceivable to me that some of these would
25 require central water services in the future, and in the

1 attitude that we generally try to do working with our
2 neighbors, we would certainly attempt to meet those needs.

3 Miami Corporation has owned this land since 1925.
4 They have been good stewards. They have been stewards of the
5 timber; they have been stewards of the wildlife; they have been
6 stewards of the water. And they would like to continue to be
7 good stewards of this land. However, in order to properly plan
8 for our future and to properly plan this entire tract, we
9 believe that setting up a utility with us as the service
10 provider, Farmton as the service provider, is the first logical
11 step, and that's why we're here today. Thank you.

12 MR. DETERDING: Commissioner, I request that
13 Mr. Underhill's testimony be inserted in the record as though
14 read.

15 COMMISSIONER DEASON: Without objection, it shall be
16 so inserted.

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1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
2 FARMTON WATER RESOURCES, LLC
3 DOCKET NO. 021256-WU
4 APPLICATION FOR ORIGINAL WATER CERTIFICATE
5 IN VOLUSIA AND BREVARD COUNTIES
6 DIRECT TESTIMONY OF EARL M. UNDERHILL

7 Q. Please state your name and business address.

8 A. My name is Earl M. Underhill. My business address is
9 1625 Maytown Road, Osteen, Florida 32764.

10 Q. Briefly state your educational background and experience.

11 A. I have a Bachelor's Degree from Purdue University in
12 Forestry. Since graduation and after four years of
13 active service with the U.S. Navy thereafter, I have been
14 employed in the field of forestry and silviculture on a
15 continuous basis, since 1970. The last ²⁵~~24~~ years of which
16 I have been employed by the Miami Corporation as director
17 of operations of the Farmton property.

18 Q. Can you provide us with some information concerning your
19 background as it relates to operation and management of
20 water resources and facilities?

21 A. In addition to my general duties as Director of
22 silviculture operations for approximately ²⁵~~24~~ years, in
23 which I have managed substantial water resources for
24 conservation and silviculture purposes, I have been
25 actively involved in service on several committees and

1 other groups that dealt primarily with water related
2 issues.

3 During the mid 1980's, I served on the Florida Forestry
4 Association's Liaison Committee to the St. Johns River
5 Water Management District to develop the first
6 silviculture regulations to protect water resources,
7 which are now part of the Environmental Regulatory Policy
8 Rule.

9 From the early 1980's through 2003, I served on the
10 Florida Forestry Association's Environmental Committee,
11 which drafted and continues to update statewide Best
12 Management Practices (BMP's) for silviculture, designed
13 to protect surface water quality.

14 During the late 1980's, I helped to develop Volusia
15 County's Environmental Rules, including tree protection,
16 storm water, wetlands, well head protection, and other
17 regulations pertaining to water resources, protection of
18 those resources, and water conservation.

19 From 1992 through 1998, I served as a member of the
20 Endangered and Natural Resources Advisory Committee
21 (ENRAC), a committee formed by the Volusia County Council
22 to review and recommend modifications to all
23 environmental laws.

24 From 1996 through the present, I have served as the
25 agricultural representative to the Volusia Water

1 Alliance. This group developed plans for responsible
2 well field withdrawals from the Sole Source Volusian
3 Aquifer, examines alternative water sources, and promotes
4 countywide conservation consistent with St. Johns River
5 Water Management District plans. It is currently
6 transitioning to a new organization, with powers to
7 implement alternative water source development.

8 Q. Are you the person who will primarily oversee the
9 operation of Farmton Water Resources, LLC as a
10 certificated Utility?

11 A. Yes I am. I will of course enlist the services of
12 additional persons with experience in the operation and
13 maintenance of the on-site systems as needed, to assist
14 me in that regard. We have already secured the services
15 of engineers, attorneys and regulatory consultants for
16 preparation of our application and to assist with design,
17 planning and set up of the Utility.

18 Q. Why did Farmton Water Resources, LLC decide to undertake
19 certification of its water utility operations by the PSC?

20 A. The landowner has long felt that the operation of the
21 numerous water facilities, wells and resources on the
22 Farmton property needed to be centralized into a separate
23 entity, for the purposes of meeting all the water supply
24 needs within such lands. In order to properly plan for
25 future needs and to provide water to not only our own

1 lands, but to other properties that may wish to obtain
2 water from those lands, we felt that it was best to
3 operate a regulated Utility under the scrutiny of the
4 Public Service Commission, for the good of all current
5 and future customers within that territory and those who
6 might seek bulk service for use outside that territory.
7 We were also concerned about proper management and use of
8 the water resources, to ensure the most efficient and
9 economical provision of water, to those in need of that
10 resource. Because of our relationship with the landowner
11 and because there are no other utilities operating within
12 the area, we believe we are by far the best able to
13 manage the water resources and provide water service as
14 and when needed within the territory, and to utilize
15 these lands, to the extent they are utilized, for the
16 purposes of providing bulk water services to those
17 outside the territory. Any other proposed water source
18 would not only have to duplicate the existing facilities
19 operated by Farmton Water Resources, LLC to provide
20 service within the territory, but would have to obtain
21 some ownership interest in specific properties in order
22 to extract water for off-site use within the Miami
23 Corporation owned properties. This is inefficient and
24 also much more likely to be damaging to the water
25 resource. Farmton has an arrangement with the related

1 landowner, to allow it to place wells in appropriate
2 locations, and to move those wells as and when needed, in
3 order to ensure proper management of the resource for the
4 benefit of not only the persons needing water service on
5 the property, but those needing such service outside the
6 property.

7 Q. Is there a need for service within the proposed
8 territory?

9 A. Yes. There are significant needs that are already
10 existing. First, there is the existing residential and
11 general service potable water service needs in several
12 places throughout the territory. Among these are the
13 landowner's offices, residences, hunting camps and those
14 leased by others. Some of these hunting camps alone
15 involve use by over 260 families. They have specifically
16 asked us to provide service to them and understand that
17 our rates and charges will be established and regulated
18 by the Florida Public Service Commission. We intend to
19 provide that service to those hunting camp families, as
20 part of our overall potable water service.

21 Secondly, we have existing need for fire protection
22 services utilizing the wells located throughout the
23 Farmton Water Resources, LLC proposed territory.

24 Finally, there is apparently a growing need for bulk raw
25 water services from in and around our area, to the

1 coastal areas east of us. As noted above, we are in the
2 best position to provide that service at a reasonable
3 rate, regulated by the PSC, and can manage that resource
4 in the most efficient, economic and environmentally safe
5 manner.

6 Q. What about future needs?

7 A. It is unclear what future needs will be within the
8 territory. It is apparent that the bulk raw water will
9 increase and perhaps as urban areas approach us, there is
10 likely to be transition from the silviculture operations
11 and perhaps toward residential, commercial and industrial
12 development of properties. However, I want to make it
13 clear that there are absolutely no current plans by the
14 landowner for further development within the service
15 territory proposed for same by Farmton Water Resources,
16 LLC and as such, no plans for substantial changes in the
17 number of persons receiving potable water service.

18 However, with that said, there are places in and
19 surrounded by the proposed territory that may, in the
20 near future, require or request potable water service.
21 There are enclaves of residences which are surrounded by
22 the proposed service territory that currently are either
23 on individual or group wells. It is certainly
24 conceivable to me that some of these will require central
25 water service in the future, and we will be glad to work

1 with them to extend our territory to provide service to
2 them and we can assist them in that regard.

3 There is also the potential for development within the
4 Miami Corporation properties, though no plans are even in
5 the most preliminary of stages for such development.
6 While the landowner is in a constant process of
7 evaluating the uses for its property, nothing is
8 currently in the works. However, in order to properly
9 plan for the future, we believe setting up a utility as
10 the service provider within the area, is the first
11 logical step. Without the establishment of that utility,
12 service to the area when those needs arise would not only
13 be less efficient and ultimately more costly to the
14 customers, it would fragment the water resource
15 management for the water demands within the area.

16 That is basically why we are seeking this water
17 certificate, to allow for the appropriate oversight by
18 the PSC and planning by the Utility for provision of
19 water services to all those in need of such services
20 within the proposed territory who could reasonably
21 provide such services, much less as efficiently as
22 Farmton Water Resources, LLC can.

23 Q. Are the services proposed by you available from any other
24 entity?

25 A. No. There are no other entities within the proposed

territory, and there are none even close to the proposed
2 territory. An attempt to come in and provide those
3 services currently needed, would obviously be a complete
4 duplication of existing facilities operated by Farmton
5 Water Resources, LLC and would thus be not only
6 duplicative, but wholly inefficient.

7 Q. Does Farmton Water Resources, LLC have the technical
8 ability to provide the service proposed in its
9 Application?

10 A. Yes, in addition to my extensive experience in managing
11 water resources and knowledge of those issues, we have
12 already enlisted the services of Hartman & Associates as
13 consulting engineers and other regulatory experts to
14 assist us in operating the Utility. The same personnel
15 who have operated the water facilities for many years in
16 the past, will continue to operate those in the future
17 simply working for the Utility instead of the landowner.
18 To the extent we need to add additional people, we will
19 employ competent, experienced persons in utility areas
20 for those purposes. As the need for various services
21 within the area grows, we will enlist additional
22 experienced and knowledgeable people as and when needed.

23 Q. Does Farmton Water Resources, LLC have the financial
24 ability to provide the service proposed in its
25 Application?

1 A. Yes, Farmton Water Resources, LLC is a subsidiary of
2 Farmton Management, LLC. We provided as part of our
3 Application as Exhibit "E" a financial statement for that
4 entity showing that it has ample resources to meet the
5 immediate needs for Utility expansion. Those funds will
6 be provided either in the form of debt or equity to the
7 Utility from the parent company. The parent company has
8 pledged to provide for any and all capital needs of the
9 Utility. It should be noted that we have no expectation
10 of any need for capital improvements, as there is no
11 anticipated development of any significance within the
12 proposed service territory in any of the services
13 provided. The only area where there is the possibility
14 of some significant need for capital expenditure, is in
15 the area of bulk raw water services. Under the proposed
16 Service Availability Policy, substantial amounts of money
17 would have to be paid by the proposed customer, which
18 would assist us in constructing those facilities.
19 Whatever additional capital needs exist for those
20 facilities can easily be met by the Utility based upon
21 funding provided by its parent company.
22 Based upon all this, the Utility does not have any
23 immediate substantial capital needs, however, to the
24 extent there are any the parent company has pledged to
25 provide for all such capital needs as and when needed and

1 clearly has the ability to do so.

2 Q. Do you have any further testimony to provide on this
3 issue?

4 A. No I do not.

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1 MR. DETERDING: And we tender the witness for cross.

2 COMMISSIONER DEASON: Mr. Knox.

3 CROSS EXAMINATION

4 BY MR. KNOX:

5 Q Mr. Underhill, on Page 4 of your direct testimony,
6 you make the statement that, "We believe we are by far the best
7 able to manage the water resources and provide water service as
8 and when needed within the territory." Do you remember that
9 statement?

10 A Yes, sir.

11 Q Let me ask you a few questions about that. In
12 Brevard County, at least in the portion of the certificated
13 area that you're trying to obtain in Brevard County, have you
14 approached the County Commission to either seek an amendment to
15 the comprehensive plan that will allow Farmton to provide
16 service there?

17 A Not at this time. We have not. We felt that
18 this -- our first venue was to stop here.

19 Q Okay. Have you approached the County Commission
20 sitting as the district board under the Ordinance 03-032 to
21 seek their consent to build facilities for a water system in
22 this area?

23 A No, we have not.

24 Q Okay. That being the case, as we sit here today, you
25 don't know whether or not you would be able under that

1 ordinance to construct any facilities for a water system in
2 that area, do you?

3 A I guess I'm assuming that this was the first place
4 that we needed to stop en route a variety of requests.

5 Q Well, try to answer my question. Sitting here today,
6 you don't know whether or not you would be able to build any
7 water system facilities in this particular area, do you?

8 MR. DETERDING: Commissioner, I want to object. He's
9 asking Mr. Underhill to draw a legal conclusion about the
10 effect of the county's ordinance versus the Public Service
11 Commission's jurisdiction, and I don't think Mr. Underhill has
12 been offered as an expert in those kind of legal questions.
13 And frankly, I think that is a very difficult question for
14 anyone to answer even those who are lawyers.

15 COMMISSIONER DEASON: There's been an objection. Do
16 you care to respond?

17 MR. KNOX: Yes. My question goes to the ability of
18 Farmton to provide water service. And Mr. Underhill has to
19 know whether or not he has that ability based upon his ability
20 to construct or not construct facilities.

21 COMMISSIONER DEASON: I'm going to allow the question
22 with the understanding that the witness is not an attorney, is
23 not providing a legal opinion, but to the extent that the
24 question has bearing on his understanding of the company's
25 plans and how that meshes with the various jurisdictions

1 involved, he may express that.

2 THE WITNESS: If I understand you correctly, do we
3 have the physical ability to do such? When we drilled the well
4 in Brevard County, we went to Brevard County, we got the permit
5 and had the permit in place. So, yes, I would say we do have
6 the ability.

7 BY MR. KNOX:

8 Q Okay. When did you get that permit?

9 A Sometime this past winter.

10 Q Okay. I'm not sure you answered my question though.
11 If you haven't gone to the County Commission to seek consent to
12 provide -- or to build facilities that you're contemplating in
13 this application, you don't know today whether or not the
14 County Commission would grant that consent, do you?

15 A I thought your question was, did we have the ability.

16 Q Try to answer the question I just asked.

17 A Would you repeat that, sir?

18 Q Sure. As you sit today, you don't know whether or
19 not the County Commission would grant you permission to build
20 the water facilities you're planning to build in this location,
21 do you?

22 A That's correct.

23 Q That being the case, you don't know whether Farmton
24 has the actual ability to provide water service in the future,
25 do you?

1 A You're saying that we do not have the ability.

2 Q No. I'm asking whether you think today, as you sit
3 here, you know that you have the ability.

4 MR. DETERDING: And again, he's asking a question
5 about their legal ability versus their technical or physical
6 ability to do these things, so he's drawing -- he's asking for
7 a legal conclusion.

8 COMMISSIONER DEASON: And I still will allow the
9 question based upon the previous ruling.

10 THE WITNESS: We have the physical ability. Do we
11 have the legal the ability? I'm not capable of answering that
12 question.

13 BY MR. KNOX:

14 Q Okay. Mr. Underhill, is there a portable microphone
15 up there somewhere that you could take with you?

16 A Yes, I believe there is.

17 Q If you could, could you approach the big map that's
18 standing to your right?

19 A Yes.

20 Q Would you point out the area that Farmton has applied
21 for the certificated area in?

22 A It's the area in yellow.

23 Q Okay. Now, if you look at that map, there's an area
24 between I-95 and the yellow area you just pointed to. Do you
25 see that?

1 A You're talking about along here?

2 Q Yes. That's a green area. Does Miami Corporation
3 own that property?

4 A No, Miami does not.

5 Q Does any subsidiary of Miami Corporation own that
6 property?

7 A No.

8 Q Do you know how far that property is to the
9 Farmton -- how far it is between the -- excuse me, let me
10 restate that.

11 Do you know how far it is between the Miami
12 Corporation property, which is identified in yellow, and
13 I-95 from that location?

14 A Yes. In general, it's between one and a half to
15 three miles.

16 Q Okay. Thank you. That's all I need you up there
17 for.

18 A Okay.

19 Q Now, Mr. Underhill, is it fair to say that one of the
20 reasons that you're seeking to obtain a certificated area here
21 is because sometime in the future it's possible Miami
22 Corporation may decide to allow residential or commercial
23 development of its property?

24 A Anything is possible in the future.

25 Q Okay. But as we sit here today, you don't know of

1 any such plans on the boards?

2 A We do not have immediate plans, that's correct.

3 MR. KNOX: Okay. Thank you.

4 COMMISSIONER DEASON: Mr. McNamara.

5 CROSS EXAMINATION

6 BY MR. McNAMARA:

7 Q Hello, Mr. Underhill. My name is Pat McNamara; I
8 represent the City of Titusville. We met a few weeks ago at
9 your deposition.

10 A Sure. Hi.

11 Q On Page 5 of your prefiled testimony, Lines 12
12 through 15, you made the following statement -- and excuse me,
13 I'll start on Line 9. "There are significant needs that are
14 already existing. First, there is the existing residential and
15 general service potable water service needs in several places
16 throughout the territory. Among these are the landowner's
17 offices, residences, hunting camps, and those leased by
18 others."

19 I'd like to talk a little bit about each of these
20 areas that you mention in your prefiled testimony. First, as
21 to the landowner's offices, isn't it true that the landowner's
22 offices is one single family home located on the Miami
23 Corporation property; correct?

24 A Yes, that's correct, and the associated buildings.

25 Q And the associated buildings, can you describe those

1 for me?

2 A We've got about a 60- by 100-foot shed, equipment
3 shed, which is our shop. We've got another large pole barn,
4 probably 50 by 120 feet. We have an oil barn. We have
5 associated bathrooms. We have our fuel facility there which
6 is -- consists of a fuel farm for both gasoline and off-road
7 diesel. We have my office and we have the adjoining
8 caretaker's house.

9 Q And your office is in the single family home that we
10 already discussed; correct?

11 A Yes, that's correct.

12 Q And as I understand it, there are a total of five
13 people who work out of the office building; is that correct?

14 A Full time, that's correct.

15 Q And you currently have no plans for expansion of the
16 Miami Corporation office building; correct?

17 A That's correct.

18 Q And this office building is served by one existing
19 well that is currently owned by the Miami Corporation?

20 A That's correct.

21 Q And your plan is to lease that well to Farmton Water
22 Resources?

23 A That's correct, as part of the overall package.

24 Q So you'll lease this well from the Miami Corporation
25 to Farmton Water Resources, and then pay retail service rates

1 rom purchasing water back from that same well?

2 A As I understand it, yes.

3 Q How long has that well been in operation?

4 A That well was dug some 10 to 12 years ago.

5 Q Is the water supply from that well sufficient in
6 terms of quantity for your needs?

7 A Most of the time. There are times when we have fire
8 needs, and we have been unable to meet the fire needs from that
9 well. In other words, without bringing a tanker and it just
10 does not have the capacity or the capability with the pump to
11 fill up the tanker in an efficient method.

12 Q I'd like to just set aside fire service needs for a
13 minute because I'll cover that separately. But is that well
14 sufficient for the retail service needs currently of the Miami
15 Corporation headquarters?

16 A Yes. But I guess my point is that fire is part of
17 the needs there. As far as the rest of the needs, yes, it
18 meets the rest of the needs. Understand that when a logger
19 brings equipment in to clean it off at times, they too are
20 going to be posed with the same problem of a limited water
21 supply. In other words, we support the loggers on the
22 property, and they're constantly coming in and requiring water.

23 Q Well, currently is there any plan in the proposed
24 application for expanding the water facilities at the Miami
25 Corporation headquarters?

1 A Not at this time.

2 Q You talked in your prefiled testimony about
3 residences on the property. Isn't it true there are only two
4 residences, one being at the Miami Corporation headquarters and
5 one being at the -- one of the check stations where there's a
6 trailer; is that correct?

7 A Well, there's a third residence, the Clark
8 Cattlehouse. So there are three residences.

9 Q The Clark Cattlehouse is not used as a residence full
10 time; correct?

11 A Not at the moment, but one of my employees recently
12 was living there with his family.

13 Q But at the moment it's currently used for storage for
14 the Clark Cattle Company?

15 A No. They spend the night in there. They use that as
16 a retreat for themselves. They set up to spend time in there.

17 Q Other than those three residences that we talked
18 about, there are no other residences on the Miami Corporation
19 property; correct?

20 A That's correct.

21 Q The residence that is adjacent to the Miami
22 Corporation headquarters, that is served by the same well that
23 we already discussed that serves the Miami Corporation
24 headquarters?

25 A Yes, it is.

1 Q And no plans to add an additional well for the
2 residence; correct?

3 A No, there are not at this point.

4 Q Isn't it true that ultimately Farmton Water Resources
5 would have under the current application three customers, one
6 being the Miami Tract Hunt Club, one being the Miami
7 Corporation, and one being the Clark Cattle station?

8 A Yes, except that we've had discussions, as you well
9 know, with the City of Titusville when we started this, and we
10 entered into this in good faith that we could supply a need
11 with the City of Titusville. That's what we thought we were
12 fulfilling when we made our application.

13 Q But currently you have no contracts with the City of
14 Titusville to provide bulk water; correct?

15 A No, we do not. We have -- and our door is open if
16 they care to contact us.

17 Q And those discussions are not ongoing at this time;
18 correct?

19 A They have hit a stalemate.

20 Q And with regard to the City of Titusville, it is a
21 governmental entity; correct?

22 A Yes, it is.

23 Q And isn't it your understanding that to provide bulk
24 water service to a governmental entity that would be exempt
25 from PSC regulation?

1 A That's what I've heard here today, yes.

2 Q During your deposition, you were asked quite a few
3 questions about the Miami Tract Hunt Club, and I'd like to just
4 go over some of those things briefly with you here today. I'm
5 going to provide you with a copy of what I'll mark as the next
6 exhibit.

7 MR. McNAMARA: And I believe, according to my
8 records, the next one would be Number 39; is that correct,
9 Commissioner?

10 COMMISSIONER DEASON: That is correct.

11 MR. McNAMARA: Excuse me. I've chosen the wrong
12 document.

13 COMMISSIONER DEASON: Are we going to eventually need
14 this too, or do you need it back?

15 MR. McNAMARA: I will take that one back. I
16 apologize.

17 (Exhibit 39 marked for identification.)

18 BY MR. McNAMARA:

19 Q Mr. Underhill, we've handed you what's been marked as
20 Exhibit Number 39, and this was also an Exhibit Number 1 in
21 your deposition.

22 A Sure.

23 Q Is this a copy of the hunting lease between the Miami
24 Corporation and the Miami Tract Hunt Club?

25 A Yes, it is.

1 Q And is this a true and accurate copy of the lease?

2 A Yes, it is.

3 Q As I understand it, the lease began in April of
4 2001; correct?

5 A Correct.

6 Q And the lease expires on May 15th of 2006; is that
7 correct?

8 A That's correct.

9 Q And currently there has been no agreement reached to
10 extend this lease beyond May of 2006; correct?

11 A There's been nothing in writing, that's correct.
12 There have been discussions with Mr. Thomas and myself about an
13 extension.

14 Q But currently as far as a legally binding extension,
15 there's nothing in effect; correct?

16 A That's correct.

17 Q If you look at Paragraph 14, isn't it true that the
18 lease limits the Miami Tract Hunt Club to 261 members?

19 A That is correct, yes.

20 Q And attached to the lease is Exhibit B, the Miami
21 Tract Hunt Club rules; is that correct?

22 A Yes, it is.

23 Q And those rules provide for restrictions of the Miami
24 Tract Hunt Club as to what months they can use the land;
25 correct?

1 A It depends on whether or not this is a current
2 modification. Can you point me to what rule that is?

3 Q Just one moment. If you look at Rule Number 12.

4 A Okay. That is correct. However, in the spirit of
5 working with the hunt club, they have agreed to provide us and
6 all the landowners in the Osteen area with assistance by
7 manning the fire tower that the state has been short funded on.
8 So by manning the fire tower one day in the period between
9 April 30th and September 1st, they are then given the right and
10 ability to come on our lands for the entire summer.

11 Q Currently how many trailers or tents are located on
12 the campsites if we were to go out there today?

13 A Currently there should be zero.

14 Q Zero?

15 A That's right.

16 Q Would the same have been true if we had been out
17 there last weekend?

18 A Yes, it would have.

19 Q Currently at the locations of the campsites, there is
20 no electricity provided; correct?

21 A That is correct.

22 Q And you anticipate providing power for any wells by
23 use of either some type of a fuel generator or a solar power;
24 correct?

25 A Or if we need to, we'll bring in electricity. One of

1 the campsites is not too far from the Maytown Road.

2 Q And currently there are two campsites that have
3 wells; is that true?

4 A That is correct.

5 Q And those two wells are both currently operated with
6 hand-operated pitcher pumps; true?

7 A That's correct. That was an interim step in getting
8 the wells to that point and we anticipate moving ahead.

9 Q And two of the campsites have had service prior to
10 the recent installation of wells. Two of the campsites have
11 had wells in the past is my understanding; is that true?

12 A You're talking about a different kind of well.
13 You're talking about a shallow well. It was not potable.
14 Signs were posted at those wells that they were not potable.
15 So there should not have been use for anything other than dogs,
16 watering dogs, washing hands, that kind of a thing.

17 Q As far as the campsites go, the proposal, as I
18 understand it, is there will ultimately be four campsites, each
19 campsite having one well; is that true?

20 A That's the tentative proposal. And as Mr. Thomas
21 said in his deposition, as the need expands, we would be
22 prepared to meet the needs.

23 Q Currently the lease only provides for four campsites;
24 isn't that true?

25 A I don't know that the lease even speaks to the number

1 of campsites.

2 Q As far as your PSC application goes, the application
3 has asked for four well sites for four campsites; correct?

4 A That's what Mr. Thomas's letter to us requested, yes,
5 sir.

6 Q Prior to filing your application, did you have any
7 discussion with the Miami Tract Hunt Club members as to how
8 many gallons of water they needed?

9 A Did not have a discussion specifically on gallons,
10 no. Mike and I had a discussion on what we thought -- what we
11 had seen over the years. Remember, Mr. Thomas has been the
12 wildlife officer there for 27 years; I've been there for 25
13 years. We've seen the campsites to the point, particularly the
14 Cattle (phonetic) Creek campsite, where there were over 100
15 campers there. We both felt that was not what was in the best
16 interest to the campers. We wanted -- we agreed that a
17 reasonable number would be 25 campers per campsite to continue
18 to have a quality experience. So those were the ballpark
19 numbers that we were shooting for.

20 Q So 25 campers for four campsites?

21 A Per campsite.

22 Q 25 members per campsite for four, for a total of 100.

23 A Yes.

24 Q There are no bathrooms at these campsites; isn't that
25 true?

1 A Currently there are none.

2 Q Any plans for constructing bathrooms?

3 A No, we do not have any.

4 Q No shower facilities at these campsites; isn't that
5 true?

6 A Other than what is brought in on the campers.

7 Q So people may have shower facilities within their own
8 motor homes, but not a shower facility that's permitted on the
9 premises; correct?

10 A That's correct.

11 Q With regard to bulk service, you talked earlier about
12 the City of Titusville. Isn't it fair to say that Farmton does
13 not have contracts with any entity whether private or
14 government to provide bulk service?

15 A That's correct. But we've had discussions actually
16 since this application was filed. One of the enclaves that has
17 a substantial number of people camping at it and actually
18 living at it, it's referred to as the Bell Ridge area. The
19 owner of that land approached me and said, hey, we'd be
20 interested in possibly getting some water. And my response to
21 him was, let's wait until we complete this procedure and then
22 we'll talk.

23 Q The Bell Ridge is not owned by the Miami Corporation?

24 A It is not owned by Miami Corporation.

25 Q So it's not within the current proposed service area?

1 A That's correct. But what we, I guess, had discussed
2 was providing water up to the edge of our territory and letting
3 him take water from that point on.

4 Q Miami Corporation, as I understand it, owns all of
5 the lands within its proposed service area; true?

6 A Not true.

7 Q Who else owns lands within the proposed service area?

8 A Florida East Coast.

9 Q Florida East Coast Railroad?

10 A Yes.

11 Q Anyone else?

12 A Not that I know of.

13 Q As to fire protection, currently Miami Corporation
14 has two wells on the property for fire protection?

15 A That's correct.

16 Q And were you working for Miami Corporation on the
17 property when those wells were installed?

18 A Yes, I was.

19 Q You did not need PSC certification to install those
20 two wells?

21 A Not to my knowledge.

22 Q Do you have any reason to believe that you would need
23 PSC certification from Miami Corporation to install additional
24 fire protection wells on its own property?

25 A Once again, you're starting to get into a legal area,

1 but I don't believe so. I think it's part of the overall
2 package. When you put together all the needs and managing the
3 resource properly, that's what we're concerned with, is make
4 sure that the resource is managed properly.

5 Q I think you talked a little bit in your direct
6 testimony when you were giving your summary about there were no
7 immediate plans to develop the property. So there are no plans
8 to develop any residences within the Miami Corporation
9 property; correct?

10 A Not at this time there are not.

11 Q And there are no plans for commercial development
12 within the Miami Corporation property; correct?

13 A That's correct, but who knows what tomorrow will
14 bring.

15 Q It'd be fair to say that anything in the future would
16 be speculative?

17 A Sure.

18 Q You are the director of operations for Farmton Water
19 Resources?

20 A I believe my title is vice president of operations.

21 Q And are you the person that is the on-site management
22 for Farmton Water Resources?

23 A Yes.

24 Q And you will be the person that is actually managing
25 a utility if it were certificated?

1 A With assistance from Hartman & Associates and
2 whatever other help was deemed necessary, yes.

3 Q You personally have no personal experience in
4 managing a public water utility?

5 A That's correct.

6 Q Does Farnton Water Resources have a financial
7 statement?

8 A I do not believe we do.

9 Q Does Farnton Water Resources have any written
10 agreements with the Miami Corporation that commits the Miami
11 Corporation to provide Farnton Water Resources with funding?

12 A It was in one of the affidavits, yes.

13 Q But is there any written agreement with the Miami
14 Corporation?

15 A None other than the affidavit.

16 Q Is there any written agreement between Farnton Water
17 Resources and Farnton Management to provide -- that commits
18 Farnton Management to provide Farnton Water Resources with
19 financial commitments?

20 A None other than those affidavits that I'm aware of.

21 Q As I understand it, Miami Corporation completely owns
22 Farnton Management; correct?

23 A Yes.

24 Q And Farnton Management completely owns Farnton Water
25 Resources; correct?

1 A I'm not sure of ownership there.

2 Q Do you know who owns Farmton Water Resources?

3 A No, I do not. I presume that it's Miami/Farmton
4 Management, but I'm not positive to that effect.

5 Q So you can't say for sure one way or the other?

6 A No, I cannot.

7 MR. McNAMARA: Commissioner, if I could just have one
8 minute to talk to my client.

9 COMMISSIONER DEASON: Yes.

10 BY MR. McNAMARA:

11 Q How much money has Farmton Water Resources paid to
12 its lawyers and consultants in this case?

13 A All of them?

14 Q Yes.

15 A In excess of \$500,000.

16 MR. McNAMARA: That's all I have. Thank you.

17 COMMISSIONER DEASON: Mr. Bosch.

18 MR. BOSCH: Thank you.

19 CROSS EXAMINATION

20 BY MR. BOSCH:

21 Q Mr. Underhill, just a few questions. Who
22 specifically was it that identified that there was a need for
23 central water service in this area?

24 A For a central water service, it was determined that
25 the Miami Tract Hunt Club was the impetus.

1 Q And when they determined that there was a need that
2 for whatever reason the well wasn't going to be good enough for
3 them anymore the way it was being done at that time, was any
4 request made to Volusia County to supply them with the water
5 that they needed?

6 A Did Miami Tract Hunt Club go to Volusia County? Is
7 that the question you're asking?

8 Q Yes, sir.

9 A Not to my knowledge.

10 Q And the reason they didn't was because the real
11 intent was to get all these 50-something-thousand acres into
12 one large service area, correct, that was the main impetus
13 behind this?

14 A I think the impetus is the whole package. It is the
15 package of withdrawing the water responsibly and seeing that we
16 do not either overpump and have salt water intrusion as has
17 happened so often on cities up and down the east coast of
18 Florida. They have the opportunity then to go to other lands.
19 We sitting at Farmton do not want to see that happen. We don't
20 have the opportunity to go to other lands. We only own this
21 land. We do not want to see the water resource below Farmton
22 destroyed.

23 Q So quantity of water and quality of water was not
24 really a factor in determining that you needed this water
25 service, was it?

1 A Sure it was. That's what I just said I thought.

2 Q Well, you said there were other considerations
3 including, you know, all the other things you just mentioned as
4 far as utilizing the resources and --

5 A Utilizing --

6 Q -- maintaining --

7 A -- responsibly and making sure we do not get salt
8 water intrusion, that's correct.

9 Q Now, you could have alternatively simply asked the
10 county for service if you felt there was a need, and you
11 wouldn't have had to spend \$500,000; correct?

12 A I think if you go back and look, when we started this
13 process, there was a much more reasonable figure that we were
14 spending on it. And it's why we're here today, this is what's
15 costing us.

16 MR. BOSCH: No more questions.

17 COMMISSIONER DEASON: Staff.

18 CROSS EXAMINATION

19 BY MS. FLEMING:

20 Q Mr. Underhill, on Page 9 of your direct testimony,
21 I'm referring specifically to Line 24, starting on Line 24, you
22 state that the parent company has pledged to provide for all
23 such capital needs as and when needed and clearly has the
24 ability to do so.

25 A Yes.

1 Q What is your basis for the statement that the parent
2 company clearly has the ability to provide for these capital
3 needs?

4 A Simply the value -- for instance, the value of the
5 land which Miami Corporation owns free and clear should be
6 sufficient to take care of any of those needs.

7 Q Does Farmton have the financial ability to provide
8 services proposed in its application?

9 A Indirectly through Miami Corporation, yes.

10 MS. FLEMING: Thank you. No further questions.

11 COMMISSIONER DEASON: Okay. Commissioner, any
12 questions?

13 Redirect.

14 MR. DETERDING: Yes.

15 REDIRECT EXAMINATION

16 BY MR. DETERDING:

17 Q You were asked several questions, Mr. Underhill, by
18 Mr. McNamara about the membership in the hunt club. You
19 indicated that there are 261 member families?

20 A 261 family members, that's correct.

21 Q And are there other types of members beside those
22 261 family members?

23 A Well, the 261 family, it's a membership for the
24 family. That means that there's a primary member, then there's
25 a spouse and whatever other children age 21 and below are also

1 part of that individual membership.

2 Q Are there law enforcement members?

3 A Yes, there are eight I believe is the number of law
4 enforcement memberships which also carry that same definition
5 of a membership, includes a spouse and children. And then, of
6 course, Miami Corporation employees and retired Miami
7 Corporation employees are members.

8 Q And how many of those are there?

9 A There are five Miami Corporation employees, and there
10 is one retired Miami Corporation employee.

11 Q So there are actually somewhere closer to 275 member
12 families or family memberships?

13 A Yes.

14 Q Okay. Now, you were asked about the number of, for
15 lack of a better word, trailers or motor homes. What type of
16 things -- let's back up. What type of things are brought out
17 to these campsites by the members of this hunt club?

18 A It varies. Some of them are primitive tents to the
19 fanciest trailer you can imagine --

20 Q Okay.

21 A -- and everything in between.

22 Q And do these type of homes, are they left there
23 throughout the hunt season?

24 A Some of them go in and out on weekends, some of them
25 will spend a couple of weeks, some of them are there from the

1 1st of September through the end of April. Some of them
2 escaped me this year and made it into May.

3 Q Can you estimate the number of persons who are
4 utilizing these hunt clubs for camping during the September 1st
5 through April 30th hunt season?

6 A You know, I'm not really the one that that question
7 should be directed at. It should be directed at Mike Thomas.
8 And I can take some things out of -- if I have the liberty to
9 take some things out of his deposition.

10 Q Well, were you present at his deposition?

11 A Yes, I sat in with him.

12 Q Do you recall what he said were the number of persons
13 who were utilizing those facilities?

14 MR. McNAMARA: Objection. Commissioner, this is
15 purely hearsay. It's not being offered to substantiate
16 anything that's already in the record. The Commissioner has
17 already ruled earlier that this deposition is not admissible,
18 and I do not think this is --

19 COMMISSIONER DEASON: I did not rule it was not
20 admissible. I said it was not going to be utilized in lieu of
21 prefiled testimony, but it was discovery and could be utilized
22 during the course of the hearing under appropriate
23 circumstances.

24 MR. McNAMARA: I would submit, Commissioner, that
25 this is not an appropriate circumstance to use it because this

1 witness is using it purely as repeating what he heard at the
2 deposition.

3 COMMISSIONER DEASON: There's an objection. Do you
4 have a response?

5 MR. DETERDING: Commissioner, this witness is telling
6 you what he understands to be the need within that area. There
7 have been many questions posed not only to this witness but to
8 others about the need within the area. We have had excluded
9 the man who has the most knowledge about the people who are
10 utilizing those facilities, and this is the witness who has the
11 second most knowledge based upon not only his own experience
12 but based upon the specifics outlined by that customer.

13 COMMISSIONER DEASON: I will allow the question.
14 Objection is overruled.

15 THE WITNESS: Would you please repeat the question.

16 BY MR. DETERDING:

17 Q Well, I don't know that I can. But can you -- based
18 upon your understanding, both from your personal knowledge and
19 from your discussions with Mr. Thomas and his statements that
20 you've heard him make, what are the number of people that are
21 utilizing these facilities during the hunting season?

22 A I think we've got to break down the use into two
23 separate areas. One is simply the daily needs of the hunter
24 who comes in and does not camp, and he certainly has needs,
25 drinking water, throughout the property. He's either got to

1 tote it with him, or he's got to go to one of these wells. If,
2 in fact, he has killed a deer, that's going to take additional
3 water for cleaning. One of the requirements is -- we are a
4 mitigation bank and one of the requirements is that we provide
5 data to St. Johns regarding the take, the sex, the weight,
6 et cetera. So our animals must be checked so that we can
7 collect this information. And in this process, when you've got
8 a dead animal, you need water for cleaning. So that's another
9 need.

10 And the third need, probably the largest, has to do
11 with camping. And as Mr. Thomas said, there's -- as the water
12 becomes more available, the need will increase. We'll see the
13 demand, maybe not -- that's not quite the right word. The
14 demand will increase as the hunters see there is water more
15 available. Water is a precious commodity out there. I believe
16 Mr. Thomas put together some numbers saying something to the
17 effect that there were 50 days of camping, 50 days of high
18 intensity camping when he expected there to be something on the
19 order of 650 people out there that would potentially camp out
20 there. And this excludes totally the rest -- he was talking
21 weekends and high use days. You know, there's times during the
22 rest of the hunting season which varies from some point in mid
23 to late September until the end of turkey gobbler season which
24 ends around the end of April when there's a lesser need, but
25 there's definitely a need at those times also.

1 Q What about the summer months? You mentioned
2 something about the people assisting with the -- manning the
3 fire tower.

4 A You know, it's interesting that you bring that up
5 because we've totally disregarded that fact that the first and
6 third weekends of the summer months we allow all of our hunters
7 in to come to their feeders. Each hunter is allowed to place
8 two feeders and keep them manned. One of the requirements of
9 the Fish and Wildlife Conservation Commission is that in order
10 to hunt over a feeder, you must have kept that feeder active
11 for the prior six months. So they need to replenish their
12 feeders. That means they must be in replenishing them and
13 spend time on the property. At the same time, during that
14 first and third weekend, they are taking the opportunity to go
15 see what the animal count is like. So they are spending time
16 there. Plus by the time they have -- and we're getting up to
17 120 of them. When you figure for the fire watch we've got four
18 months, 30 days a month, we've got 120 of them that are then
19 granted permission to come in during the summer.

20 Just this past weekend, we had two fires that were
21 located on Sunday in Farmton by the hunters. This is our goal.
22 We want the hunters on our land. We want them utilizing it.
23 We want to be in partnership with the hunters.

24 Q Now, when you say 120 of them, is that families or --

25 A That's right. That's the family. That enables the

1 entire family to come on Farmton.

2 Q So during the winter, it's the more intensive use
3 during the hunting season, from September to April?

4 A Yes.

5 Q And then during the summer in the less intensive
6 period, it's the -- there's 120 people who have the right to
7 come out there and utilize it?

8 A That's at all times. Remember, the first and third
9 weekends all the hunters have the rights and pretty much the
10 obligation because most of the hunters have feeding stations
11 out there, and then they have that obligation to come out and
12 spend time on Farmton. So, yes, there's -- it's amazing, you
13 go out on the weekends, how many people are there.

14 And the main reason that we have asked them to come
15 out on the weekends, simply because there's too much logging
16 traffic and the like that we don't want them -- because they
17 create a traffic jam, that we don't want to disturb the logging
18 traffic.

19 Q You mentioned a travel trailer or park that is -- has
20 sought some input from you about the possibility of obtaining
21 service. What was the name of that?

22 A Yes. That's Mr. Larry Lott (phonetic). That's at
23 the Bell Ridge area.

24 Q Bell Ridge. And how many homes or trailers are
25 there?

1 A He didn't tender a number to me. You know, we're
2 talking certainly in excess 50; 75 is not inconceivable. I'm
3 not sure that the way he hooks up his electric that he's ever
4 going to tell us how many folks he's got back there.

5 Q You were asked about the configuration of the systems
6 that are operated by Farmton, and you said something to the
7 effect that you were moving ahead with the power -- powering
8 these well sites. Can you explain to the Commission what you
9 mean by that?

10 A We've simply had additional discussions on -- you
11 know, we recognize that the pitcher pumps were a stopgap
12 measure, a temporary thing, until we decided where we go from
13 here. Our intentions are to either provide a generator with
14 electricity or have a direct pump or the solar power or we
15 bring in electricity if it's close enough and if it does not
16 interfere with the mitigation bank. So Mr. Drake and myself
17 have had discussions about where we go from here.

18 While I think the best of all worlds would be the
19 solar, I want to be comfortable because the publications he's
20 giving me are very recent. I want to be comfortable before we
21 invest a substantial amount of money in that that we have a
22 good system.

23 Q But is it the intent of Farmton to make upgrades in
24 order to meet the needs out there at the --

25 A Oh, definitely.

1 Q Are you currently charging for water service at these
2 hunt clubs?

3 A No, sir.

4 Q And why is that?

5 A We are not metered. We have not been certificated
6 and been told it's acceptable.

7 Q You were asked about your experience in managing a
8 public water supply utility. Do you have any experience in
9 managing water resources, Mr. Underhill?

10 A In managing water resources, yes, I would say so.

11 Q Have you managed the water resources on the Miami
12 Corporation property for the last 25 years?

13 A I would say I have.

14 Q Have you been involved in countywide water management
15 for Volusia County?

16 A Yes. I think as I said in my direct testimony, I've
17 been -- I was the agricultural representative to the Volusian
18 Water Alliance from 1996 through 2003. I was on the ENRAC
19 which is an appointed committee to the Volusia County Council,
20 1992 to 1998. I was involved with the first group that met in
21 the early 1980s for the silvicultural rule from the Forestry
22 Association that met with St. Johns. And I am currently, and
23 have been since the early 1980s, a member of Florida Forestry
24 Association's Environmental Committee which established the
25 best management practices for silviculture and continues to

1 review those.

2 Q Okay. You were asked about the commitment from Miami
3 Corporation. Have you seen the financial statements of Miami
4 Corporation?

5 A Yes, sir, I have.

6 Q And does Miami Corporation have any debt?

7 A Miami Corporation has no debt.

8 Q Does Miami Corporation have assets well in excess of
9 anything that could be imagined to be necessary for Farmton?

10 A Yes, sir.

11 Q Has Miami Corporation made a commitment to Farmton to
12 provide the funding as and when needed for utility purposes?

13 A For all reasonable needs, yes, they have.

14 Q Did they provide an affidavit to that effect?

15 A Yes, sir, they did.

16 Q Have you seen that affidavit?

17 A Yes, I have.

18 COMMISSIONER DEASON: Mr. Deterding, do you wish to
19 have this identified, or is it already in the record?

20 MR. DETERDING: I do wish to have it identified,
21 Commissioner.

22 COMMISSIONER DEASON: Okay. It will be identified as
23 Exhibit Number 40.

24 (Exhibit 40 marked for identification.)

25 BY MR. DETERDING:

1 Q Is this the document you referred to as the affidavit
2 from Miami Corp to -- showing their commitment to provide
3 funding to Farmton?

4 A Yes, it is.

5 MR. DETERDING: Commissioners, I don't have any
6 further questions.

7 COMMISSIONER DEASON: Very well. Exhibits.

8 MR. DETERDING: Move Exhibit 40 and that's it, 40.

9 COMMISSIONER DEASON: Without objection --

10 MR. McNAMARA: Commissioner, we object to Exhibit 40.
11 Exhibit 40 is an affidavit from a person that was never
12 identified by Farmton as a witness in this case. It was a
13 person that was not included in their prefiled testimony. It
14 was not included in their prehearing statement. It's a person
15 that has not been subject to cross-examination at this hearing,
16 and we would submit it's inappropriate to submit the contents
17 of this affidavit.

18 The Commissioner has already overruled me on allowing
19 the witness to speak about it, but for actually admitting this
20 document into evidence, we would submit it as inappropriate
21 especially in the light of, as I said, the facts are that this
22 is a member of the Miami Corporation. They could have filed
23 prefiled testimony. They could have identified this person on
24 their witness list, which required us to identify all the
25 witnesses we intended to call, and they did not do so. And

1 under the circumstances, without an opportunity to
2 cross-examine we believe it's a violation of due process to
3 admit testimony, which is what an affidavit is, of this person.

4 COMMISSIONER DEASON: There's been an objection.
5 Response.

6 MR. DETERDING: Yes, Commissioner. This is simply
7 corroborative of his testimony, that he relied upon this, just
8 like the affidavit that is in the original application that
9 nobody has had any objection to that has already been admitted.
10 It is simply an affidavit from an officer of the corporation on
11 which these witnesses have relied as showing that they have the
12 financial backing and the financial ability. It is almost
13 identically word for word the same as the affidavit except that
14 it's from Miami Corporation instead of Farmton Management as
15 the one that's already in Exhibit E to Mr. Hartman's
16 Exhibit GCH-1. And it's simply sworn testimony that he is
17 aware of it and that this is the underlying basis for that --
18 part of the underlying basis for that understanding and his
19 testimony.

20 COMMISSIONER DEASON: Let me ask you a question. Did
21 this witness in prefiled direct testimony make reference to the
22 financial capabilities of Miami Corporation and its commitment
23 to seeing that there is adequate funding for operation of the
24 utility?

25 MR. DETERDING: In his direct testimony, I believe he

1 made a reference to the ability of the parent company to
2 provide funding. It's on Page 9 of his testimony, line -- if
3 you'll look at the sentence beginning on Line 19, Page 9,
4 through Line 21. And then if you'll look also on the next
5 sentence that begins on Line 22 and goes onto the first line of
6 Page 10.

7 COMMISSIONER DEASON: Okay. Objection is overruled,
8 I'll allow the exhibit. Exhibit 40 is admitted.

9 (Exhibit 40 admitted into the record.)

10 COMMISSIONER DEASON: We have identified Exhibit 39.

11 MR. McNAMARA: Yes. Commissioner, we would offer
12 Exhibit 39 at this time.

13 COMMISSIONER DEASON: Without objection, hearing no
14 objection, show that Exhibit 39 is also admitted.

15 (Exhibit 39 admitted into the record.)

16 COMMISSIONER DEASON: Thank you, Mr. Underhill.

17 THE WITNESS: Thank you.

18 COMMISSIONER DEASON: Mr. Deterding, you may call
19 your next witness.

20 MR. DETERDING: We call Tara Hollis to the stand.

21 TARA L. HOLLIS

22 was called as a witness on behalf of Farmton Water Resources,
23 LLC and, having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. DETERDING:

1 Q Ms. Hollis, have you been sworn?

2 A Yes, I have.

3 Q Please state your name and employment address.

4 A Tara Lynn Hollis, 201 East Pine Street, Suite 1000,
5 Orlando, Florida 32801.

6 Q Have you been retained by Farmton to provide
7 testimony and expert opinions in this proceeding?

8 A Yes, I have.

9 Q Did you prepare in conjunction with my office a
10 document referred to as the prefiled direct testimony of Tara
11 Hollis consisting of four pages?

12 A Yes, I did.

13 Q If I ask you those same questions here today, would
14 your answers be the same?

15 A Yes, they would.

16 Q Do you have any corrections to make to that
17 testimony?

18 A No, I do not.

19 Q Did you also prepare in conjunction with your direct
20 testimony two exhibits identified as TLH-1 and TLH-2?

21 A Yes, I did.

22 Q And TLH-1 being a PSC order and TLH-2 being your
23 resume?

24 A Correct.

25 Q Are there any corrections to those exhibits?

1 A No, there are not.

2 MR. DETERDING: And those exhibits have already been
3 identified and admitted as Exhibit 7 and 8; correct,
4 Commissioner?

5 COMMISSIONER DEASON: Give me just a moment and I
6 will confirm that. Yes, Exhibit 7 and 8 have been identified
7 and admitted.

8 MR. DETERDING: Thank you.

9 BY MR. DETERDING:

10 Q Ms. Hollis, would you please provide the Commission
11 with a summary of your direct testimony.

12 A Yes. Basically I was in charge of developing the
13 rates and charges for the retail fire protection and bulk
14 customers based on cost of service principles and based on PSC
15 rules and the Florida Statutes and also using cost projections
16 that were developed by our engineers and customer and flow
17 projections that were developed. And that's pretty what I'm
18 here to testify on.

19 MR. DETERDING: We would request that Ms. Hollis's
20 direct testimony be inserted in the record as though read.

21 COMMISSIONER DEASON: Without objection, it shall be
22 so inserted.

23

24

25

1 Q. State your name and address.

2 A. Tara Lynn Hollis, M.B.A., C.P.A., Hartman & Associates,
3 Inc., 201 E. Pine Street, Suite 1000, Orlando, Florida
4 32801.

5 Q. Ms. Hollis, are you a licensed Certified Public Accountant
6 in the State of Florida?

7 A. Yes. My license number is AC-0031100.

8 Q. Ms. Hollis, what is your area of specialty in your practice?

9 A. I specialize primarily in water and wastewater utility
10 financial matters.

11 Q. What professional experience do you have that would qualify
12 you to provide testimony in this matter?

13 A. I have been involved with the development of water and
14 wastewater rates and charges for various governmental units
15 throughout the State of Florida, which has included the
16 preparation of detailed financial projections.

17 Q. In what area are you going to provide testimony in this
18 matter?

19 A. In financial rate setting matters associated with the
20 application of Farnton Water Resources, LLC, and for the
21 Florida Public Service Commission original water
22 certificate.

23 Q. What specifically does that include?

24 A. It includes the retail, fire protections, and bulk water
25 user rates and service availability charges.

1 Q. Was the application for certification and supporting
2 financial report prepared by your firm?

3 A. Yes, our firm prepared the engineering, financial,
4 hydrogeological, and utility management aspects of the
5 application on behalf of our client, Farmton Water
6 Resources, LLC, which were included in Composite Exhibit
7 "GCH-1".

8 Q. Was the application submitted to the Public Service
9 Commission with an associated report on record at the
10 Commission?

11 A. Yes, these have been presented as Exhibits GCH-1.

12 Q. Is your rate setting analysis presented in Exhibit GCH-1?

13 A. Yes, Section 6 and Attachment B of the Engineering and
14 Financial Report (Exhibit GCH-1) detail the financial
15 information and rate design including supporting schedules.

16 Q. How were the expenses and capital costs contained in Exhibit
17 GCH-1, derived?

18 A. I worked with our engineers and hydrogeologists to develop
19 expense and capital projections, which were utilized in
20 developing the rates and charges identified in the
21 application.

22 Q. What is the appropriate return on equity for Farmton Water
23 Resources, LLC?

24 A. On July 5, 2002, the Public Service Commission issued Order
25 No. PSC-02-0898-PAA-WS reestablishing an authorized range of

1 return on common equity for water and wastewater utilities,
2 which I have included as Exhibit TLH-1. This leverage
3 formula was used as the basis for the rate of return on
4 equity for Farmton Water Resources, LLC.

5 Q What is the appropriate AFUDC rate for Farmton Water
6 Resources, LLC?

7 A The rate utilized was developed based on the parent
8 company's, Farmton Management LLC, lending rate of prime
9 plus two percent (2%).

10 Q Has a newer leverage formula order been issued and adopted
11 by the Florida Public Service Commission since the
12 preparation of your schedules contained in the Farmton Water
13 Resources, LLC Application?

14 A Yes, a newer leverage formula has been adopted and while we
15 have no problem with updating the information contained
16 within the application in order to recognize the most recent
17 leverage formula adopted by the Commission, we could not do
18 so at that time, because that newer version of the leverage
19 formula had not been adopted.

20 Q Utilizing the information provided, did you then develop the
21 rates and charges shown in the Application?

22 A Yes, those rates and charges were developed by me in
23 conformance with the requirements of the applicable
24 provisions of PSC Rules and Chapter 367, Florida Statutes.

25 Q Are you expecting to provide rebuttal testimony?

A. To the extent that it is needed, yes.

Q. Do you have a resume?

A. Yes, that is attached as Exhibit TLH-2.

Q. Does this conclude your Direct Testimony?

A. Yes.

1 MR. DETERDING: And we tender the witness for cross

2 COMMISSIONER DEASON: Very well. Mr. Knox.

3 MR. KNOX: I have no questions of this witness.

4 COMMISSIONER DEASON: Mr. McNamara.

5 CROSS EXAMINATION

6 BY MR. McNAMARA:

7 Q Hello, I just have a few questions for you.

8 A Okay.

9 MR. McNAMARA: Commissioner, is the next
10 exhibit Number 41?

11 COMMISSIONER DEASON: That's correct.

12 (Exhibit 41 marked for identification.)

13 BY MR. McNAMARA:

14 Q Ms. Hollis, we've handed you what has been marked for
15 identification as Exhibit Number 41. Is this Support Table
16 0-4 revised May 6th of 2004, is this a document that you
17 prepared?

18 A Yes, it was.

19 Q I just have a few brief questions about this
20 document. As I understood it, initially the plan that was
21 submitted in Farmton Water Resources' application was to charge
22 a base facility charge based upon each ERC for the hunt club;
23 is that correct?

24 A Yes, it was.

25 Q In this document I believe you've changed that to

1 charge each hunt camp \$83 base facility charge for a two-inch
2 well; correct?

3 A Yes.

4 Q Excuse me. I said a two-inch well, I meant a
5 two-inch meter; correct?

6 A Yes. I'm sorry. Yes.

7 Q Do you have a copy of the engineering report in front
8 of you?

9 A I do.

10 Q This is talking about retail potable service. In
11 both the initial December of 2001 application as well as in
12 this revised May 6th of 2004 application, it appears to me that
13 in line Account Number 640 for rents you've charged all of the
14 rents in the base facility charge?

15 A Yes, we did.

16 Q Is that a mistake?

17 A That is how we decided to treat it. It has also --
18 and in our bulk rates and I believe -- well, just the bulk
19 rates it's put as a gallonage charge, and it could be included
20 either way.

21 Q I don't want to cut you off. What was the last word
22 you said?

23 A We could have included it either way. We decided on
24 the retail side to put it in the base facility charge.

25 Q But isn't that rent calculated based upon a per

1 gallonage charge from the Miami Corporation to Farmton Water
2 Resources?

3 A Yes, it is.

4 Q You have not reviewed a financial statement for
5 Farmton Water Resources; correct?

6 A No, I have not.

7 Q If it existed, is that something that as an expert
8 for Farmton you would have expected to be provided with?

9 A Yes. I have reviewed one of Farmton Management that
10 was included with the initial application.

11 Q But the actual applicant is Farmton Water Resources,
12 and you have not seen their financial statement; correct?

13 A Correct, because they currently have not been in
14 operation as a water utility, so therefore, I would expect that
15 to be prepared at the time that they start operating as a water
16 utility.

17 Q With respect to Farmton Water Resources, are you
18 aware of any written agreements between Farmton Water Resources
19 and Farmton Management to provide financial backing?

20 A Any agreements? No. The affidavit that was included
21 with the initial application, yes.

22 Q But there is no actual written agreement that
23 provides a commitment?

24 A No. All our discussions were verbal in that verbal
25 commitment.

1 Q And you're not aware of any irrevocable line of
2 credit or letter of credit to Farmton Water Resources from any
3 entity to provide financial backing; correct?

4 A Correct.

5 MR. McNAMARA: That's all I have, Commissioner.

6 COMMISSIONER DEASON: Mr. Bosch.

7 MR. BOSCH: No questions.

8 COMMISSIONER DEASON: Staff.

9 CROSS EXAMINATION

10 BY MS. FLEMING:

11 Q Good afternoon, Ms. Hollis. Please refer to the
12 engineering report; I'm looking specifically at Page 90. It's
13 Support Table A-1.

14 A Okay.

15 Q In that Support Table A-1, you included -- or income
16 tax expense was included in the schedule supporting the
17 proposed rates and charges for retail potable and bulk water
18 service?

19 A Correct.

20 Q Has Farmton subsequently removed income tax expense
21 from those schedules?

22 A Yes, we have.

23 Q Can you explain why?

24 A Yes. Because Farmton will be treated as a
25 disregarded entity, those expenses will not be paid by Farmton

1 Water Resources, and therefore, we have not included them in
2 there to be recovered through the rates. So we have revised
3 the schedules -- I believe mid to late April we revised those
4 schedules.

5 MS. FLEMING: Thank you. We have no further
6 questions.

7 COMMISSIONER DEASON: Commissioners.

8 Redirect.

9 MR. DETERDING: Just a couple.

10 REDIRECT EXAMINATION

11 BY MR. DETERDING:

12 Q Mr. Hollis, you were asked about the inclusion of
13 rents in the base charges for the hunting camps. Based upon
14 your experience in calculating rates, is it the norm to include
15 the costs related to utilization of land for well sites in the
16 base charge?

17 A For the actual use of the land and the rent of the
18 land?

19 Q Uh-huh.

20 A Yes, because it's a royalty payment. We could have
21 treated it either in the gallonage as a variable cost or in the
22 base charge.

23 Q Okay. You were asked about whether you were aware of
24 any written commitment or documents from Miami Corporation or
25 Farmton to -- I'm sorry, or from Farmton Management committing

1 to finance the needs of Farmton Water Resources. Do you
2 believe that these affidavits that have been submitted both as
3 Exhibit E to the original application and is Exhibit 40
4 constitute a written commitment of that financing?

5 A Yes, I do.

6 MR. DETERDING: I don't have anything further.

7 COMMISSIONER DEASON: Okay. Exhibit 41, is it moved?

8 MR. McNAMARA: Yes, we would move it.

9 COMMISSIONER DEASON: Without objection, hearing no
10 objection, show that Exhibit 41 is admitted.

11 (Exhibit 41 admitted into the record.)

12 COMMISSIONER DEASON: Thank you, Ms. Hollis.

13 (Witness excused.)

14 COMMISSIONER DEASON: We have now concluded the
15 direct case for Farmton?

16 MR. DETERDING: Yes.

17 COMMISSIONER DEASON: Very well. We are going to
18 take a ten-minute recess at this point, and then we will
19 proceed with Titusville's case.

20 (Brief recess.)

21 COMMISSIONER DEASON: Call the hearing back to order.
22 I believe we were on Titusville's case at this point. You may
23 call your witness.

24 MR. McNAMARA: We would call Raynetta Grant.

25 RAYNETTA CURRY GRANT

1 was called as a witness on behalf of the City of Titusville,
2 Florida, and, having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. McNAMARA:

5 Q Ms. Grant, were you sworn earlier today?

6 A Yes.

7 Q Can you please tell us your name, your current
8 employment, and your employment address.

9 A My name is Raynetta Curry Grant. I am employed with
10 the City of Titusville at 2836 Garden Street, Titusville,
11 Florida 32780.

12 Q You provided prefiled testimony in this case. Do you
13 recall that?

14 A Yes, I did.

15 Q And if I were to ask you the same questions today,
16 would you give the same answers?

17 A Yes, with one correction.

18 Q Can you please tell us what that correction is.

19 A One modification. On Page 5 of the testimony, I made
20 the statement that Farmton is attempting to force the city to
21 purchase bulk water. In a later deposition, I modified that
22 wording to be more that we would limit what the city's options
23 were in that area.

24 Q With respect to your prefiled testimony, you also had
25 four exhibits. Do you recall that?

1 A Yes.

2 Q Do you have any changes to those four exhibits?

3 A No. No, I don't.

4 MR. McNAMARA: Commissioner, at this time we would
5 tender Ms. Grant's prefiled testimony, and we believe her
6 exhibits are already in evidence.

7 COMMISSIONER DEASON: Yes. The prefiled testimony,
8 without objection, shall be inserted into the record.

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**
2 **APPLICATION OF FARMTON WATER RESOURCES, LLC.**

3 Docket Number 021256-WU

4 **Prefiled Direct Testimony of Raynetta Curry Grant**

5 **On Behalf of The City of Titusville**

6
7 Q: Please state your full name, place of employment, and business address for the record.

8 A: Raynetta Curry Grant, City of Titusville, 2836 Garden Street, Titusville, Florida 32796.

9 Q: In what capacity are you employed by the City?

10 A: I am employed by the City of Titusville as its Water Resources Director.

11 Q: Do you have a resume?

12 A: Yes. It is attached as Exhibit "Grant 1."

13 Q: Do you have any specialized education and training relevant to this proceeding?

14 A: I hold a Bachelors Degree in Civil Engineering and a Masters Degrees in Environmental
15 Engineering. I also have a Diplomate from the American Academy of Environmental
16 Engineers, specialty certificate in Water Supply/Wastewater Engineering.

17 Q: Do you hold any professional licenses relevant to your testimony in this proceeding?

18 A: Yes, I am a professional engineer, licensed in Florida and Virginia.

19 Q: What are your duties as Water Resources Director?

20 A: As they most directly relate to this proceeding, I manage the City's public water system. The
21 City's public water system provides retail potable water services in the form of residential,
22 commercial and fire protection service. I also manage the City's wastewater system, which
23 produces high quality reclaimed water, an important water resource for the City.

1 Q: Generally, what geographic area does the City's public water system serve?

2 A: The City of Titusville has a water and sewer service area generally described as the area
3 bounded by the Indian River Lagoon on the east, Kings Highway and Range Road on the
4 south, Parrish Road on the north and extended westerly towards the St. Johns River.

5 Q: How efficient is the City's water system in meeting the water supply needs of its customers?

6 A: The City operates a very efficient public water system, which consistently meets all
7 applicable state and federal drinking water standards. The City provides safe, quality water
8 at very competitive rates. The success of the City's water system is documented in our
9 Consumer Confidence Report, which is attached as Exhibit "Grant 2."

10 Q: Does the City presently have any plans to expand its service area?

11 A: The City is well positioned to meet the potable water needs of any communities in the
12 vicinity of the City's service area that are not served by the County or another municipality.
13 However, the urbanizing areas of northern Brevard County that are not in the City of
14 Titusville's service area are in the Brevard County service area. The City does not have plans
15 to expand its service area in the near term, because there is not an unmet need for potable
16 water service in northern Brevard County at the present time.

17 Q: Does the City presently have any unmet need for potable water supplies?

18 A: No.

19 Q: Does the City project any unmet needs for water supplies in the near future?

20 A: No. The City has a thorough water supply planning process, through which the City will
21 meet all its projected potable water supply needs. As part of my duties as Water Resources
22 Director, I supervise the City's water supply and infrastructure planning processes to ensure
23 that the City can meet future water system demands, including the fire protection needs of the

1 City. The City regularly updates its growth projections and reviews its water supply
2 development plans to ensure that the City can cost-effectively meet future water needs. In
3 order to meet projected future water demands, the City is in the process of expanding its
4 allocated water supplies to meet projected increases in potable water supply needs. The City
5 has applied to the St. Johns River Water Management District for water use permits for a
6 new wellfield.

7 Q: Do you work closely with Brevard County and other public water utilities in northern
8 Brevard County as part of your duties as Water Resources Director?

9 A: Yes. The City of Titusville works closely with both the City of Cocoa and Brevard County
10 to coordinate water supply efforts.

11 Q: Are you aware of any unmet potable water supply needs in northern Brevard County?

12 A: No. Each local government water utility is required by state law to develop a plan for
13 meeting its projected potable water demands. This is generally done as part of the
14 infrastructure element of the locality's comprehensive plan. In the 2002 Legislative Session,
15 the Florida Legislature added the requirement that each local government comprehensive
16 plan evaluation and appraisal report include a work plan covering at least a 10-year planning
17 period for building water supply facilities that are identified in the element as necessary to
18 serve existing and new development and for which the local government is responsible.

19 Q: Is there a regional planning process designed to ensure that the water needs in Brevard
20 County are met?

21 A: Yes. The Water Supply Board of Brevard County was established by the County and the
22 municipalities for the purpose of working cooperatively to ensure the water needs in the
23 County are met. Brevard County and the municipalities in the County have an efficient

1 method for providing and expanding water systems to meet the needs in the County through
2 interlocal agreements, local ordinances, and coordination by the Water Supply Board. The
3 St. Johns River Water Management District also conducts a water supply planning process.
4 A copy of its District Water Supply Plan is attached as Exhibit "Grant 3."

5 Q: Are you familiar with the Farmton Water Resources, LLC. application to the Florida Public
6 Service Commission for an original certificate for operating a water utility in northern
7 Brevard and southern Volusia Counties?

8 A: Yes.

9 Q: **Is there** a need for the potable water utility in northern Brevard County, as proposed in the
10 Farmton application?

11 A: No. **Farmton appears** to indicate that much of the existing needs in the proposed service area
12 **can be met with the** existing water supply sources and infrastructure. Additional potable
13 **water demands based** on future growth described in the application are purely speculative.

14 Q: **Would the City of Titusville** be able to cost-effectively provide services in the area of
15 **northern Brevard County** where the Farmton application proposes to provide services, if a
16 need were to develop?

17 A: Yes. If a need for potable water supplies developed in that area, the City is in a very good
18 **position to meet those** needs. Brevard County would also be in a good position to supply the
19 **needs in the proposed** Farmton service area in northern Brevard County. The City and the
20 **County have a history** of working cooperatively to ensure that water supply needs are met.
21 **When a need arises,** the City and the County will work cooperatively with any developers to
22 **determine which utility** can best meet the water supply needs and reach an appropriate
23 agreement.

1 Q: Is there a need for bulk potable water services in northern Brevard County, as proposed in the
2 Farmton application?

3 A: No. I work closely with each of the public water utilities in northern Brevard County, and I
4 am not aware of any presently existing demand for bulk water in the region.

5 Q: In your opinion, what is the purpose Farmton's certificate application?

6 A: The Farmton application states that the purpose of the proposed service area is to provide for
7 retail potable water supply needs, fire protection and bulk potable water needs. I do not
8 believe that this is the primary purpose of the Farmton application. I believe the purpose of
9 the Farmton application is to give the Miami Corporation leverage in opposing the City of
10 Titusville's water use permit application for its new wellfield and to force the City to
11 purchase bulk water from the Miami Corporation, through Farmton Water Resources, LLC.
12 The City has exchanged multiple pieces of correspondence with the Miami Corporation and
13 its representatives that make this purpose quite apparent. Copies of this correspondence and
14 related documents are attached as Composite Exhibit "Grant 4."

15 Q: In your opinion, is the new water utility proposed by Farmton in the public interest?

16 A: No. If Farmton is successful, and the Miami Corporation prevents the City from developing
17 its new wellfield, it will result in higher water rates for the customers of the City's public
18 water system. This result would be contrary to the public interest.

19 Q: In addition to your direct testimony, do you anticipate offering testimony for impeachment or
20 rebuttal?

21 A: Yes, to the extent needed.

1 BY MR. McNAMARA:

2 Q Ms. Grant, can you please give us a brief summary of
3 your prefiled testimony?

4 A Certainly. Basically in the testimony I went over
5 Titusville's process for water supply planning and the thorough
6 process that we follow. I've been with the city since 1999,
7 and at that time we were doing a planning process, but the city
8 has done that for many, many years to make sure that future
9 demands are met. As part of that, I also discussed or talked
10 about our application that we currently have on file with the
11 St. Johns Water Management District to modify our consumptive
12 use permit. And I also in the testimony discuss working with
13 other cities or municipalities within the county.

14 MR. McNAMARA: At this time we would tender Ms. Grant
15 for cross-examination.

16 COMMISSIONER DEASON: Mr. Knox.

17 MR. KNOX: I have no questions of this witness.

18 COMMISSIONER DEASON: Mr. Bosch.

19 MR. BOSCH: No questions.

20 COMMISSIONER DEASON: Mr. Wharton. Mr. Deterding.

21 MR. DETERDING: Thank you, Commissioner.

22 CROSS EXAMINATION

23 BY MR. DETERDING:

24 Q Ms. Grant, Titusville currently has a CUP application
25 pending before the St. Johns River Water Management District,

1 does it not?

2 A Yes.

3 Q And your CUP application assumes a demand for water
4 service?

5 A Yes, it has a demand in there.

6 Q And it assumes that there is a need for additional
7 water by Titusville?

8 A It does not modify what our existing CUP allows us,
9 but it does have in there to identify another wellfield in
10 which to draw water from. But it does not increase what our
11 CUP currently allows us, so it doesn't ask for additional
12 water.

13 Q So it is, in effect, proposing to distribute that
14 capacity under your current CUP to a new location or some
15 portion of it to a new location?

16 A That's correct.

17 Q And it includes no additional capacity whatsoever
18 above the 6 or 6.5 I believe you said in your deposition was
19 existing.

20 A Right. In our CUP, currently I believe it's 6, but
21 it goes to 6.5. And in our application we were not asking to
22 increase that.

23 Q Now, you currently have a CUP, as you said, with a
24 capacity of 6.5 MGD; correct?

25 A It goes up to 6.5. That isn't what it is currently

1 Q Somewhere around 6 to 6.5.

2 A Yes.

3 Q Okay. But you are currently pumping from your wells
4 nly approximately 3.5; is that correct?

5 A Approximately that. Between 3.5 and 4.

6 Q Okay. Now, if you don't get the additional capacity
7 requested within or the -- scratch that.

8 If you don't get the CUP modification you have
9 requested, do you still need another source of water, in your
10 mind, other than that that is already existing under your
11 existing CUP permit?

12 A Yes. Yes, basically. We calculate in our future
13 water study what the current safe yield is of the wellfield,
14 which is approximately I believe about 4 safe yield for that.
15 and so if that's not spread out in order to meet the future
16 demands, there would need to be another water source.

17 Q The city is -- when I say, "the city," I mean the
18 City of Titusville, so in case I shortcut it again. The City
19 of Titusville is currently receiving water from the City of
20 Cocoa as well, is it not?

21 A Yes, we are.

22 Q And you are purchasing that water from Cocoa even
23 though you have this additional capacity in your WUP and in
24 your water treatment facilities; correct?

25 A Yes.

1 Q Now, you entered into -- is this correct, you entered
2 nto that agreement with Cocoa because of an anticipated demand
3 hat has not occurred?

4 A I wasn't here at the time, but that's my
5 nderstanding.

6 Q Okay. And was that also entered into in part because
7 of the concerns about the degradation in the quality of water
8 and the degradation to the wells if you pumped at the level
9 necessary to meet your needs?

10 A Yes. It was based both on what the current condition
11 of the wellfields were as well as what the projected demand was
12 going to be.

13 Q Now, when you originally negotiated or when that --
14 when the city originally negotiated that agreement with the
15 City of Cocoa, it was for 3 million gallons a day with a take
16 or pay provision of 1 million gallons per day; is that correct?

17 A Yes.

18 Q And the City of Titusville paid \$8 million in
19 capacity fees for that reservation at that level?

20 A I don't recall what the exact number -- what the
21 exact figure was.

22 Q Okay. Do you have your deposition with you taken by
23 Mr. Wharton?

24 A Yes.

25 Q If you will turn to Page 17. You were asked by

1 Mr. Wharton on Line 1, "What was the impact fee?"

2 And you said, "I think it was approximately 8 million
3 give or take at the time that the agreement was entered into."
4 Is that correct?

5 A Yes, that's what it says.

6 Q Now, you've renegotiated or -- well, before I get to
7 that. You're paying retail rates to the City of Cocoa its
8 retail rates; is that correct?

9 A That's the only rate the city has, yes.

10 Q So they don't have a separate rate for bulk service
11 or anything like that?

12 A No, they don't.

13 Q Are you paying both a gallonage and a base charge to
14 them based upon that retail rate?

15 A Yes, there's a fixed and a usage.

16 Q So the base charge is based upon the number of ERCs
17 that you-all are serving behind that meter?

18 A Yes.

19 Q And then the gallons charge is the retail rates as
20 you said. And as I understand it, from what your -- you
21 explain that in your deposition that it is an inclining block
22 rate structure, and therefore, the breakpoint at the blocks is
23 based upon the number of ERCs as well. In other words, if a
24 breakpoint occurs for one ERC at 5,000 gallons, then you
25 determine the breakpoints for your system --

1 A Yeah, you multiply those ERCs.

2 Q -- at a multiple of the ERCs behind the meter.

3 A Uh-huh.

4 Q Okay. Now, you've renegotiated that agreement with
5 the City of Cocoa, have you not?

6 A Yes, we have.

7 Q And you've reduced the reservation to
8 1.5 million gallons per day with a 750 gallon per day take or
9 pay provision?

10 A That's what it currently is. The take or pay
11 gradually decreases down to .5.

12 Q And as I understand it, you've reduced the service
13 availability or the capacity reservation fee, whatever you want
14 to call it, down to approximately \$3 million?

15 A No, down to -- yes. If you look at the total amount,
16 it would be approximately \$3 million, yes.

17 Q And you're still paying retail rates both in base and
18 gallonage charges; correct?

19 A Yes.

20 Q Would you agree that given the excess capacity and
21 the treatment facilities operated by the City of Titusville,
22 that the city would be in a better position to obtain raw water
23 to be treated at its own plant rather than buying water from
24 Cocoa?

25 A Well, that's one of the options that we looked at in

1 our future water plan.

2 Q Would that be cheaper than the current arrangement?

3 A With the City of Cocoa?

4 Q Yes.

5 A From the calculations that were made, yes, it would
6 be.

7 Q Isn't it true that even if you obtain that water from
8 Farmton, that as bulk raw water at the rates proposed in this
9 proceeding, that it would be cheaper than the arrangement with
10 Cocoa?

11 A We had an analysis done by our financial consultant,
12 and I believe that was the case as well. That's my
13 understanding.

14 Q As I understand your situation with your proposed
15 CUP, the capacity in your current CUP will not be needed or
16 will not be fully utilized for at least ten more years; is that
17 correct?

18 A Are you referring to the 6.5?

19 Q Yes.

20 A I would say at least ten years, and we're really
21 projecting out 20 years for that.

22 Q Now, you note in your testimony you do not believe
23 there's a need for potable water in the northern Brevard County
24 area as proposed by Farmton's application; correct?

25 A Yes.

1 Q Have you reviewed the application and the proposals
2 for who is to receive that potable water?

3 A Yes, I've looked at the application.

4 Q And in that application, isn't it true that the
5 utility relies upon providing potable water service to hunt
6 clubs, offices of the related party and various other entities,
7 all of which are currently receiving service?

8 A Yes.

9 Q So how can you say there's not a need for service if
10 there's already service being provided to people for potable
11 water use?

12 A I believe what I said was there wasn't a need for a
13 utility out there.

14 Q Okay. So if people had their own wells or have their
15 own alternative water supplies, there's not a need for a
16 utility out there?

17 A I didn't see a need for that. I believe that's what
18 I said.

19 Q Okay. Well, I guess I'm trying to get at why you say
20 that. There's a need for service in that area, is there not?

21 A That's what they had in the application, yes.

22 Q But I mean, there are people who want water service
23 out there, are there not?

24 A I don't have that from my direct knowledge, but what
25 was in the application, yes.

1 Q Okay. Now, you refer to proposed additional, I
2 guess, additional potable water needs within the proposed
3 territory as, quote, purely speculative. What are you
4 referring to there?

5 A The additional proposed water needs?

6 Q Yeah. What additional proposed water needs within
7 the service territory are you referring to when you say,
8 'purely speculative'? Are you referring to something that was
9 specifically enumerated in the application?

10 A I believe what it had in the application was
11 17-some-odd-thousand based on the number of members, and then
12 that number doubled. And I couldn't see any basis for the
13 doubling of that number.

14 Q 17,000?

15 A I think gallons per day.

16 Q Oh, gallons per day.

17 A And then it went up, I believe, to
18 30-some-odd-thousand gallons per day.

19 Q And so it's the 30,000 gallons per day that you're
20 calling purely speculative?

21 A I didn't see any basis for that or what that was
22 based on. And there was also the bulk water, the 2.75 for bulk
23 water customer.

24 Q So you're talking about bulk water service when you
25 refer to that purely speculative aspect?

1 A I wasn't sure the bulk water customer was, yes.

2 Q But that's what you're referring to when you say,
3 'purely speculative'?

4 A Yes.

5 Q Okay. You state that the City of Titusville would be
6 able to cost-effectively provide services in the area of
7 northern Brevard County where Farmton's application proposes to
8 provide that service if the need were to develop; correct?

9 A Yes.

10 Q How far away are the nearest facilities of the City
11 of Titusville to the boundary of the Farmton property,
12 approximately? I don't want an exact figure. Four or five
13 miles?

14 A Probably seven, eight, nine miles, something like
15 that.

16 Q And to the nearest area proposed within the
17 application of Farmton for service is -- would you agree is
18 somewhere near the -- within a couple of miles or a mile and a
19 half of the northern border of the county and therefore even
20 farther than that away?

21 A Yes.

22 Q Okay. Now, in addition to the statement that I think
23 you changed in your testimony about the attempt to force the
24 city to purchase water, you also made the statement that the
25 purpose of Farmton's application is to give Miami Corporation

average in opposing the City of Titusville's water use permit.

2 What documents have you seen or what testimony have you heard
3 What gives you that -- that makes you reach that conclusion?

4 A Not any testimony or documents. That's consulting
5 with our counsel on that.

6 Q Okay. So that's just based on the things your
7 counsel has told you; correct?

8 A Yes.

9 Q Has the City of Titusville gone to the county and
10 requested permission to locate the wells up there on the
11 railroad right-of-way?

12 A Have we requested permission from the county to
13 locate the wells there?

14 Q Yes.

15 A No.

16 MR. DETERDING: Thank you. That's all I have.

17 COMMISSIONER DEASON: Staff.

18 MS. FLEMING: We have no questions. Thank you.

19 COMMISSIONER DEASON: Commissioners.

20 COMMISSIONER JABER: Ms. Grant, I have questions that
21 hopefully will help me solidify your position, the city's
22 position on this application. On Page 4 of your testimony at
23 the very bottom, starting at Line 19, you talk about your
24 willingness and ability to provide potable water service in the
25 area that Farmton requests to serve. And you also go on to

1 discuss that you have a good working relationship with the
2 cities and counties in the area. And you say, "When a need
3 arises, the city and the county will work cooperatively with
4 any developers to determine which utility can best meet the
5 water supply needs." What utility are you talking about, the
6 private utilities that may request service, or are you talking
7 about the municipality utilities?

8 THE WITNESS: In this instance, we're talking about
9 the municipalities, the Brevard County utility or the City of
10 Titusville utility.

11 COMMISSIONER JABER: Do you have any reason to
12 believe that you can't establish a good working relationship
13 with a private utility that wants to serve the same area?

14 THE WITNESS: No, no. No, I don't.

15 COMMISSIONER JABER: The next page --

16 THE WITNESS: Not in general.

17 COMMISSIONER JABER: The next page -- Mr. Deterding
18 touched on this, but I want to follow up. You have this
19 concern that the Miami Corporation is really using this
20 application as leverage to fight your CUP application
21 proceeding. A couple of questions in that regard. How long
22 has your application been pending?

23 THE WITNESS: I believe our original submission was
24 in 2001. I don't have the exact date, though.

25 COMMISSIONER JABER: Original submission. Have you

1 had to work on it or modify it since 2001?

2 THE WITNESS: Yes. We've had requests for additional
3 information from the district which we have responded to.

4 COMMISSIONER JABER: Does it generally just take that
5 long for it to be approved, or what is the problem with the CUP
6 application you have pending?

7 THE WITNESS: As far as the length, I couldn't answer
8 that, what's the typical length, and I think that would be
9 specific to what the application is. As to problems, there are
10 questions that the district asked as far as additional
11 information which we provide in order that they can do a
12 thorough review. So I don't know how I would characterize it
13 as problems but more so additional information that's needed in
14 order to make an assessment.

15 COMMISSIONER JABER: Well, we're in 2004, so
16 depending on what month you filed your original application,
17 it's three years now. In your experience and expertise, what
18 is the normal time period for having a consumptive use permit
19 application addressed by -- it's the water management district;
20 right?

21 THE WITNESS: Yes, it's the water management
22 district, and it's been three years. But I would say all that
23 time it has not been active back and forth between the district
24 and the city. There could have been -- to get the information,
25 there could have been months in compiling that and giving that

1 to the district. So it hasn't been, like, an active every
2 month there would be back and forth for that.

3 And you asked about my experience. As far as that's
4 concerned, the district could better answer that. I've been
5 with the city since 1999. This is my first CUP application
6 with the district. So there's not anything relative that I
7 could give you as far as length.

8 COMMISSIONER JABER: Has Miami Corporation in some
9 form or fashion been actively involved in that proceeding with
10 the water management district and your consumptive use permit
11 application?

12 THE WITNESS: That would have to be a question for
13 the district. I believe that they're an interested party and
14 get the documentation that we provide.

15 COMMISSIONER JABER: Well, I'm going back to your
16 comment that you have this fear that the Miami Corporation
17 would use this proceeding as some sort of leverage with the
18 proceeding you have with the water management district. And I
19 guess I'm trying to get my hands around why you believe that to
20 be the case.

21 THE WITNESS: Well, looking at the application there,
22 there is the bulk water supply, and I think as Mr. Drake
23 mentioned in his testimony here, Phase I shows wells
24 approximately in the same area that the city has their
25 application in for, and we recognize that that's a limited

1 source up there. So I have concerns as far as the impact of
2 those proposed wells on -- the city's proposed wells.

3 COMMISSIONER JABER: If this Commission were to grant
4 Farmton some sort of certificate for all or part of this
5 territory, do you envision that your consumptive use permit and
6 whatever permits they have to seek through the water management
7 district, do you envision there being competing applications
8 for consumptive use permits?

9 THE WITNESS: I think that could occur, yes.

10 COMMISSIONER JABER: Through the water management
11 district process, is there some sort of preference for who was
12 first in?

13 THE WITNESS: I'm not sure. I'm not sure.

14 COMMISSIONER JABER: I take it from your testimony,
15 you don't have a concern related to whether this application
16 results in urban sprawl. That is not the concern I gather from
17 your testimony; is that correct?

18 THE WITNESS: That's not my expertise, no.

19 COMMISSIONER JABER: Thank you.

20 THE WITNESS: Okay.

21 COMMISSIONER DEASON: Redirect.

22 REDIRECT EXAMINATION

23 BY MR. McNAMARA:

24 Q Ms. Grant, I just have a few more questions for you
25 on redirect. You were asked some questions by Mr. Deterding

1 about the charges from the City of Cocoa vis-a-vis compared to
2 the charges that Farmton would make. Is there a different
3 comparison that you make as a utility director in evaluating
4 the cost of providing water?

5 A Could you repeat that?

6 Q I guess make it simpler. What do you compare the
7 Farmton proposal to provide bulk service to Titusville, what
8 other source of water do you compare that with?

9 A We compare that to the city's own ability to provide
10 bulk water from that area, not with the City of Cocoa.

11 Q With respect to -- you were asked some questions by
12 Mr. Deterding about Titusville's ability to provide service in
13 the Farmton service area, and there was references to your
14 direct testimony, and Mr. Deterding asked some questions about
15 the nearest treatment plant. If the City of Titusville were
16 asked to provide water to Farmton and if there was established
17 a need in the Farmton territory, what would the City of
18 Titusville propose to use as a source for that water?

19 A We would propose -- that was based on if there was a
20 wellfield that was located there under our current -- what
21 we're proposing under our current CUP application. If there
22 was a wellfield there, there would be infrastructure there, and
23 seeing that our treatment facility is 13 miles from that area,
24 we would probably look there first.

25 Q With regard to the question you were asked at the end

1 of Mr. Deterding's questioning about whether the City of
2 Titusville had applied to Brevard County for permission or
3 consent to put in the wellfield, is it your understanding that
4 the ordinance exempts that as long as it's approved by
5 St. Johns Water Management District for Titusville?

6 A Yes, that area was recognized in the ordinance as
7 being exempted or as being part of Titusville's area.

8 MR. McNAMARA: That's all I have.

9 COMMISSIONER DEASON: Okay. We've already addressed
10 the exhibits. Okay. Thank you, Ms. Grant. You may be
11 excused.

12 (Witness excused.)

13 COMMISSIONER DEASON: Mr. McNamara, you may call your
14 next witness.

15 MR. McNAMARA: Our next witness. We would like to
16 call Mr. Henry Thomas.

17 HENRY LEE THOMAS

18 was called as a witness on behalf of the City of Titusville,
19 Florida, and, having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. McNAMARA:

22 Q Mr. Thomas, you were placed under oath earlier today?

23 A Yes, I was.

24 Q Can you please tell us your name and employment
25 address.

1 A My name is Henry Lee Thomas. My business address is
2 41 North Maitland Avenue, Suite 300, Maitland, Florida 32751.

3 Q And have you been retained by Titusville in this PSC
4 matter?

5 A Yes, I have.

6 Q And what was the purpose of that retention?

7 A The purpose was to provide testimony regarding the
8 costs of bulk water from Farmton versus the City of
9 Titusville's project that they're contemplating.

10 Q Did you prepare prefiled testimony for the Public
11 Service Commission in that regard?

12 A Yes, I did.

13 Q And with regard to that prefiled testimony, if I were
14 to ask you those same questions today, would you give the same
15 answers?

16 A Yes.

17 Q Would you make any changes to those questions and
18 answers?

19 A No.

20 Q There was an exhibit attached to your prefiled
21 testimony. Would you make any changes to the exhibit?

22 A No.

23 MR. McNAMARA: At this time I would like to tender
24 the prefiled testimony of Mr. Thomas, and I believe the
25 exhibits are already in evidence.

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COMMISSIONER DEASON: Without objection, the prefiled
estimony shall be inserted into the record.

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**
2 **APPLICATION OF FARMTON WATER RESOURCES, LLC**

3 **Docket Number 021256-WU**

4 **Prefiled Direct Testimony of Henry Thomas**

5 **On Behalf of The City of Titusville**

6

7 Q: Please state your full name and business address for the record.

8 A: My name is Henry L. Thomas and my business address is 341 North Maitland Avenue, Suite
9 300, Maitland, Florida 32751.

10 Q: By whom are you employed and in what capacity?

11 A: I am employed by Public Resources Management Group, Inc., a management-consulting firm
12 serving the utility industry. I am a Vice President and Principal in that company. I have
13 twenty-five years of experience in the areas of utility economics, planning, financing and
14 pricing.

15 Q: In what capacity are you retained by the City of Titusville?

16 A: I am retained by the City as its water and wastewater rate consultant.

17 Q: Have you ever been qualified as an expert?

18 A: Yes. I have previously submitted testimony before Public Service Commissions and in court
19 proceedings on a variety of utility related matters. A resume outlining my work experience,
20 including a list of regulatory dockets and court cases where I have previously filed testimony,
21 is included as Exhibit "Thomas 1." In addition, during my career I have submitted numerous
22 municipal electric rate studies for review by the staff of the Florida Public Service
23 Commission.

24 Q: How efficient is the City's water system in meeting the water supply needs of its customers?

25 A: The City operates a very efficient public water system. As the City's rate consultant, I
26 prepare studies of the City's water rates and as part of these studies we compare the rates with
27 other water utilities in the region. Based on my experience in working with the City I can
28 conclude that it operates a very efficient utility. The utility's management and staff
29 consistently implement cost savings measures, plan prudently to meet the utility's financial
30 and customer service obligations and its water rates are fair and equitable, discourage
31 wasteful irrigation practices and are competitive with other utilities in the region.

32 Q: In your opinion, is the new water utility proposed by Farmton Water Resources, LLC. in the
33 public interest?

34 A: **No.** If Farmton is successful, and the City purchases bulk water from Farmton rather than
35 **own and** operate its own wellfield in the area, based on Farmton's proposed rates as provided
36 **to the City**, it will result in higher water rates for the customers of the City's public water
37 **system.** This result would be contrary to the public interest.

38 Q: In addition to your direct testimony, do you anticipate offering testimony for impeachment or
39 rebuttal?

40 A: Yes, to the extent needed.

1 BY MR. McNAMARA:

2 Q Mr. Thomas, can you please provide us with a brief
3 summary of your prefiled testimony?

4 A Yes. And that testimony was rather brief in itself,
5 and it had two main points. One is that the City of Titusville
6 operates an efficient water utility system that plans for and
7 manages their resources prudently; and that, two, that the
8 costs proposed by Farmton to the City of Titusville for bulk
9 water service was in excess of what Titusville could see as
10 costs if they were to develop the project on their own.

11 MR. McNAMARA: At this point I would tender
12 Mr. Thomas for cross-examination.

13 COMMISSIONER DEASON: Mr. Knox.

14 MR. KNOX: No questions of this witness.

15 COMMISSIONER DEASON: Mr. Bosch.

16 MR. BOSCH: No questions.

17 COMMISSIONER DEASON: Mr. Wharton.

18 MR. WHARTON: Thank you, Commissioner.

19 CROSS EXAMINATION

20 BY MR. WHARTON:

21 Q Good afternoon, Mr. Thomas. I just want to make sure
22 that the record is clear about the basis for your opinion
23 that -- as you've indicated is very brief. In fact, your
24 opinion is based upon a memorandum or a similar document that
25 Miami Corp gave the City of Titusville proposing bulk water

1 service from the properties; correct?

2 A Yes, it is.

3 Q And that memorandum actually preceded this
4 application; correct?

5 A Yes, it did.

6 Q Did you know whether Farmton Water Resources, LLC,
7 even existed at the time?

8 A I don't believe they did.

9 Q Do you know whether that particular memorandum
10 reflected something that is embodied within the application
11 which is at issue in this proceeding?

12 A Well, the costs of developing the wellfields and the
13 project costs I believe were embodied in their proposal. There
14 may have been modifications to the rates themselves.

15 Q Do you know whether those same costs are proposed in
16 this application?

17 A I believe they have been modified, but essentially
18 are the same.

19 Q To the extent that you have drawn any conclusions
20 about the comparative economic advantages or disadvantages of
21 Farmton's proposal to the city, you've done that based on the
22 letter that Miami Corp give to the city that we just discussed;
23 correct?

24 A Yes, I have.

25 Q Rather than on a specific analysis of this

1 application in and of itself?

2 A That is correct.

3 Q Have you heard considerable reference today that, in
4 fact, that bulk offer is no longer being discussed between the
5 parties?

6 A That's my understanding.

7 Q Okay. Now, when you have used the phrase "public
8 interest" in your testimony, isn't it true that the public
9 interest you're referring to is whether or not it is in the
10 public interest of the city for Farmton to be certificated as
11 opposed to whether it is in the public interest for anyone who
12 is located outside the city?

13 A That's true.

14 Q Your economic assumptions assume that Farmton selling
15 water to the city would result in higher rates for the city's
16 customers because you assume the city wouldn't develop its own
17 wellfield if it purchased the water from Farmton; isn't that
18 correct?

19 A That's correct.

20 Q And again, those assumptions were based on the
21 memorandum that Miami Corp gave the city as we've discussed?

22 A Yes.

23 Q Isn't it true that you haven't even considered
24 whether if Farmton was certificated but the City of Titusville
25 was still able to develop an equal source of water whether

1 through their current consumptive use permit or another source,
2 that whether or not Farmton's certificate would in that case
3 impact the public interest of the city?

4 A Well, I'd assume that their application for the bulk
5 water services was relative to Titusville. So if that's not
6 the case, then you would be correct, yes.

7 Q So the answer to my question would be yes?

8 A Yes.

9 MR. WHARTON: That's all I have.

10 COMMISSIONER DEASON: Staff.

11 MS. FLEMING: We have no questions.

12 COMMISSIONER DEASON: Commissioners.

13 Redirect.

14 MR. McNAMARA: No further questions.

15 COMMISSIONER DEASON: Very well. And we have already
16 addressed exhibits. Okay. Very well. Mr. Thomas, you may be
17 excused.

18 THE WITNESS: Thank you.

19 (Witness excused.)

20 COMMISSIONER DEASON: We're going to take a brief
21 recess before we proceed with Brevard's case. Ten minutes.

22 MR. McNAMARA: Commissioner, if I could just ask a
23 brief procedural question.

24 COMMISSIONER DEASON: Uh-huh.

25 MR. McNAMARA: Since Mr. Thomas and Ms. Grant have

1 testified, would it be appropriate for them to go back home
2 tonight? Ms. Grant has young children, and I think she'd like
3 to get home to them if that's at all possible.

4 COMMISSIONER DEASON: Yes, they have been excused.
5 Thank you. We'll take ten minutes.

6 (Brief recess.)

7 COMMISSIONER DEASON: Call the hearing back to order
8 Mr. Knox.

9 MR. KNOX: Mr. Martens is up, I believe.

10 RICHARD H. MARTENS

11 was called as a witness on behalf of Brevard County and, having
12 been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. KNOX

15 Q Mr. Martens, were you sworn earlier today?

16 A Yes, I was.

17 Q Would you please state your name and your employment
18 and address, please.

19 A Richard Martens, 2725 Judge Fran Jamieson Way,
20 Melbourne.

21 Q Did you in conjunction with my office have prefiled
22 testimony prepared and submitted in this case of about 14
23 pages?

24 A I did.

25 Q Have you reviewed that testimony to see if you would

1 make any changes?

2 A I have. And I have three changes I'd like to make.

3 Q Can you tell us what those are?

4 A On the first page we've had a reorganization, and I'm
5 the water -- I'm the utility services director these days. And
6 on Page 8, Lines 13 and 14, McIntosh Highlands is actually an
7 approved PUD, not a DRI, and I'm not aware of the ownership
8 status of the people we've been talking to on that project.

9 Q Okay. If I were to ask you the same questions that I
10 asked you during the prefiled testimony, would you answer
11 the -- and the changes you made, would you answer them the
12 same?

13 A Yes, I would.

14 Q And there were exhibits attached to your prefiled
15 testimony. Have any of those changed or any corrections to
16 those?

17 A No.

18 MR. KNOX: At this time, Mr. Chairman, we'd like to
19 move Mr. Martens' testimony, prefiled testimony and to be
20 inserted into the record.

21 COMMISSIONER DEASON: Without objection, it shall be
22 so inserted.

23

24

25

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**
2 **APPLICATION OF FARMTON WATER RESOURCES, LLC**
3 **FOR AN ORIGINAL WATER CERTIFICATE**
4 **DOCKET NO. 021256-WU**
5 **ON BEHALF OF BREVARD COUNTY, FLORIDA**
6 **DIRECT TESTIMONY OF RICHARD H. MARTENS**

7 Q. Please state your name and occupation.

8 A. Richard Martens. I am the ^{utility services director} ~~Director~~ of the Water Resources Department for
9 Brevard County, Florida.

10 Q. How long have you held that position?

11 A. I have been employed in that position since 1991.

12 Q. What are your job responsibilities?

13 A. I oversee and supervise the construction, operation and maintenance of all
14 water and wastewater facilities owned by Brevard County, Florida, as well as
15 the employees that work for the Water Resources Department. As part of that
16 responsibility, I am in charge of overseeing and presenting an annual budget
17 for capital improvements, operations and maintenance of water and sewer
18 facilities.

19 Q. What is the total projected Water Resources Department budget for fiscal year
20 2003-2004?

21 A. The Water Resources Department overall budget is approximately \$58.6
22 Million, \$4.8 Million of which is represented by the Barefoot Bay Water and
23 Sewer system.

24 Q. What is the Barefoot Bay system?

25 A. The Board of County Commissioners Water Resources Department operates a

1 water and sewer system owned by the Barefoot Bay Water and Sewer District
2 under a management agreement between the County and the District.

3 Q. What is the Barefoot Bay Water and Sewer District?

4 A: The District was created as a special water and sewer district by the Brevard
5 County Board of County Commissioners in accordance with Part II of Chapter
6 153, as well as Chapter 189, Florida Statutes and the Board of County
7 Commissioners sits as the governing body of that District.

8 Q. Do your responsibilities involve planning for future expansion of the Brevard
9 County water and sewer system?

10 A. Yes.

11 Q. Do your responsibilities also involve the implementation of the Potable Water
12 Element of the Brevard County Comprehensive Plan?

13 A. Yes.

14 Q. I would like to draw your attention to Exhibit RHM-1 and ask you to identify
15 that document if you would please.

16 A. Exhibit RHM-1 is a copy of the current Potable Water Element of the Brevard
17 County Comprehensive Plan.

18 Q. Was that element, as it appears in Exhibit RHM-1, in effect on the date of
19 Farnton application, December 20, 2002?

20 A. Yes.

21 Q. I would draw your attention to Policy 3.4 of the Potable Water Element.
22 Would you please read that policy into the record?

23 A. **“Policy 3.4, Newly proposed service areas, expanding restricted service**
24 **areas, or Public Service Commission (PSC) regulated service areas shall be**
25 **reviewed and approved by Brevard County and applicable agencies.”**

1 Q. Has the Farmton application at issue in these proceedings been reviewed or
2 approved by Brevard County?

3 A. No.

4 Q. Is there a procedure or process that has been set up by Brevard County to
5 implement Policy 3.4 of the Potable Water Element by requiring review and
6 approval of applications for newly proposed service areas such as Farmton's?

7 A. Yes. The County Commission has enacted an ordinance that requires any
8 water provider or supplier to obtain the consent of the County Commission,
9 acting in its capacity as the governing board of the Brevard County Water and
10 Sewer District.

11 Q. I would like to show you a copy of Exhibit RHM-2 and ask you if that is a
12 copy of the ordinance you just mentioned?

13 A. Yes, it is.

14 Q. Do you know the legal authority under which that ordinance was adopted?

15 A. I believe that authority is specifically set forth in the ordinance recitals. I
16 would quote those sections as follows:
17 "WHEREAS, Chapter 153, Part II, Florida Statutes, authorizes the County
18 Commission to create special districts to provide water and sewer facilities;
19 and
20 WHEREAS, Chapter 153, Part II, Florida Statutes, provides that the County
21 Commission may serve as the governing body of any water district created
22 under the act; and
23 WHEREAS, Section 153.86, Florida Statutes, provides that no water
24 treatment plant or other facilities for the supply and distribution of water, or
25 sewer facilities shall be constructed within any district unless the district board

1 shall give its consent. . .”.

2 Q. Would you please read the provision in that ordinance that requires the
3 consent of the County Commission acting as the District governing body?

4 A. That would be section 4.10 of the ordinance. The relevant part of that section
5 reads:

6 “10. Pursuant to the District’s authority under Section 153.86, Florida
7 Statutes, upon application for the extension or construction of a water or sewer system
8 into an area for which consent has not been given, the District may grant consent to
9 the construction or expansion of any water or sewer system which is to provide
10 domestic or industrial service to customers. The District’s consent shall not be
11 unreasonably withheld upon demonstration of all of the following. . .”. After that, a
12 list of criteria and standards is set forth in the ordinance.

13 Q. Has Farmton sought consent under that provision?

14 A. No.

15 Q. Has the County Commission, in its capacity as District governing board,
16 granted consents to any other public or private water suppliers?

17 A. Yes. Those consents are set forth in the ordinance sections 4.1 through 4.9.

18 Q. What was the process, if any, that was used to establish the consents set forth
19 in the ordinance?

20 A. A key component of the enactment process utilized prior to adoption of the
21 water and sewer district ordinance involved the solicitation of input from
22 every supplier of water or sewer service in Brevard County, both public and
23 private. Information we sought included proposed service areas for each
24 supplier as well as input on the wording of the ordinance.

25 Q. Which water suppliers provided input into the ordinance?

1 A. The water suppliers included the City of Cocoa, the City of Melbourne, the
2 City of West Melbourne, the City of Palm Bay, the City of Titusville and
3 Brevard County. Some consumer cities, such as Cape Canaveral and the City
4 of Satellite Beach, also provided input. The private entities providing input
5 included East Central Florida Services Inc. Sewer providers providing input
6 included the City of Rockledge and the City of Cocoa Beach as well as the city
7 water providers that also provide sewer service.

8 Q. Over what period of time was input sought from those providers?

9 A. The first draft of the ordinance was produced on January 29, 2003 and was
10 continuous through the adoption of the ordinance in July 22, 2003. The
11 County Commission submitted the draft ordinance to the Brevard County
12 Water Supply Board for consideration. The Water Supply Board is an advisory
13 board comprised of appointed representatives from the cities providing water
14 service in the county, as well as cities who are customers of the supplier cities.
15 The Board was created to discuss water supply issues affecting the county.
16 The Water Supply Board met on numerous occasions to discuss the provisions
17 in the ordinance and reviewed numerous drafts of the ordinance before voting,
18 ten to one, in support of adoption.

19 Q. How did that input affect the final version of the ordinance?

20 A. Essentially, the ordinance sets forth the consent of the County Commission,
21 acting as the District governing board, to specific service areas for each of the
22 provider municipalities. Based upon the comments received from municipal
23 providers, the areas were redefined and ordinance language was changed. In
24 addition, the Commission consented to private utilities providing service to
25 existing customers and new customers within their certificated service areas to

1 the extent that the existing infrastructure of that utility was sufficient to serve
2 those new customers. In essence, the process evolved into, as the City
3 Attorney for Melbourne put it, a potable water supply plan for the entire
4 county.

5 Q. Who made that remark?

6 A. Melbourne City Attorney Paul Gougelman.

7 Q. I would like to show you a copy of Exhibit RHM-3 and ask you if you can
8 identify that document?

9 A. It is a copy of minutes from the July 22, 2003 meeting of the Brevard County
10 Board of County Commissioners concerning the agenda item at which the
11 Water and Sewer District Ordinance was considered for adoption.

12 Q. Were you at that meeting?

13 A. Yes.

14 Q. Did Mr. Gougelman appear at that meeting?

15 A. Yes.

16 Q. Does Exhibit RHM-3 fairly summarize the comments made by Mr.
17 Gougelman?

18 A. Yes.

19 Q. Please read the portion of Mr. Gougelman's remarks within the brackets.

20 A. "Thank you very much. Paul Gougelman, representing the City of Melbourne
21 as City Attorney, and I'm here on behalf of the City today just to give you a
22 few comments regarding the proposed water and sewer ordinance. The first
23 thing I want to do, on behalf of the City, is to thank the Commission. If you'll
24 think back many, many months, you had an ordinance that was before you; it
25 looked like it was going at full speed through this room; and the Cities did ask
26 you to slam on the brakes, engage in some intergovernmental cooperation, run

1 it through the Water Supply Board, and seek some input from the
2 municipalities, which you did; and I want to thank you all for that. I think it
3 was a true exercise in intergovernmental coordination, and I think as a result,
4 all of us can now say we've come a thousand miles and that the product that
5 you have before you is going to be much more meaningful. If you stand back
6 from the forest and don't look at the individual trees, I think what you will see
7 is that what you're creating is actually a water and sewer plan for Brevard
8 County; and it's rather amazing. Commissions all over the State of Florida
9 over the last 20 years have tried to do this without much success, and you're
10 going to do it."

11 Q. Now Mr. Martens, I would like to show you a copy of Exhibit RHM-4 and ask
12 if you can identify that document?

13 A. Exhibit RHM-4 is a graphic depicting existing county water distribution and
14 supply lines connected to the North Brevard Water System, which we call the
15 Mims plant, which is located about one mile south of the intersection of I-95
16 and S.R. 46 in Brevard County. The graphic shows existing lines in blue,
17 Farmton's proposed certificated territory in chartreuse, the Walkabout project
18 in green and McIntosh Highlands DRI in red outlined in red and colored, in
19 part, in brown.

20 Q. Mr. Martens, does Exhibit RHM-4 show any areas that receive potable water
21 from Brevard County?

22 A. Yes. All of the areas where the blue lines are shown which include several
23 subdivisions including the Fawn Lake subdivision located about a mile to the
24 south of the southernmost boundary of Farmton's proposed certificated
25 territory.

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Q. What is the Walkabout project shown on Exhibit RHM-4?

A. Walkabout is a residential project that has been approved for 1500 single family homes in a golf course community. The golf course is complete and the developer is currently seeking subdivision plat approval for the first phases of development.

Q. Will Brevard County be providing potable water service to Walkabout project?

A. Yes, Brevard County has a written agreement to provide that service, as well as an agreement that allows the county to drill new wells in that area, subject to modification of the existing consumptive use permit for the North Brevard Water Supply system, the Mims system.

Q. What is the McIntosh Highlands area shown on Exhibit RHM-4?

A. McIntosh Highlands is an approved ^{PUD} Development of Regional Impact. The owners of the area in brown have recently contacted me about the possibility of the County providing potable water service to that area. The discussions are in the preliminary phases at this time.

Q. I would now like to you a copy of Composite Exhibit RHM-5 and ask if you can identify that document?

A. Yes, I can. The first page of Composite Exhibit RHM-5 is a graphic depiction of data that I have compiled from the county's North Brevard Water System, copies of which are also attached to this exhibit. The top graphic depicts the water treatment capacity of the plant, plant flows, average annual daily flows from the plant and projected average annual daily flows based upon existing infrastructure, including wells and treatment facilities. The graphic shows that the Mims water treatment plant is currently running at less than one-third of its

1 2.4 million gallon per day capacity and that, based upon projected flows, the
2 Mims plant will continue to operate well below its maximum capacity into the
3 foreseeable future.

4 Q. What does the second graphic show?

5 A. The second graphic is a depiction of total residential customers, projected
6 residential customers, total equivalent residential connections, ERC's,
7 Projected ERC's, both of which are based upon 250 gallons per day of
8 consumption per residential unit, as well as the concurrency capacity of the
9 Mims Water Treatment Plant. The graphic shows that the Mims plant is
10 currently serving only about thirty percent of its current 9,600 ERC
11 concurrency capacity.

12 Q. What does the term "concurrency capacity" mean?

13 A. Concurrency capacity is the capacity of the plant based upon the level of
14 service established in the Potable Water Element of the Comprehensive Plan
15 at 250 gallons per day per customer. Using that number and our current 2.4
16 million gallons per day capacity at the treatment plant, the number of
17 customers that we can serve is 9,600.

18 Q. Drawing your attention again to Composite Exhibit RHM-5, would you please
19 tell us what the blue line represents?

20 A. The blue line represents the projected total ERC's, including those that will be
21 generated by Walkabout which are estimated at about 300 per year, through
22 the year 2029.

23 Q. What is the plum colored line at the top of the Residential Customers graphic?

24 A. That line represents the total plant concurrency capacity.

25 Q. Can you tell us what the area between the blue line and the plum line

1 represents?

2 A. That area represents the excess capacity in the North Brevard Water System
3 plant at Mims. Our projections show that the plant will have excess capacity
4 for the supply of potable water through the year 2029 and beyond.

5 Q. I would now like to return your attention to the Potable Water Element of the
6 Comprehensive Plan. Specifically Policy 3.5. Would you please read the first
7 sentence of that provision?

8 A. "Policy 3.5. Potable water facilities and services intended to serve future
9 development needs that are not located in the 0-20 year future potable water
10 service area (see Map 1) shall not be permitted or provided unless the potable
11 water service area is amended in the Potable Water Element of the
12 Comprehensive Plan or a non-governmental entity is the provider of the
13 potable water facilities, so long as the private potable water service is
14 consistent with the Brevard County Comprehensive Plan."

15 Actually the reference to Map 1 is a scrivener's error. The future potable
16 water service area map is actually Map 2 of the Potable Water Element. Map
17 1 is the map showing Potable Water Treatment Plants.

18 Q. I would now show you Composite Exhibit RHM-6 and ask you to identify that
19 document if you can.

20 A. Composite Exhibit RHM-6 is comprised of Map 1, Potable Water Treatment
21 Plants, and Map 2, the Existing Potable Water Customers and Future Service
22 Area map both of which are contained in the Potable Water Element of the
23 Brevard County Comprehensive Plan.

24 Q. Does the area encompassed by the Farmton application fall inside or outside
25 of the 0-20 year future potable water service area shown on Map 2, Composite

1 Exhibit RHM-6?

2 A. The Farmton area is located outside of the 20-year future potable water service
3 area shown on Map 2.

4 Q. Has Farmton's proposed Public Service Commission certificated area been
5 approved under Policy 3.4 of the Potable Water Element?

6 A. No.

7 Q. Is Objective 5 of the Potable Water Element a provision with which a private
8 potable water service must be consistent?

9 A. Yes

10 Q. Would you please read that objective?.

11 A. **Objective 5.** Brevard County shall maximize the use of existing facilities to
12 discourage urban sprawl.

13 Q. Do you know whether or not there is existing residential or commercial
14 development in the over fourteen sections of land encompassed by the
15 proposed certificated area identified in the Farmton application which is the
16 subject of this proceeding?

17 A. There is very little, if any, residential or commercial development in that area.

18 Q. Does Brevard County have a policy specifying when or if the Mims water
19 system may be expanded to meet demand for potable water outside of the
20 current county service territory in the areas proposed by Farmton for its
21 certificated territory?

22 A. I believe that scenario would be covered by Policy 1.2 F of Residential Land
23 Use policies and Policy 4.1 B of the Agricultural Land Use Policies of the
24 Future Land Use Element of the Brevard County Comprehensive Plan. Both
25 of those policies provide for expansion of the system upon a showing of an

1 overriding public benefit or as part of an MSBU or MSTU program paid for
2 by the customers receiving the service.

3 Q. What is an MSBU?

4 A. An MSBU is a municipal service benefit unit.

5 Q. How would the MSBU be applied to expand water service from the Mims
6 plant?

7 A. In the context of expanding the supply of potable water from the Mims plant,
8 an MSBU would involve the imposition of a special assessment on the
9 properties benefitted by the water system. The special assessment would be
10 an amount sufficient to offset the cost of providing the special benefit
11 conferred by the expansion of distribution lines and other costs of extending
12 service to the area where that service has been requested.

13 Q. What is an MSTU?

14 A. An MSTU is a municipal service taxing unit.

15 Q. How would an MSTU be used to expand water service from the Mims plant?

16 A. We have never done an MSTU for that purpose.

17 Q. Do Policies 1.2 F and 4.1 B provide any other mechanism for providing water
18 service to Farmton's proposed certificated area?

19 A. Yes, the developers or owners of property in that area could pay for, install
20 and donate or dedicate to the county the infrastructure necessary to connect
21 into lines already extended from the Mims water treatment plant. The county
22 would then supply water through those dedicated or donated lines and, of
23 course, maintain those lines after they were donated or dedicated.

24 Q. Would any other action be required by the County to provide water service in
25 Farmton's proposed service area?

- 1 A. Under Policy 3.5 of the Potable Water Element, the County Commission
2 would have to amend the service areas identified in the comprehensive plan.
3 The County would also have to seek a modification of its North Brevard
4 County Water System consumptive use permit. I am also studying the
5 possible transfer or lease of the North Brevard County Water System assets by
6 the County to the Brevard County Water and Sewer District.
- 7 Q. Is there any county policy that determines when the Mims water treatment
8 plant will be expanded?
- 9 A. Yes. That policy is set forth as Policy 3.3 of the Potable Water Element of the
10 Comprehensive Plan.
- 11 Q. Referring you to Exhibit RHM-1, is Policy 3.3 set forth in that exhibit?
- 12 A. Yes.
- 13 Q. I will now show you Exhibit RHM-7 and ask if you can identify that
14 document?
- 15 A. Exhibit RHM-7 is a graphic that I have created based upon the same data that
16 is attached to Exhibit RHM-5. Exhibit RHM-7 shows my calculations of the
17 number of years before the Mims plant will require expansion as determined
18 under policy 3.3 of the Potable Water Element. In making that calculation I
19 used two assumed growth rates. The first growth rate I assumed was 369
20 ERC's per year, which is the estimated number of units that will connect once
21 the Walkabout project is fully under construction. The second growth rate
22 assumption I used was made about the growth rate 132.72 ERC's per year,
23 which is what we currently experience without the Walkabout project. As you
24 can see, even at the higher growth rate, the Mims plant will not need to be
25 expanded for another 17.6 years, which means that such an expansion would
26 have to be placed in the Capital Improvements Element of the Comprehensive

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Plan in about 12.6 years.

Q. What do your calculations reveal when the 132.72 ERC's per year growth rate is assumed?

A. Under that assumption, the Mims plant would not have to be expanded for forty-nine years, meaning that the expansion would not have to be placed in the Capital Improvements Element for forty-four years.

Q. If Farnton were to build a water treatment facility within its proposed certificated area, would that facility be a duplication of the County system at the Mims Plant?

A. Yes, to the extent that the Mims Plant has excess capacity.

Q. No further questions.

1 BY MR. KNOX:

2 Q Mr. Martens, could you give us a summary of your
3 testimony, please.

4 A I would summarize three points. The first, the
5 county operates a significant water and wastewater utility
6 system throughout large areas of the county; that the
7 comprehensive plan has provisions that requires privately
8 owned -- or utilities asking to -- submitting for new or
9 expanded service areas to have those areas reviewed and
10 approved by the Board of County Commissioners. And the Board
11 of County Commissioners has adopted by ordinance or created by
12 ordinance a special water and sewer district that has granted
13 consents for the operation of water and sewer systems within
14 the district and provides approval from the district of
15 construction of new water and sewer systems.

16 MR. KNOX: At this time, Mr. Chairman, I'd like to
17 tender Mr. Martens for cross-examination.

18 COMMISSIONER DEASON: Very well. Mr. McNamara.

19 CROSS EXAMINATION

20 BY MR. McNAMARA:

21 Q Mr. Martens, for how long have you been the utility
22 director or your prior title for Brevard County?

23 A I think about 13 years. I don't remember whether it
24 was '90 or '91.

25 Q During that tenure, has the Miami Corporation ever

1 made a request from Brevard County for water service in Brevard
2 County?

3 A Not that I'm aware of.

4 Q And during that time has Farnton Water Resources ever
5 made a request for water service in Brevard County?

6 A Not that I'm aware of.

7 MR. McNAMARA: No further questions.

8 COMMISSIONER DEASON: Mr. Bosch.

9 MR. BOSCH: No questions.

10 COMMISSIONER DEASON: Mr. Deterding.

11 CROSS EXAMINATION

12 BY MR. DETERDING:

13 Q Mr. Martens, are you aware of the facilities that
14 Titusville is proposing to put along the railroad right-of-way
15 in the northern part of the county?

16 A In a general way, yes.

17 Q Okay. And what do you understand those to be?

18 A A series of potable water supply wells in the
19 Floridan aquifer along the FEC right-of-way.

20 Q And this is for raw water, is it not?

21 A Yes, sir.

22 Q Do you understand -- do you have any feel for where
23 they would propose to treat that water?

24 A It's my understanding it would go back to the city's
25 treatment plant.

1 Q And would that line along -- down to the city's
2 treatment plant traverse the Brevard County water service
3 territory?

4 A Well, the north Brevard service area is in between
5 the wellfield and the city's water treatment plant. I have no
6 direct knowledge of their intended route.

7 Q Have they requested anything from Brevard County with
8 regard to siting of that transmission facility through Brevard
9 County, northern Brevard County service territory?

10 A At one time we had discussions of constructing a
11 shared raw water line through an area that we call the
12 Walkabout Development. That's an area where the county is
13 developing a new raw water wellfield in the surficial aquifer.
14 We had some preliminary discussions maybe two years ago on a
15 number of issues dealing with raw water supply, but we haven't
16 had any in quite a while.

17 Q I don't think that answers my question. My question
18 is, have they sought permission from Brevard County to locate a
19 line through the Brevard County territory that would be
20 necessary to run that water from those wells to their treatment
21 facility?

22 A What has happened is in the special -- the special
23 district for the water -- the special dependent district for
24 the water and sewer district, the district has acknowledged the
25 city's application. And let me see if I can find the exact

words. "The Board of County Commissioners as its governing body consents to the necessary transmission mains and facilities from Area IV wellfield to the City of Titusville water treatment facilities to the extent that the transmission lines would not substantially, adversely, and materially impact a substantial number of existing residents or owners in the unincorporated area of the county." That's the official action of the county in that regard.

Q Would you tell me where you're looking at?

A It's in the exhibit to my direct testimony. It's Exhibit RHM-2. It's Brevard County Ordinance 03-032, and it is on Page 14, Section 7, Subsection A.

Q So, in your mind, is that some sort of an exemption from the ordinance?

A That's a grant of consent. I believe that's in a section of the ordinance that calls a grant -- that's called "Grants Of Consent," Section 4. So I guess the full citation would be Section 4, Paragraph 7(a).

Q So does this outline the test that Brevard County would apply to anyone seeking permission to construct facilities whether they would substantially, adversely, or materially impact a substantial number of existing residents or owners in the unincorporated area of the county?

A No. That provision is somewhere else.

Q Well, is that the test that has been applied here?

1 A That is the language that the County Commission
2 adopted. Section -- I guess this is Subsection 10 of that same
3 section is the discussion of the test that -- the consideration
4 that the Board of County Commission would give other
5 applications.

6 Q Okay. And those are -- you're talking about the
7 Subparagraph A through H?

8 A Yes, sir.

9 Q Does this relate to the requirement within the comp
10 plan or a requirement that facilities -- the designation of
11 service territories within the comp plan?

12 A No, sir. This is the water and sewer district
13 ordinance.

14 Q Okay. So this is a grant -- in your mind, this is a
15 grant of both a consent under the ordinance and under the comp
16 plan?

17 A No, sir. No, sir. This is simply a grant under the
18 ordinance.

19 Q Okay. Is it true that the nearest Brevard County
20 water facilities to Farmton's proposed territory are at least
21 two miles away from that territory?

22 A I would say about two miles.

23 Q And that's from the boundary of the territory;
24 correct?

25 A Correct.

1 Q As far as the areas proposed for service initially by
2 Farmton, it is several more miles to those locations, is it
3 not?

4 A I'm afraid as I listened to the discussion today I
5 was clueless as to where those places were. I've never seen
6 the map. If they're located --

7 Q Well, I believe they were shown on the exhibits to
8 the application. Have you reviewed the application?

9 A No, I have not.

10 Q So you wouldn't know whether they were twice that far
11 or three times that far?

12 A No, sir.

13 Q But the location of Brevard County's facilities
14 nearest to the Farmton property would be southeast of the
15 southeast corner of the property?

16 A Correct. At this time that would be the closest
17 place.

18 Q Okay. You discuss the service area served by the
19 Mims plant as designated by the Brevard County comprehensive
20 plan. I believe you said that does not overlap any of the
21 territories proposed for service by Farmton?

22 A That was my understanding looking at the maps.

23 Q Okay. Are there any plans to expand the service
24 territory of the north Brevard water system presently that
25 you're aware of?

1 A Yes.

2 Q And when did those come about?

3 A I'm expecting imminently an application from a
4 developer to extend water and sewer service approximately
5 three -- a minimum of three and a maximum of five or six miles
6 north of the north terminus of the north Brevard system along
7 the US-1 corridor. The McIntosh project -- the people with
8 interest in the east half of the McIntosh project, about
9 860 units of the approved PUD have requested water and sewer
10 service. They will make, it is my understanding, I'm thinking
11 within the next 30 to 45 days, an application to amend the comp
12 plan service area map for both water and sewer to include their
13 property and simultaneously a request pending denial of that
14 request, simultaneous request of a grant for consent to build
15 their own facilities.

16 Q Where is that located? Can you show us on that map
17 approximately where that's located?

18 A It's in this area, the Scotts Moor area, east of US-1,
19 west of I-95. And I believe -- I thought that was part of one
20 of our exhibits we had that. Yes, it's Exhibit RHM-4, Page 1.
21 That doesn't appear that it copied very well.

22 The southern boundary of that area that's called
23 "expression of interest" is about three miles north of the
24 terminus of that eastern branch of our system and extends in
25 another -- approximately two miles further north along US-1.

1 Q Okay. I believe you misstated. It's east of
2 -95 and west of US-1; correct?

3 A Yes, sir. If I said something different, I stand
4 corrected.

5 Q All right. Thank you. And that is still at least a
6 couple of miles from the boundary of the Farmton property;
7 correct?

8 A I think it's about two miles.

9 Q Okay. Before Brevard County became an objector in
10 this proceeding, isn't it true that the county received a
11 letter from someone at Titusville requesting that the county
12 object?

13 A I believe we did.

14 Q Okay. And you believe that the primary reason that
15 Farmton's application adversely affects Brevard County is a
16 philosophy of the county to utilize existing facilities to
17 provide service before new facilities are built?

18 A That's a provision of the comprehensive plan.

19 Q You believe that's the primary reason that Farmton's
20 application adversely affects Brevard County?

21 A Yes.

22 Q Are there existing facilities that can meet the needs
23 for potable water service as proposed by Farmton that are
24 existing?

25 A Yes.

1 Q Where are they?

2 A The north Brevard facility.

3 Q So you're saying that a facility two miles east of
4 the property can provide the services proposed at the hunt
5 camps and at the check stations and at the headquarters of the
6 Miami Corporation?

7 A We certainly have the infrastructure in place to
8 provide that service. What the customer may require to extend
9 service inside the project I think is consistent with
10 everything we've heard today. We have a utility; we have
11 treatment plant capacity. We believe we have a long-term water
12 supply that's independent of the area under discussion today,
13 and we think we can provide service as well.

14 Q So you believe that it is appropriate to consider
15 providing service to serve 600 homes, five miles' worth of
16 transmission line for that purpose?

17 A We are there, and it is possible to do that.

18 Q Would you be willing to pay for the cost of those,
19 would the county be willing to pay for the cost of extending
20 those lines five miles to serve 500 ERCs?

21 A No, that's -- the county would not. That's not the
22 way most utilities work.

23 Q Okay. I don't think most utilities would be willing
24 to extend one anything six miles to serve 600 people. I guess
25 it's -- do you think this is something peculiar to Brevard

1 county?

2 A I think we have a client or a developer coming to us
3 right now with not much different numbers, with 800 numbers,
4 and is looking to extend lines, go back to that exhibit, in the
5 five-mile range already.

6 Q Well, the initial facilities that Farmton is
7 proposing to serve in Volusia County is only one campsite --
8 I'm sorry, in Brevard County, it's only one campsite; isn't
9 that correct?

10 A I don't know.

11 Q Well, you don't know whether that is the case, so you
12 don't know whether -- what number of ERCs are within Volusia
13 County or even within eight miles of those existing facilities
14 in Brevard County, do you?

15 A No. I think the only thing for sure I know, and
16 that's not for sure, is that there is some 14,000 acres within
17 Brevard County that you're asking for a certificate for.

18 Q And is there any proposal by Farmton as there being
19 an immediate need for service to those areas?

20 A Not that I'm aware of. Not that has come to the
21 county.

22 Q Isn't it true that the facilities that Farmton
23 believes are necessary to serve the needs of the -- that exist
24 currently within its service territory are already in place?

25 A I don't know the answer to that.

1 Q You would agree that the provision of service by
2 Farmton in an area that is outside any existing future
3 projected population areas probably does not adversely affect
4 Brevard County, would you not?

5 A Could you repeat that for me, please?

6 Q Sure. You would agree that the provision of service
7 by Farmton in an area that is outside any existing future
8 projected population areas probably does not adversely affect
9 Brevard County?

10 A Well, you know, probably, no, I wouldn't agree with
11 that, because if there is no -- number one, if there is no
12 projected population base, I don't think there's a need for a
13 utility service. And I'll go back to my original statement,
14 that the county has adopted the position that we should
15 maximize the use of existing facilities before we create new
16 facilities.

17 Q Well, I guess I didn't ask you about a population
18 base. I asked you if you would agree that the provision of
19 service by Farmton in an area that's outside any existing
20 future projected population areas does not affect Brevard
21 County, and you would say you don't agree with that. Is that
22 what you've just told me?

23 A Well, to the extent -- and I guess the distinction
24 here is that we're talking about the difference of a utility
25 and providing drinking water to sparsely populated single

1 residences. Brevard County has, and I'm sure every county has,
2 thousands of such facilities that have an irrigation well and a
3 septic tank. I don't think the need for an individual
4 self-service potable water supply well in itself generates the
5 need for a utility. If we talk, we need to separate the issue
6 of service to a house and the need with a -- at some point a
7 number of houses will generate the need for a utility to
8 provide centralized service, and I think that's where at least
9 I get confused on this, is separating those two.

10 Q Do you recall when Mr. Wharton took your deposition
11 on March 5th of this year?

12 A Yes, I do.

13 Q And if you'll turn to Page 21 of that deposition
14 transcript, Line 5. "Question: Okay. Explain to me how you
15 believe certification of Farnton adversely affects the county's
16 water system.

17 Answer" -- and I will skip the first paragraph if
18 it's okay with you because that simply talks about the
19 philosophy that we've already covered.

20 The second issue, and this is on Line 4, quote, the
21 second issue has to do with the provision of service in an area
22 that's outside any existing future projected population areas,
23 end quote.

24 "Question: How does that adversely affect the
25 county's water system, though, the latter point?

1 Answer: It probably doesn't."

2 Do you stand by that testimony?

3 A I said it then, and from the perspective that a
4 population base doesn't exist, then the county's utility would
5 not be serving or competing for service with another utility.
6 And I think that was, I'm going to speculate, the basis for my
7 statement at that time.

8 Q Well, it sounds as though, to me, unless we're just
9 talking past each other, that you're saying that the provision
10 in the one hand -- in your deposition you were saying that the
11 provision of service by Farmton to these areas was not --
12 probably did not adversely affect the county's water system;
13 yet now it sounds as though you're saying something else.

14 A Well, if Farmton is today providing that service,
15 today they are not adversely impacting the county.

16 Q Okay. Do you know whether they are currently
17 providing that service today?

18 A From what I've heard today, it sounds like to a
19 certain extent they are.

20 Q Okay. You note in your testimony that Brevard County
21 has ample capacity in its Mims plant to serve additional needs
22 for service; is that correct?

23 A That's correct.

24 Q Isn't it true that Brevard County's current water use
25 permit does not authorize it to provide the quantity of service

1 it was currently providing through its Mims plant?

2 A That's correct.

3 Q So the county is exceeding its WUP permit presently?

4 A We are exceeding our CUP.

5 Q Have you applied for an increase in your CUP?

6 A Yes, we have.

7 Q When was that application filed?

8 A Within the last 30 days.

9 Q And isn't it true that the county has been exceeding
10 its permit for more than two years?

11 A Yes.

12 Q And this is before the St. Johns River Water
13 Management District, is it not?

14 A Yes.

15 Q And that's the same entity that has been reviewing
16 Titusville's water use application for in excess of two years;
17 correct?

18 A Yes.

19 Q Has the County Commission ever denied a municipality
20 with the ability to do so the right to extend infrastructure
21 outside its corporate limits?

22 A I don't think so. Certainly not water and sewer.
23 Let me rephrase and back off on the "certainly not." I don't
24 think so. I'm not aware of that.

25 Q Isn't it true that Farmton's proposed territory is

1 more than five miles from Titusville's corporate boundaries?

A I believe so.

3 Q You reference the county ordinance I think we were
4 referring to a few minutes ago. This was adopted approximately
5 six months after the filing of Farmton's application in this
6 case?

7 A I'm not sure when Farmton filed, but I believe the
8 ordinance was adopted in July of '03.

9 Q Okay. And that requires any water provider or
10 supplier to obtain the consent of the County Commission for
11 newly proposed water service areas; correct?

12 A No. It requires the consent for the construction of
13 infrastructure.

14 Q Okay. So it doesn't have anything to do with the
15 proposal for service area?

16 A No. No, it does not.

17 Q Okay. Isn't it true that, in your opinion, this
18 ordinance was aimed primarily at preventing the transfer of
19 water from Brevard County to other areas outside the county or
20 at least allowing Brevard County an opportunity to comment on
21 such proposals?

22 A Yes.

23 Q And it's your understanding that this was aimed
24 primarily at another county entity, Orange County specifically,
25 was it not?

1 A I think the initial impetus for the ordinance in
2 2002 was more concerned with the ongoing East Central Florida
3 water shortage and perceived actions that might come from the
4 west, yes.

5 Q And it was your initial understanding upon reviewing
6 the application or hearing about the application of Farmton
7 that it looked as though Farmton was proposing through bulk
8 service to move water from Brevard County to Volusia County?

9 A That was my first impression.

10 Q Okay.

11 A That's how I would have built the wellfield and
12 pipeline.

13 Q And you know now that there's no such proposal by
14 Farmton, is there?

15 A That's my understanding.

16 Q Is it true that the new ordinance has not been
17 applied to any public or private utility to date?

18 A It has been applied to all of the public utilities
19 within Brevard County through the grants of consent, and I
20 believe there is some consideration given for East Central
21 Florida services in there as well. It recognizes the existence
22 of those facilities.

23 Q So does it recognize the existence of all utilities
24 within the county?

25 A I believe so. I'd have to go back and look at this

1 wonderful document to give you the exact wording on that. But
2 that was the intent. As I recall, the intent was to maintain
3 the status quo upon adoption.

4 Q How many private water utilities are there in Volusia
5 County?

6 A I have no idea. Brevard County?

7 Q I'm sorry. I apologize.

8 A That's okay.

9 Q In Brevard County.

10 A There are a handful of regulated utilities. There
11 are a number of privately owned community water systems,
12 co-ops, condominium associations, things like that. Whether
13 that's 20, 30, 40, I'm not sure.

14 Q Are all the private water systems within Brevard
15 County recognized and granted consent by this ordinance?

16 A Would you like me to see if I can find that --

17 Q Well, let me just -- if you can find it, yes, if
18 you're talking about a listing within the ordinance.

19 A I think it's there, but frankly, as we developed it,
20 that wasn't the section that generated the most comment and we
21 spent the time on.

22 Number 15. The district hereby consents to a private
23 utility providing water or sewer service to existing customers
24 in their certified (sic) territories and to new customers
25 within that certificated -- certificated territories and to new

1 customers within that certificated territory who are able to be
2 served by existing water or sewer infrastructure owned by the
3 private utility as of the date of adoption of this ordinance.

4 Q So what this basically does is just grandfather in
5 everybody in their certificated territory that exists at the
6 date of adoption of the ordinance.

7 A That's correct.

8 Q And closes the door to any -- the possibility of
9 anybody else being allowed to create utilities or expand
10 utilities unless approved by Brevard County.

11 A That's my understanding.

12 Q Okay.

13 A And let me -- not create the utility but to construct
14 the infrastructure. I think that is -- again, the issue is
15 that.

16 Q Okay.

17 COMMISSIONER DEASON: Let me ask the question at this
18 point. What happens in a situation where there's a
19 certificated utility that's regulated by this Commission within
20 Brevard County that due to customer growth needs to add
21 facilities? What do they have to do to get your permission to
22 do that?

23 THE WITNESS: I think there's two steps. Under the
24 comprehensive plan, there's a requirement to come to the County
25 Commission and present their case that there is a need to

1 expand those facilities. And we had examples of that in the
2 late, mid and late 1990s with Florida Cities Water Company made
3 two such applications to expand their service area, both of
4 which were granted.

5 In addition to that, now there's also another step
6 that although the ordinance does not require the public hearing
7 that the comprehensive plan does, I would think they could --
8 the two steps could be handled concurrently, that there would
9 again be a presentation to the Board of County Commissioners
10 with the request to build the infrastructure. And again, here
11 the ordinance provides guidance on the factors to be considered
12 by the Board in making those decisions.

13 COMMISSIONER DEASON: What happens in a situation
14 where the Board of County Commissioners denies it and the
15 utility has an obligation under a certificate granted by the
16 Public Service Commission to provide service to customers
17 within its certificated area, and to do that, it has to add new
18 facilities?

19 THE WITNESS: Well, I think the -- I would think, and
20 I've learned not to attempt to speak for the Board of County
21 Commissioners, but if we had an existed certificated area that
22 was in existence with inadequate facilities to serve its
23 certificated area, that that would be a consideration in their
24 decision.

25 COMMISSIONER DEASON: So you're just saying most

1 likely that the -- in that scenario, most likely the permission
2 would be granted to build the facilities.

3 THE WITNESS: Let me say that in watching the Board
4 for 20 years that I have not found them, in my opinion, to be
5 unreasonable in most cases; that they seem to have both feet on
6 the ground and make decisions based on the facts they hear.
7 Let me say I have not -- well, I can't speak for our Board of
8 County Commissioners. We live and die by threes.

9 COMMISSIONER DEASON: Well, let's just suppose for a
10 moment that the Board of County Commissioners were unreasonable
11 and there was a certificated utility, certificated by this
12 Commission, and that due to customer growth, it was necessary
13 to add facilities to serve.

14 Just off the top of my head, it appears to me there's
15 two possibilities. If they were unable to serve, this
16 Commission would have to look at deleting territory because
17 with the certificate comes an obligation to serve. You can't
18 have the territory and not serve or else this Commission would
19 find itself in trying to establish some type of a preemption
20 over the county ordinance indicating that this is a
21 certificated utility and to provide necessary service at a
22 susceptible -- I mean, an acceptable quality of service that
23 would be necessary to build the facilities. So it's either a
24 conflict of jurisdiction or else this Commission having to
25 delete territory. Do you see it that way, or do you see it

differently?

2 THE WITNESS: I would add a third alternative; that
3 the applicant, that the utility could challenge the county's
4 right under this ordinance to deny. You know, they have an
5 interest in this as well. And actually, in thinking about
6 this, that's always what I thought would happen.

7 COMMISSIONER DEASON: And who would they challenge
8 the county's decision to?

9 THE WITNESS: I'm not sure. I don't know how that
10 would work, but we're in a litigious society, and we spend a
11 lot of time with attorneys these days.

12 COMMISSIONER DEASON: Thank you.

13 BY MR. DETERDING:

14 Q Mr. Martens, in discussing the service area
15 promulgated by the county through the creation of the
16 ordinance, the service territory is the entire county outside
17 the certificated service territory of existing private
18 utilities and the existing service territory of municipalities;
19 correct?

20 A I don't think that the ordinance creates a service
21 area. The ordinance creates a water and sewer district that
22 incorporates all of the unincorporated area of the county
23 except the area within the Barefoot Bay Water and Sewer
24 District. Now, in my deposition, going back and reviewing,
25 there was some discussion of service area, but I'm not so sure

1 that the ordinance creates service areas. I don't think it
2 does. If I'm wrong, point it out to me, and it won't be the
3 first time.

4 Q You prepared the responses to Farmton's first request
5 for production of documents -- I'm sorry, first set of
6 interrogatories to Brevard County, did you not?

7 A Certain parts.

8 Q Okay. Well, your signature is shown on the affidavit
9 as the person who prepared these responses --

10 A Okay.

11 Q -- is it not?

12 I'd be glad to show it to you if you'd like to see
13 it.

14 A I've signed one, yes.

15 Q Okay. I believe yours is the only signature to the
16 affidavit as to who prepared these; correct?

17 A If you say so. Other people provided responses
18 from county government.

19 Q Let me read to you Interrogatory Number 19.

20 "Identify the specific section and sections of all ordinances,
21 special acts, or interlocal agreements which support the
22 contention that any portion of the water service area proposed
23 by Farmton is located within the water service area of the
24 district."

25 And the response to that provided under your

1 signature is, "Brevard Water and Sewer District Ordinance
2 03-032, Section 1."

3 So you said that this is the service area. I
4 understand that response to say that this is what designates
5 the service area of the district.

6 A Yes, I responded that way. In listening to
7 Mr. Hartman's comment this morning, I started thinking about
8 that and went back and looked at the ordinance, and I will
9 admit that I thought of it that way several months ago. And
10 I'm not so sure that the ordinance, in fact, does service areas
11 in the same way the Commission designates service areas.

12 Q So the interrogatory is inaccurate then, the
13 interrogatory response?

14 A The service -- the way we have always looked at
15 service areas were permissive. Our future service area in our
16 comprehensive plan is not an exclusive service area. We have
17 numerous overlapping service areas with the municipalities in
18 the county. Is it wrong? I don't know if it's wrong. It's
19 different. When I think of service areas in our context, I
20 think of in the permissive terms and not in exclusive terms.

21 Q So what does that mean as far as your obligation to
22 serve in those areas?

23 A I don't think we have any obligation to serve.

24 Q What does it mean as far as your right to serve in
25 those areas?

1 A We have a right. I think it is permissive; that the
2 County Commission has said we will -- we may provide service in
3 those areas back to the -- under the comp plan consideration
4 and discussion of the McIntosh Highlands Project. In order to
5 provide service, the first thing we have to do is modify the
6 boundaries of the service area to include that project.

7 Q So you have a right to serve, but no obligation to
8 serve in any of the areas within that -- what did you refer to
9 it as? A service -- you didn't like the term "service area" or
10 "service territory."

11 A Well, I'm not sure that the ordinance declares the
12 unincorporated areas of the county the county's service areas.
13 It certainly identifies the unincorporated areas as the areas
14 in which the county wishes to be involved in the decision to
15 construct water and wastewater infrastructure.

16 Q What does the ordinance call that? It doesn't call
17 it service area?

18 A In the grants of consent, it talks about service
19 areas for the cities. In the ordinance itself, it's to create
20 a special -- dependent special district, and the dependent
21 special district is the unincorporated areas of the county less
22 the Barefoot Bay dependent special district.

23 Q So it grants authority to others by calling it a
24 service area, but it's not calling it a service area for the
25 county where it doesn't grant such consent. I don't understand

1 that.

2 A I would -- the answer I think, yes, that that is my
3 response. And I'm hesitating because in looking at something
4 else, I thought -- at the end of Section 8, it refers to the
5 district governing bodies shall -- the Board of County
6 Commissioners and/or the district governing body shall not
7 establish or otherwise regulate rates or the manner in which
8 rates are established or adopted by a municipality for any
9 service area in which a right to consent -- a right or consent
10 to provide service has been granted. So it talks about service
11 areas, but it discusses the service areas in the terms that the
12 municipalities within those designated areas may continue to
13 construct water and wastewater infrastructure without further
14 approval of the County Commission.

15 Now, is that a service area? That's one way to look
16 at a service area. But does that mean no one else can go in
17 there and provide service, and that's not what this does. This
18 does not provide any exclusive areas for the cities.

19 Q And it doesn't provided any exclusive area for the
20 county either.

21 A That's my understanding.

22 Q Okay. Isn't it true that the district owns no
23 facilities to provide service in many of these areas?

24 A The Brevard County Water and Sewer District owns no
25 facilities.

1 Q It owns no facilities whatsoever?

2 A That is correct.

3 Q Okay. So just so I'm clear about the -- your
4 understanding of the intent of the declaration of the
5 countywide whatever you want to call it for the district,
6 service area, territory, it is intended to exclude others
7 rather than a declaration that Brevard County is ready,
8 willing, and able to serve any of all of those areas in the
9 county; correct?

10 A Would you accept a rephrasing of that?

11 Q No, to be honest with you.

12 A Then, no, I don't think that's correct.

13 COMMISSIONER DEASON: What is incorrect with that
14 statement?

15 THE WITNESS: We discussed this ordinance with the
16 county and the eight utility providing cities within the county
17 for two years. And the simple statement that I would say is
18 the County Commission wanted a formal place at the table when
19 water and wastewater infrastructure was going to be constructed
20 in the unincorporated areas of the county; that without the
21 ordinance, without the special district, the County Commission
22 had no right other than -- different than any other citizen or
23 interested party to participate in those decisions; and they
24 wanted -- they thought it was important that they had a formal
25 role where they were guaranteed a voice at the table, not just

1 to be heard, but also to a play a part in the decisions.

2 And the distinction is -- and I'll admit that the
3 cities were very much afraid that this was simply -- that the
4 county was going to deny everything. And I don't think that
5 that is what's going to happen. But there's many places, most,
6 if not all, of the times when the city has proposed
7 infrastructures outside of their corporate limits, the county
8 not only has agreed but I think has supported it. It was a
9 role to bring the county to the table to participate in the
10 decision-making process and not with -- I think it was
11 coincidental that Farmton came up and it was an issue involved
12 with the PSC, really had more to do with the water management
13 district and governmental utilities.

14 COMMISSIONER DEASON: Thank you.

15 BY MR. DETERDING:

16 Q In your deposition, if you'll turn to Page 57.
17 Again, at the bottom of that page, Line 24, an answer to a
18 question that I won't go into the whole thing. But it is
19 accurate to say that you say beginning on Line 24 that the
20 ordinance itself describes all of the unincorporated areas of
21 the county, as I remember it, as a service area of the water
22 and sewer district.

23 A Yes, I'm sure I said that.

24 Q So you did refer to it as a service area for the
25 county?

1 A Yes, I did. And certainly the county is -- under the
2 ordinance, the county could extend service in there now that we
3 have the issue of the comprehensive plan and the future sewer
4 service areas that would need to be modified that go with that.

5 Q And this is an attempt to exclude rather than, as I
6 said, a declaration of a ready, willingness, and ability by the
7 county to provide that service -- to exclude others from being
8 able to provide that service without county approval?

9 A Well, to require county -- to require the county to
10 be involved in the decision-making process either to approve or
11 deny. One side of it is, yes, it could be used as an
12 exclusionary mechanism, and it's also an approval mechanism.

13 Q Okay. But they could not provide it, in your mind,
14 without county approval despite the fact the county may not be
15 in a position to do so?

16 A Correct.

17 Q Are you familiar with East Central Florida service
18 territory within Brevard County?

19 A Generally.

20 Q Excuse me?

21 A Generally.

22 Q Okay. You would agree, would you not, that you have
23 not seen any specific detriment from the existence of East
24 Central Florida service territory granted by the Florida Public
25 Service Commission more than ten years ago?

1 A The existence of that -- going back to my earlier
2 comment, the existence of that certificated territory has not
3 affected or had any relation to other existing facilities, so
4 in that regard, no. Their territory is west of the St. Johns
5 and Brevard County. There are no existing publicly owned or
6 privately owned utility systems that -- at all, much less any
7 with unused capacity.

8 Q But Brevard County did oppose that application
9 originally, did it not?

10 A I don't know. If we did, I didn't participate in it.

11 Q Now, as we discussed earlier, the Mims plant does not
12 have adequate water use permit -- an adequate CUP permit to
13 meet its existing needs; yet you have taken the position in
14 your testimony that you believe the construction by Farmton of
15 any water treatment facilities within its proposed service
16 territory would be a duplication of the county's system at the
17 Mims plant; correct?

18 A Correct.

19 Q If Farmton already has facilities in place providing
20 potable water service to the present needs within its
21 certificated service territory, isn't it true that any proposal
22 by the county to provide service to those same areas would be a
23 duplication of Farmton's existing facilities?

24 A Yes, it would.

25 Q And therefore in violation not -- of your -- of what

1 you say is the purpose of this -- or the philosophy of the
2 county; correct?

3 A Well, I would argue -- I personally don't consider
4 Farmton's facilities to be utility facilities. They're
5 individual self-supply. And I don't think -- my personal
6 opinion is those aren't utility services.

7 Q Well, they are providing service to the hunt clubs,
8 are they not?

9 A We have -- like I said, we have thousands of houses
10 on individual wells that are not, you know -- they are
11 providing water service. If you're going to have a facility,
12 you need water. We've heard that all day. You need water and
13 individual self-supply is one way to get it.

14 Q Well, you say "self-supply." Are the hunt club
15 members who are proposed to be receiving service from Farmton
16 related parties in some manner to Farmton?

17 A I have no idea.

18 Q Well, if they're not --

19 A Is a rental house -- is the service provided to
20 rental property, is it provided to the tenants, or is it a
21 basic service provided to the underlying property? Is it
22 portable?

23 Q Don't you provide service to rental property?

24 A Certainly. But not to the rental -- and the people
25 that rent it receive the benefit of that service. But when

1 they leave, the service remains with the underlying property.
2 It's the service to the property that then is through contract
3 is rented to the people that live there.

4 Q So you don't have customers who are just renters.
5 You have only service --

6 A Well, no.

7 Q -- to the property owner?

8 A We certainly do, but when the renters leave, the
9 service doesn't disappear. The service remains for the next
10 renter.

11 Q Okay. Is there something in Farmton's application
12 that would suggest to you that they don't intend to do that,
13 provide service to whoever needs it there?

14 A No. And I'll say again, I haven't reviewed Farmton's
15 application.

16 MR. DETERDING: That's all I have. Thank you.

17 COMMISSIONER DEASON: Staff.

18 CROSS EXAMINATION

19 BY MS. RODAN:

20 Q Good evening. The special water and sewer district
21 you mentioned in your testimony summary was created by county
22 ordinance and not by state statute; is that correct?

23 A It was created by county ordinance as -- I don't know
24 if I've -- correct the way I phrase this, but I think under
25 Chapter 153 of the statutes, special districts.

1 MS. RODAN: Thank you. That's all the questions we
2 have.

3 COMMISSIONER DEASON: Commissioners.
4 Redirect.

5 REDIRECT EXAMINATION

6 BY MR. KNOX:

7 Q Mr. Martens, if you could grab the portable mike for
8 a second, and I'd like you to stand up at the map.

9 If you could locate on that map the boundary between
10 Volusia County and Brevard County. Okay. Follow that along to
11 the corner, and do you see there a star?

12 A I see the star.

13 Q Okay. And could you look up on the legend above you
14 just to your right, and tell me what that star represents?

15 A Existing. It says, if it's a red star, and this
16 looks like a red star here.

17 Q Yes, that would be existing fire protection well?

18 A It just says, "existing."

19 Q Okay. Look up above that.

20 A It said "2F," so is "F" fire protection?

21 Q Look up above the star on the legend.

22 A Yes, that's what it says.

23 Q Now, if you'd follow that line down going south,
24 what's the next thing you come to?

25 A 7R, a blue circle.

1 Q And what is that?

2 A Proposed.

3 Q Proposed what?

4 A Retail potable well proposed.

5 Q And do you see any words next to the 7R?

6 A Proposed campsite.

7 Q All right. And do you see any other stars in that
8 yellow area below the Volusia County line?

9 A 11 and 12F, 11F east of 7R and 12F in the central
10 southern part.

11 Q What are those?

12 A Proposed fire protection wells.

13 Q Okay. So we have one proposed campsite in that area;
14 correct?

15 A Yes.

16 Q And it's 14,000 acres incorporated in Brevard County
17 in that proposed certificated area; correct?

18 A If that's the -- approximately, if that's the area.

19 Q If you assume that's the case, in your experience as
20 a utility director, have you ever seen a situation where 14,000
21 acres of certificated area were required to support one
22 campsite?

23 MR. DETERDING: Objection. This is outside the scope
24 of the cross-examination that we have posed to Mr. Martens.

25 COMMISSIONER DEASON: There's been an objection.

1 MR. KNOX: Mr. Chairman, Mr. Martens I think twice
2 testified that he does not think this is a utility or to
3 qualify as a utility, and that's exactly what this question
4 goes to.

5 COMMISSIONER DEASON: I'll allow the question. You
6 may answer it.

7 THE WITNESS: Will you ask it again, please.

8 BY MR. KNOX:

9 Q In your experience as a utility director, have you
10 ever seen the need for 14,000 acres of territory to support one
11 campsite?

12 A Well, it seems excessive. I have not seen a request
13 like this, and that doesn't mean I have much experience with
14 this. But 14,000 acres of service territory for one campsite
15 seems excessive.

16 Q Mr. Martens, you can sit down again. Thank you.
17 Mr. Martens, has Brevard County or the special district been
18 approached to provide service to that campsite that you just
19 talked about?

20 A No.

21 Q Now, you're a utilities director. You have
22 experience in the area of providing water service?

23 A Yes.

24 Q If Farmton or Miami Corporation or the hunt club had
25 approached Brevard County to provide a 200 gallon bladder type

hydro pneumatic tank with chlorinator, could the county have
2 done that to that campsite?

3 A Technically could we have done it?

4 Q Yes.

5 A Yes, yes.

6 Q Could any other utility company, Titusville, done the
7 same thing?

8 A Of course.

9 Q Isn't it true that that campsite with that kind of
10 facilities would be self-supporting in terms of water?

11 A Well, a local well and a bladder tank to provide the
12 water for the uses of the campsite, I would think so.

13 Q Mr. Martens, you during your cross-examination
14 indicated that there were other ways that developers could
15 provide water service, and I think you were talking about the
16 McIntosh Highlands at the time. You've indicated that McIntosh
17 is going to apply for both an amendment to the service
18 territory in the Brevard County's comprehensive plan; is that
19 correct?

20 A Yes.

21 Q And at the same time apply for the consent from the
22 special district to put in their own facilities should they be
23 denied the amendment?

24 A Yes.

25 Q Now, if the developer puts in his own facilities, is

1 there something that the developer has to do in order to get
2 approved?

3 A For a project like McIntosh with multiple ownership,
4 we would require a system to be built to the basic county
5 standards and turned over, dedicated to the county for
6 operation and maintenance. And additionally in this situation,
7 we would probably look very closely at some additional
8 standards to make sure that the system would operate properly
9 and provide quality service.

10 Q Is it customary for developers in Brevard County to
11 put in their own water systems and water distribution systems
12 and dedicate them to the county?

13 A Yes.

14 Q You mentioned the Barefoot Bay Special District. Can
15 you describe what that was?

16 A Barefoot Bay is a modular home community of about
17 5,000 units, 4,700, something like that, in the southern end of
18 Brevard County. It's provided water and sewer service by a
19 certificated company, Florida Cities Water Company. It was
20 acquired by the Florida Governmental Utility Authority.
21 Brevard County was a member at one time. Brevard County
22 desired to take individual control of that system without
23 encumbering the remainder of the countywide system with the
24 financial obligations of the Barefoot Bay system. And we did
25 that by creating a special dependent district using the

1 certificated service area as the district's boundary. We
2 adopted your rates, fees, and charges, and have operated it
3 identically since then.

4 The Board of County Commissioners sits as the
5 governing body of the Barefoot Bay Water and Sewer District.
6 And the County Water Resources Department operates the system
7 under contract with the Board of County Commissioners.

8 Q Was that special district created under Chapter
9 153 as well?

10 A Chapter 153; correct.

11 Q Mr. Martens, is there any contemplation on the part
12 of the county, I'm talking Brevard County, utility department
13 to either lease or sell facilities at the Mims water plant to
14 the special district?

15 A Well, it's been discussed. I think there are
16 complications involved involving the countywide system, bond
17 documents. We provide service both inside and outside of
18 municipal corporate limits, and I think there are some
19 ownership issues to be resolved before we charge ahead and do
20 that. We are approaching the end of the bonding capability and
21 our bond documents, and when those obligations are clear, I
22 think we would have much more flexibility in doing that. But
23 we certainly have several service areas that provide service to
24 strictly unincorporated areas of the county.

25 MR. KNOX: I have no further questions.

