

Rebuttal Testimony of Gerald C. Hartman, PE, BCEE, ASA

On behalf of

Sun River Utilities, Inc.

Before the

Florida Public Service Commission

Dated December 10, 2007

DOCUMENT NUMBER-DATE

10818 DEC 10 6

FPSC-COMMISSION CLERK

REBUTTAL TESTIMONY OF GERALD C. HARTMAN, P.E.

1 Q. Are you the same Gerald C. Hartman who provided pre-filed direct testimony
2 in this case?

3 A. Yes.

4 Q. What's the purpose of your rebuttal testimony?

5 A. I will be commenting on the pretrial testimonies of the DCA witness, Charlotte
6 County Director of Utilities, and Charlotte County Planner.

7 Q. Could you provide an overview of your comments?

8 A. Yes. In general the direct testimonies of the three witnesses provide the opinions of
9 those witnesses that the Sun River application for expansion of its water and
10 wastewater certificate are not: (1) timely, (2) consistent with the comprehensive
11 plan, (3) contribute to urban sprawl, (4) if utility service is provided it should be
12 provided by Charlotte County who is not ready, willing, and able to provide such
13 services with existing facilities capacity or by any other means presently.

14 Q. Would you address the timeliness of the application?

15 A. Yes. The application is timely and due to the fact that the utility facilities on the
16 west side of U.S.17 have limited present and available capacity for additional units
17 and the requests for services exceed the capacity that could be derived from that
18 existing location.

19 Q. Does that mean the existing facilities would have to be expanded and a new plant
20 in the future built on a new location?

21 A. Yes. The new water and wastewater facilities to meet demand into the future
22 would be required to be constructed on the east side of U.S. 17 to ultimately serve
23 the service area demands.

24 Q. You have served both MSM and Sun River on utility matters, haven't you?

25 A. Yes.

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1 Q. The owners of MSM indicated that there were requests for service as well as that
2 they had development plans for and development interests for additional capacity
3 needs. Isn't that correct?

4 A. Yes. Ben Maltese in his development ventures has a desire for additional capacity
5 which he expressed. In addition, development interests on the west side of U.S. 17
6 generally north and south of the MSM service area have expressed interest to
7 Mr. Maltese for potential service from the only central water and wastewater
8 facility in the area.

9 Q. Were you made aware of requests for service from property owners east of
10 U.S. 17?

11 A. Yes, there has been development interest relative to future educational facilities
12 and other facilities on the east side of U.S. 17 in this area. In addition, both the
13 firm of Rose, Sundstrom & Bentley and Mr. Tony Reeves, the Manager for Sun
14 River Utilities have provided letters and have communicated to me that there has
15 been interest on the east side of U.S. 17 for central water and wastewater service.

16 Q. Typically, do the development interests prefer to secure water and wastewater
17 service prior to going through the land development process?

18 A. Yes. Water and wastewater capacity and the ability to get central water and
19 wastewater service is a component of a planned development. Such planned
20 developments prefer to establish these relationships first and then later go
21 through the development process and develop their properties.

22 Q. There have been statements that until the urban services boundary is moved to the
23 east of U.S.17 development should be limited to the west of U.S. 17 in this
24 corridor. In other words, on one side of the road and not on the other side of the
25 road during the previous testimonies. Have you seen similar instances where

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1 investor owned utilities have been certificated outside of the urban services
2 boundary?

3 A. Yes. In Orange County, where one of the first urban services area boundaries was
4 established in the State of Florida, you find several investor-owned utilities
5 outside of the urban services boundary serving major planning developments.
6 Wedgefield is but one that comes to mind.

7 Q. Do you know of any other similar situations?

8 A. Yes, in Marion County there are at least a dozen investor owned utilities both
9 within and outside of the urban land use designations in that County and
10 overlapping the utility service area.

11 Q. Any other instances?

12 A. Yes, in Flagler and Volusia Counties Plum Creek Timber Company has its utilities
13 certificated prior to obtaining all of the land use and zoning approvals. Similarly,
14 in Baker and Union Counties the same situation exists; similarly, again in Volusia
15 Brevard County the same situation exists. Similarly, in the Osceola, Brevard, and
16 Orange County areas the same situation exists in the same process. I could
17 continue around the state.

18 Q. I believe Mr. Hartman you have delineated a few and can elaborate extensively
19 upon the topic of investor owned service areas established prior to receiving
20 all of the land use approvals and going through the extensive and expensive land
21 use process throughout the State and therefore would you state that it is the typical
22 process which occurs?

23 A. Yes.

24 Q. In conclusion, relative to the timeliness issue, does your above referenced rebuttal
25 testimony then address the aspects that were generally raised?

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- 1 A. Yes.
- 2 Q. Have you participated in utility planning in Florida?
- 3 A. Yes.
- 4 Q. For how long have you practiced in this area?
- 5 A. In excess of 30 years.
- 6 Q. Did you have any involvement in the Utility Element of the State Comprehensive
- 7 Plan?
- 8 A. Yes. I was on the policy advisory committee when we originally prepared and
- 9 recommended the Utility Element for the State Comprehensive Plan.
- 10 Q. Who appointed you?
- 11 A. Lieutenant Governor Jim Williams.
- 12 Q. Who did you represent?
- 13 A. The American Society of Civil Engineers statewide.
- 14 Q. Typically, what is the time horizon for utility planning?
- 15 A. At least the average service life of the assets and/or renewal and
- 16 replacement service lives as they are extended.
- 17 Q. What does that mean?
- 18 A. Generally in excess of 30 years or longer.
- 19 Q. Have you been involved in water resource planning?
- 20 A. Yes, I have.
- 21 Q. Do you have national papers in the area of water resource planning?
- 22 A. Yes.
- 23 Q. Could you give us an example of one of your regional water resource planning
- 24 efforts?
- 25 A. Yes, I wrote the original master water resource plan and the 5-year, 20-year, and

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1 50-year water resource documents for the West Coast Regional Water Supply
2 Authority as the Project Engineer and later Project Manager for the Authority's
3 Consultant.

4 Q. What areas does this cover?

5 A. From a service area standpoint it covers Pasco, Pinellas, and Hillsborough
6 Counties, as well as the Cities of St. Petersburg and Tampa. From a water
7 resource standpoint it covers a significant portion of the western side
8 of the State of Florida.

9 Q. Do water resource plans change?

10 A. Yes.

11 Q. Do comprehensive plans change?

12 A. Yes.

13 Q. From the information that you received during this case can you comment on the
14 Charlotte County comprehensive plan?

15 A. Yes, it is in the process of being updated which means it is in the process of
16 being changed.

17 Q. Have you read the direct testimony with exhibit of Suzanne K. Lex?

18 A. Yes.

19 Q. What are your comments?

20 A. Ms. Lex accurately reflects that the application for expanded service area has
21 a good portion of the area within the urban services boundary and a larger
22 portion outside the urban services boundary. This conflicts with the County's
23 witnesses on the west side of U.S. 17. Generally, in the request for the proposed
24 franchise expansion those areas to the west of U.S. 17 are within the urban service
25 area; those areas to the east of U.S. 17 are not.

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1 Q. Do you have any other comments concerning Ms. Lex's testimony?

2 A. Yes, I have attached GCH-1 which I believe shows the service areas a little bit
3 better than her exhibit, which is attached. Also I have attached GCH-2 which
4 shows the Charlotte County and general service areas with the note that this
5 proposed franchise area is not within those areas shown. I have also included
6 the map prepared by Charlotte County Utilities which is copyrighted 2007
7 as of 3/19/07 shown as GCH-3 depicting the proposed extension of the
8 Sun River service area. I have also expanded the consideration in providing
9 complementing existing land use maps from Desoto County to the Charlotte
10 County maps which are in the record. The Desoto County existing land use
11 map is shown as GCH-4 and the future land use map is depicted as GCH-5.

12 Q. Ms. Lex comments on infrastructure on page 3. Do you have any response?

13 A. Yes. On page 3 lines 6 and 7 she states that the area lacks infrastructure. That is
14 not true. All of the customers that needed service are getting service. The request
15 for service are future items which are scheduled to be provided as the demand is
16 realized. Nonetheless, her comment also means that Charlotte County lacks any
17 infrastructure in the area as an independent witness. Finally, she comments that the
18 expansion area lacks infrastructure and my comment is that of course it does; first
19 one would need to get the certificate, then the land use, then the developer
20 agreements, and then the facilities. On page 4 line 11 she states that in-fill is
21 encouraged and expansion is encouraged where there are central water and sewer
22 facilities. Of course Sun River's assets are central water and sewer facilities,
23 so in-fill within the service area and expansion of the service area would be
24 encouraged.

25 Q. Does Ms. Lex comment on the exceptions to development in the comprehensive

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1 plan?

2 A. Yes, see page 4 lines 14 through 17 which delineates the exceptions for
3 development in the County for new communities, developments for regional
4 impact, or in cases where utilities will provide central potable water and sanitary
5 sewer service in tandem with the urban services area. Such exceptions can
6 apply in the proposed Sun River expanded service area.

7 Q. Ms. Lex states that there are no proposed amendments to the comprehensive plan
8 which would expand the urban services boundary east of U.S. 17. Do you have
9 any comment?

10 A. Yes. The witness knows that the comprehensive plan is in the process of being
11 updated and the witness also knows that abutting and directly to the north in
12 Desoto County, east of U.S. 17, Desoto Count's land use classification is for
13 general mixed use. Specifically, there is a regional Wal-Mart complex abutting
14 the northern portion of the service area on the east side of U.S. 17. Finally,
15 within a mile to the south of the service area the urban service area extends
16 to the east of U.S. 17 on the south side of the Washington Loop Road.
17 Therefore, abutting and directly north land use designation is for general
18 mixed use which provides for intensive use and the commercial Wal-Mart
19 distribution center development as well as other developments and there is an
20 urban center mixed use directly north of that all of which is on the eastern
21 side of U.S. 17. Finally the urban services area does extend east of U.S. 17
22 within a mile south of the proposed service area.

23 Q. Have you reviewed Jeff Pearson's direct testimony?

24 A. Yes.

25 Q. Do you have any comments?

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1 A. Yes. He admits in his direct testimony that Charlotte County has no facilities
2 in the area. He also admits that Charlotte County makes the developer pay for
3 the necessary infrastructure and would require that developer to dedicate it to the
4 County. He also admits that he has no Board of County Commissioners approved
5 plans and agreements at this time to serve in the area. He states that his only way
6 to serve the area would be to develop contracts and facilities into the future from
7 the Peace River Manasota Regional Water Supply Authority for water and from
8 the City of Punta Gorda for sewer and such arrangements have not been put in
9 place; neither have the facilities and there has been no analysis of whether there
10 is capacity for service from these facilities.

11 Q. Have you had experience in the Peace River Manasota facilities where the
12 Utility Director hypothetically suggests potential future wholesale service?

13 A. Yes, at Hartman & Associates, Inc. we were the utilities consultant to Desoto
14 County and provided for the reverse osmosis facilities on the east side of U.S. 17
15 serving the Wal-Mart facilities as well as the pipeline infrastructure associated
16 therewith. Concern in the water system was the ability to meet fire flows and
17 peaking capacities from the pipeline. Due to that fact supporting facilities were to
18 be made available.

19 Q. In your prior role serving Desoto County has Charlotte County Utilities refused
20 service or refused interconnection with Desoto County historically?

21 A. Yes, in the 2002- 2004 time period when Desoto County was
22 desirous of emergency interconnection to support the fire flow requirements for
23 Wal-Mart and to provide for a looped type of water service. Charlotte County
24 refused to construct such facilities, refused the interlocal agreement, and refused
25 service.

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1 Q. Did Mr. Pearson comment on the need issue?

2 A. Yes he did. He stated that there was no need because no one had called him which
3 appears in his testimony to be his only basis. Typically developers do not call
4 utilities that do not have facilities in the area. They typically call those utilities
5 which have facilities or have service areas adjacent or would be locally expanded
6 to provide service to them. Just because developers in the area did not call
7 Charlotte County Utilities for service that does not mean the requests for service to
8 MSM and Sun River Utilities are not valid since they are the central and
9 certificated public utility system for water and wastewater in the area.

10 Q. Have you reviewed Mr. Ruggieri's direct testimony?

11 A. Yes.

12 Q. What specific comments do you have?

13 A. Mr. Ruggieri on page 3 line 16 says that the urban services area represents the
14 outer limits for "publically funded infrastructure." In this case Sun River Utilities
15 is not publically funded so his comments are not valid.

16 Q. Any other comments on page 3?

17 A. Yes. Page 3 lines 21 and 22 he admits that the urban services area gets adjusted
18 with certain criteria or Board of County Commissioner approval. Basically he
19 admits that the urban services area can change over time.

20 Q. Does Mr. Ruggieri comment on development and how that development would
21 be getting service?

22 A. Yes. On page 5 lines 5 and 6 he states that this is not a self-supporting
23 development. Obviously it is; there are no needs from the County for water,
24 wastewater, stormwater, and/or reuse infrastructure; therefore it is not a
25 dependent development, it is an independent investor owned public utility

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1 corporation. Moreover, a utility service area is not a development. It is simply
2 a utility service area.

3 Q. Any more comments on the urban services area boundary?

4 A. Yes, on page 7 line 1, for the record MSM, never submitted for an urban services
5 area boundary change when they certificated. An investor-owned utility does not
6 have a need to actually do that. On line 7 the witness admits that the County does
7 change land use designations and historically they have. They admit that land use
8 designations which are presently in place do have the ability to change. On page 8
9 this witness admits that the County is in the process of revising its Comp Plan and
10 has had to hire a consultant to do it and finally on page 8 line 21 he admits that
11 the planning horizon ends in 2010 in the Comp Plan which is insufficient in public
12 utility infrastructure planning.

13 Q. Does this conclude your pre-filed rebuttal testimony with Exhibits 1-1 through 1-5.

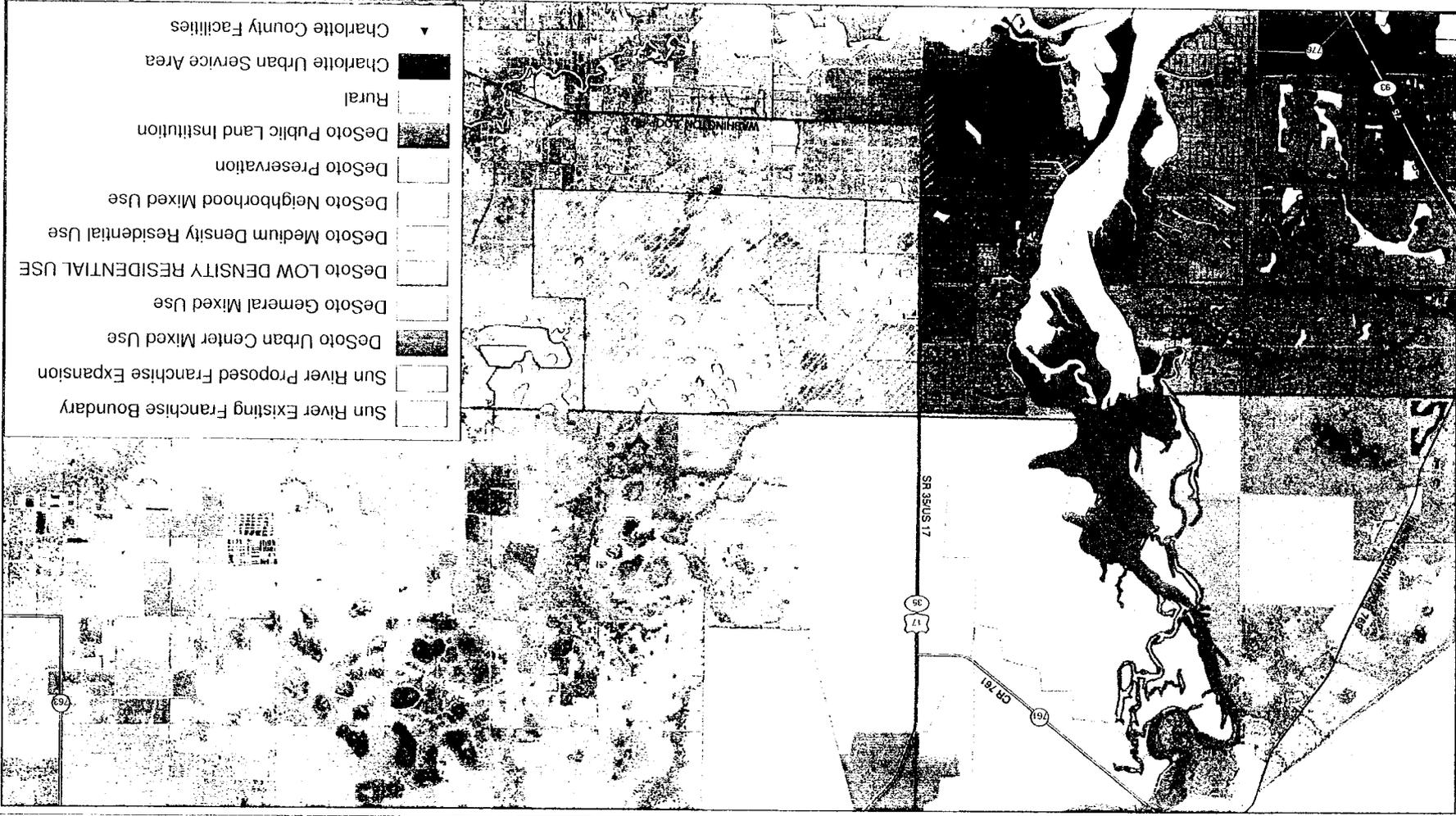
14 A. Yes.
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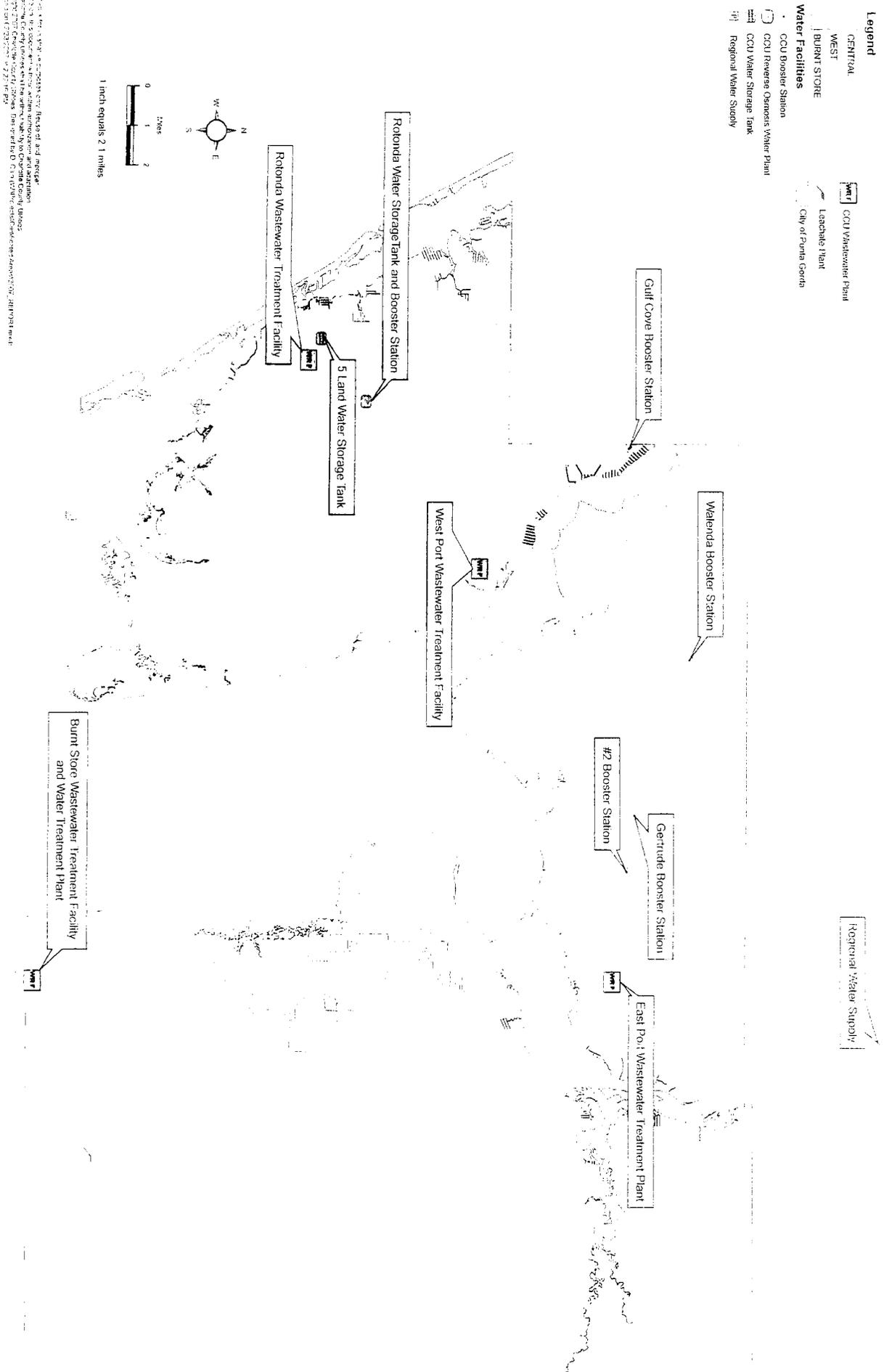
H. D. Hartman Consulting & Design
 301 E Pine Street - Suite 1020 - Orlando, Florida 32801
 Phone 407-447-9095 - Fax 407-447-9406

Sun River Utilities
 Service Area
 HCD/GAI Consultants

FIGURE
 1-1

Meters
 0 700 1,400 2,800

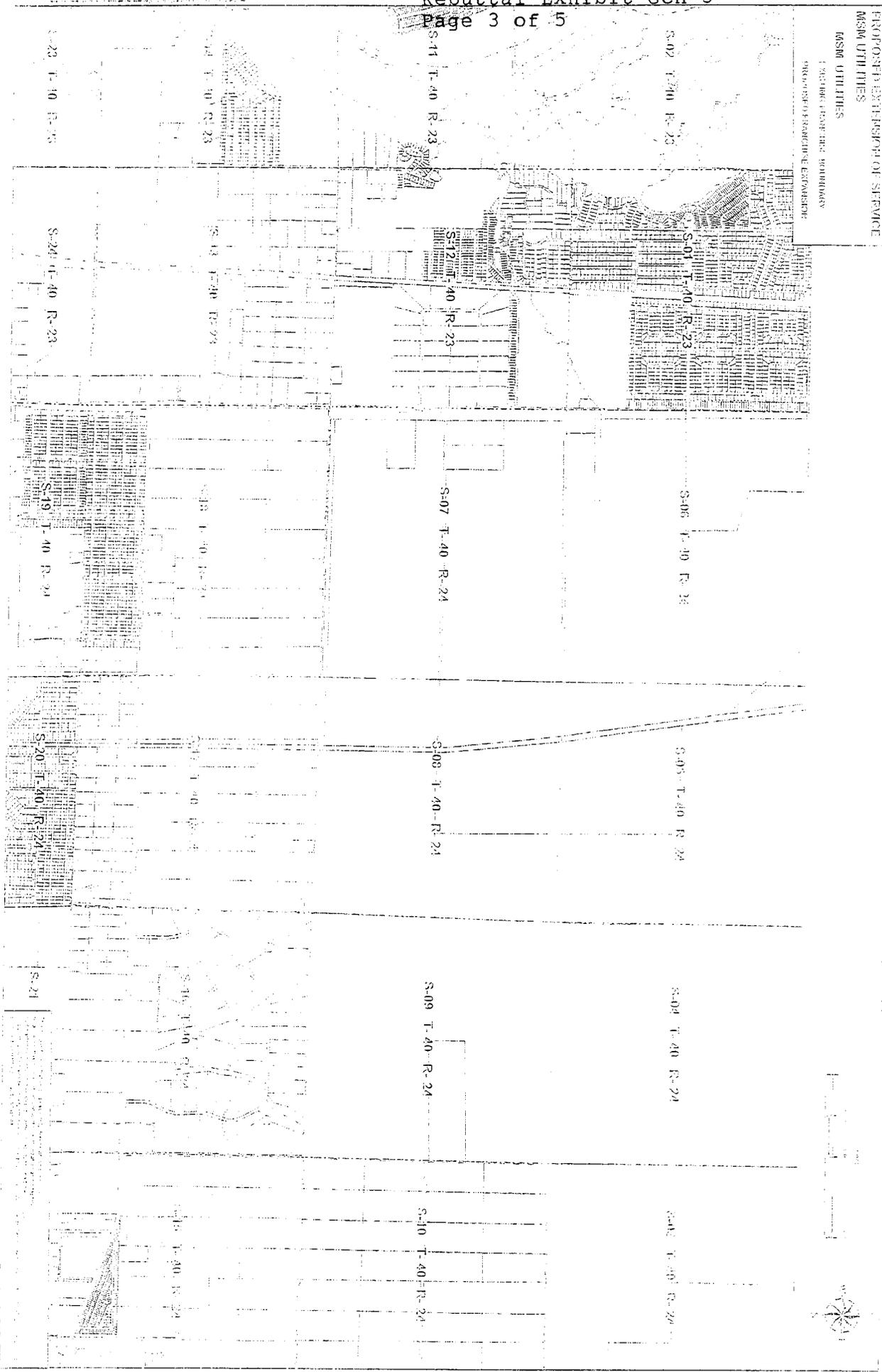


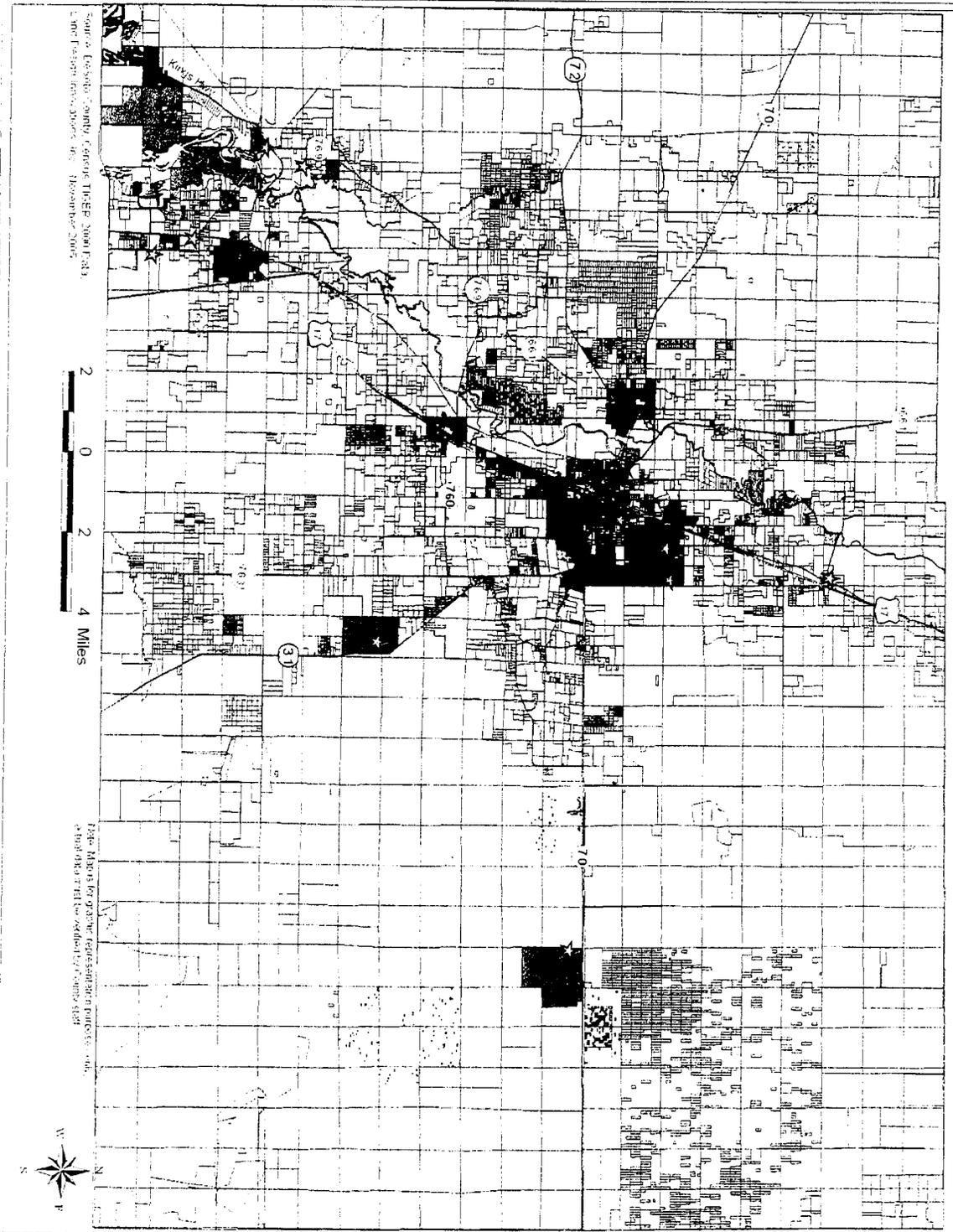


Map prepared by the City of Punta Gorda, Florida, and the City of Rotonda, Florida, for the purpose of illustrating the location of the facilities shown on this map. The City of Punta Gorda, Florida, and the City of Rotonda, Florida, are not responsible for the accuracy or completeness of the information shown on this map. The information shown on this map is for informational purposes only and should not be used for any other purpose.

PROPOSED EXTENSION OF SERVICE
M&M UTILITIES

1. SERVICE CENTER BOUNDARY
2. PROPOSED SERVICE EXTENSION





Source: DeSoto County, Georgia TIGER, 2000 Data
 Date: August 2005, 2006, 2007, 2008, 2009

Note: Maps for graphic representation purposes only.
 Aerial data used for zoning data.



DeSoto County

Map 1-2:
 Existing Land Use

- City
- Urban Center Mixed Use
- Neighborhood Mixed Use
- Rural / Residential
- Preservation
- Recreation
- Public
- Vacant
- Public Well Site Locations

LAND DESIGN INNOVATIONS
 190 North Olympia Avenue
 Suite 295
 Winter Park, Florida 32789



DeSoto County
2030
Future Land Use Map

DeSoto County Florida
Board of County Commissioners
201 E. Oak Street
Arcadia, FL 34266
(863) 993-4811

- Legend**
- Study Area
 - URBAN CENTER MIXED USE
 - CITY OF ARCADIA
 - GENERAL MIXED USE
 - LOW DENSITY RESIDENTIAL USE
 - MEDIUM DENSITY RESIDENTIAL USE
 - NEIGHBORHOOD MIXED USE
 - RESERVATIONS
 - PUBLIC LAND RESTORATION
 - RURAL
 - 401
 - 402
 - 79,000 Feet

