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090478-WS

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**Subject:** Docket Filing - Docket No. 090478-WS  
**Attachments:** MOtion.to.strike.hartman.direct.plus.depo.final.pdf

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

- a. The name, address, telephone number and e-mail for the person responsible for the filing is:

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- b. This filing is made in Docket No. 090478-WS, In re: Application for original certificates for proposed water and wastewater system, in Hernando and Pasco Counties, and request for initial rates and charges, by Skyland Utilities, LLC.
- c. The document is filed on behalf of Pasco County.
- d. There are a total number of 50 pages in the document.
- e. The attached document is Pasco County's Motion to Strike.

6/25/2010

DOCUMENT NUMBER-DATE

05291 JUN 25 2010

FPSC-COMMUNICATIONS

STATE OF FLORIDA  
PUBLIC SERVICE COMMISSION

IN RE: APPLICATION OF SKYLAND  
UTILITIES, LLC, TO OPERATE A WATER  
AND WASTEWATER UTILITY IN  
HERNANDO AND PASCO COUNTIES,  
FLORIDA

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Case No.: 090478-WS

**MOTION TO STRIKE**

Pasco County ("Pasco") a political subdivision of the State of Florida, pursuant to Rule 28-106.204, F.A.C., hereby moves to strike portions of the direct testimony of Gerald Hartman ("Hartman"), and accompanying exhibits, filed by Skyland Utilities, LLC ("Skyland") on April 2, 2010. In support of its motion Pasco states:

**Background**

1. On February 24, 2010, the Commission entered its Order Establishing Procedure, Order No. PSC-10-0105-PCO-WS ("Order"), in this proceeding.
2. Pursuant to the Order, Skyland was required to file its direct testimony on or before April 2, 2010. On that day, Skyland filed its direct testimony – which, in its entirety, was provided by one witness, Gerald Hartman. Mr. Hartman's testimony consisted of six pages of text and three exhibits: 1) his resume; 2) two PSC orders related to rates; and 3) Skyland's application.
3. On June 17, 2010, Pasco took the deposition of Skyland witness Gerald Hartman. A copy of the deposition transcript is attached and references are made to the transcript as "Page \_\_, line \_\_ - Page \_\_, line \_\_" in this motion.

## Argument

For administrative proceedings which affect substantial interests, the fundamental evidentiary standard is established by section 120.569(2)(g), Florida Statutes, which states

[i]rrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath.

Although this section does not specifically make the Florida Evidence Code (“FEC”) applicable to this proceeding, the FEC does provide guidance as to the type of evidence relied upon by reasonably prudent persons. Indeed, the Commission often relies upon the FEC for guidance on evidentiary issues.

Generally, the FEC recognizes two, broad forms of testimony: 1) expert opinion testimony; and 2) lay witness (fact) testimony. The witnesses providing such testimony are held to different foundational standards. Specifically, expert witnesses are allowed to rely upon facts and data of a type reasonably relied upon by like experts in formulating opinions, even though the underlying facts and data themselves may not be admissible. *See* Sec. 90.704, Fla. Stat. For example, an expert can rely upon hearsay evidence to formulate an opinion, if the hearsay is of the type commonly relied upon by like experts. Thus, an expert on the cost of capital may rely upon information from a variety of sources of financial information, such as hearsay information from credit rating agencies.

However, it is “routinely recognized that an expert’s testimony ‘may not merely be used as a conduit for the introduction of the otherwise inadmissible evidence.’ *Linn v.*

*Fossum*, 946 So. 2d 1032, 1037-38 (Fla. 2006) (internal citations omitted). Thus, while the cost of capital expert may rely upon hearsay from credit rating agencies to form an opinion, the expert is prohibited from serving as the vehicle to admit these credit rating agency records into evidence.

There are two primary rationales for this prohibition. First, “[w]hen an expert's testimony acts as a conduit for inadmissible hearsay, the evidence is presented to the jury without affording the opposing party an opportunity to cross-examine and impeach the source of the hearsay.” *Id.* Second, “testimony that serves as a conduit for inadmissible evidence is inadmissible under section 90.403, Florida Statutes (2005), because its probative value is ‘substantially outweighed by the danger of unfair prejudice, confusion of issues [or] misleading the jury.’” *Id.* (internal quotations omitted).

As the Commission has recognized, there are two circumstances in which hearsay evidence is admissible in administrative proceedings. Order No. PSC-09-0034-PCO-EI, p. 2, Docket No. PSC-09-0034-PCO-EI. “First, it is admissible if it is used to supplement or explain other evidence. Second, it is admissible if it falls within an exception to the hearsay rule in the Evidence Code.” *Id.*

Expert testimony, however, is not always required. Section 90.702, Florida Statutes, states:

If scientific, technical, or other specialized knowledge will assist the trier of fact in understanding the evidence or in determining a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify about it in the form of an opinion; however, the opinion is admissible only if it can be applied to evidence at trial.

The Commission, as the trier of fact in this proceeding, determines whether expert testimony is needed to help the Commission understand the evidence or make a factual

determination. The Commission is free to determine that some or all of the “expert” testimony offered in this proceeding is not needed, or to determine that the offered testimony does not qualify as expert testimony.

On the other hand, lay witnesses (those not supplying opinion testimony) may only testify from personal knowledge. Section 90.604, Florida Statutes, states in part, “. . . a witness may not testify to a matter unless evidence is introduced which is sufficient to support a finding that the witness has personal knowledge of the matter.”

Pasco asserts that portions of the direct testimony filed by Skyland witness Hartman should be stricken because it is either expert testimony “used as a conduit for the introduction of otherwise inadmissible evidence,” that otherwise does not meet either test for the admissibility of hearsay evidence, or it is lay testimony offered without personal knowledge. The specific portions Pasco seeks to strike are detailed below. Pasco also asserts that portions of the exhibits to Hartman’s direct testimony should likewise be stricken from the record.

1. Global Opinion

Hartman is asked a global, catch all question at the beginning of his direct testimony:

- Q. Based upon your review of the application and associated documents, do you believe that such documents meet the requirements for regulation by the Florida Public Service Commission.**
- A. Yes, they do. The territory proposed for service by the applicant, Skyland Utilities, LLC has a need for such services delineated in the application. These include potable and not-potable water and wastewater services to bulk exempt, bulk non-exempt, intensified agribusiness, residential and general service customers. A service request letter from Mr. J. Emmett Evans III, Vice President of Evans Properties, Inc., is contained in Appendix I. Mr. Ron Edwards, President of Evans Properties, has also included a letter supporting the application with a more general request for service. Evans**

**properties, Inc., owns all of the land within Skyland's proposed service territory. The near term need for water and wastewater services for Skyland are several existing properties, intensified agribusiness and the first phase of development as detailed in Exhibits D and F and Appendix I of the application. It is anticipated that development will occur in five (5) separate phases as outlined in Appendix I. Because Skyland's proposed service territory traverses county boundaries, the Florida Public Service Commission should be the entity to grant the requested water and wastewater certificates.**

Hartman's response is not an expert opinion expressed by an expert witness. Rather, it is a recitation of "facts" and identification of documents contained in the "application and associated documents." Because this is lay witness testimony, Hartman's testimony must be based upon his personal knowledge.

During his deposition, Hartman admitted that he did not draft the "service request letters" referred to, and did not know how he obtained a copy of the letters. (p. 22, line 8 - p.23, line 8; p.34, line 5 - p. 35, line 3; p 36, line 9 - 18). Hartman has no personal knowledge related to the "service request letters." Further, Hartman has no personal knowledge of the specific service needs delineated. His knowledge is based upon the service request letters and meetings with Evans Properties. (p.40, line 3 - 18; p. 45, line 7 - 15). Thus, this testimony is not based on Hartman's personal knowledge and is inadmissible. Further, Hartman's testimony is merely a conduit to introduce the hearsay statements of others. Hartman is not supplementing or explaining other evidence (he is the only witness) and no hearsay exception applies.

2. Financial Ability

On page 4, line 16, Hartman is asked about Skyland's financial ability:

**Q. Does Skyland have the financial ability to effectively implement and manage a utility system?**

- A. Yes, as provided in Exhibit I of the application. As an affiliate of Evans Properties, Inc., Skyland has the financial backing to be a successful utility. Evans Properties, Inc., is a significant land-owner in Florida and has been in the agribusiness industry for over 50 years. They have agreed to provide funding to Skyland. A copy of the funding agreement between Skyland and Evans can be found in Appendix VII of the application.**

Once again, Hartman's testimony is not based upon his personal knowledge. In his deposition, Hartman admitted: 1) the "funding agreement" was not drafted by Hartman or his firm; 2) Hartman had no personal knowledge of Evans Properties, Inc.'s finances; and 3) Hartman has not reviewed the confidential financial documents submitted to the Commission in this proceeding. (p. 36, line 22 – p. 39, line 4; p.53, line 17 – p. 56, line 11). Thus, Hartman has no personal knowledge and is not competent to testify on these issues. To the extent that Hartman is delivering expert testimony, Hartman is merely being used as a conduit to introduce the hearsay documents and statements of others. Again, Hartman is not supplementing or explaining other evidence and no hearsay exception applies. Regardless of the form of this testimony, it should be stricken.

3. Use of Land

On page 5, line 10, Hartman is asked about Skyland's continued use of land:

- Q. Does Skyland have continued use of the land upon which the utility facilities are or will be located?**
- A. Yes, as provided in the application and supporting documents. Appendix IV and Appendix VI of the application contain lease agreements between Evans Properties, Inc., and Skyland giving them a long-term lease on the land where water/wastewater facilities will be located.**

Hartman's response is not an expert opinion expressed by an expert witness. Rather, it is an identification of two lease agreements and a conclusory statement regarding these

lease agreements. Because this is lay witness testimony, Hartman's testimony must be based upon his personal knowledge.

In his deposition, Hartman admitted: 1) he did not draft either of the referred to lease agreements; 2) he did not negotiate the agreement; and 3) he obtained copies of the agreement from counsel (p. 26, line 6 – p. 34, line 4). Yet once again, Hartman is being used as a conduit for the admission of hearsay documents and statements about which he has no personal knowledge.

4. Documents Included in Application and Sponsored by Hartman

Skyland's application includes portions authored by Hartman (and his firm) and portions created by others. (p. 22, line 14 – p. 23, line 8). Specifically, documents not authored by Hartman include: 1) the Application includes service request letters (Appendix I); 2) the water lease agreement (Appendix IV); 3) the wastewater lease agreement (Appendix VI); and the funding agreement (Appendix VII).

As detailed above, Hartman is not the author of any of these documents and has no personal knowledge of these documents. Thus, as an initial matter, Hartman is not qualified to authenticate these documents. Further, these documents are all hearsay that do not supplement or explain any other testimony. Finally, and notwithstanding the lack of authentication, there is no hearsay exception in the Evidence Code that would make these documents admissible.<sup>1</sup> Thus, these documents should be stricken.

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<sup>1</sup> Even if these documents were construed as business records, which they are not, Hartman is not competent to, and has not, established the foundational elements necessary for this exception. See *King v. Auto Supply of Jupiter, Inc.*, 917 So. 2d 1015 (Fla. 1<sup>st</sup> DCA 2006) (“[t]he foundational elements for admission under business records exception to hearsay rule compel a showing that the business record was: (1) made at or near the time of the event; (2) by or from information transmitted by a person with



**Rule 28-106.303(2) Conference Statement**

Counsel for Pasco conferred with counsel for Skyland regarding the relief requested in this motion. Counsel for Pasco is authorized to represent that Skyland objects to the relief requested herein.

**Prayer for Relief**

For all the reasons stated above, Pasco hereby moves for entry or an order striking the testimony of Gerald Hartman identified above and striking the portions of Exhibit GCH-1 identified above.

Submitted this 25<sup>th</sup> day of June, 2010.

/s/ William H. Hollimon  
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knowledge; (3) kept in the course of a regularly conducted business activity; and (4) that it was the regular practice of that business to make such a record”).

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 25, 2010, a copy of the foregoing Motion to Strike was served, via e-mail and U.S. Mail, to the following:

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/s/ William H. Hollimon

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BEFORE THE Florida Public Service Commission

In Re: Application for original certificate for Proposed water and wastewater system, in Hernando and Pasco Counties, and request for Initial rates and charges, by Skyland Utilities, LLC.

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DEPOSITION OF: GERALD C. HARTMAN, PE, BCEE, ASA  
DATE: JUNE 17, 2010  
TIME: 8:31 A.M. - 1:44 P.M.  
PLACE: 301 N. PINE STREET  
ORLANDO, FLORIDA 32801

STENOGRAPHICALLY  
REPORTED BY: SANDRA NARUP  
REGISTERED PROFESSIONAL REPORTER &  
FLORIDA PROFESSIONAL REPORTER

Page 2

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Page 3

I N D E X

1 TESTIMONY OF GERALD C. HARTMAN, PE, BCEE, ASA

2 DIRECT EXAMINATION BY MR. HOLLIMON.....4

3 CROSS-EXAMINATION BY MR. KIRK.....140

4 CROSS-EXAMINATION BY MS. KLANCKE.....147

5 CROSS-EXAMINATION BY MR. WHARTON.....152

6 REDIRECT EXAMINATION BY MR. HOLLIMON.....153

7 CERTIFICATE OF OATH.....157

8 CERTIFICATE OF DEPOSITION TRANSCRIPT.....158

9 ERRATA SHEET.....159

10 NOTIFICATION LETTER.....160

11

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S T I P U L A T I O N S

13

14 It is hereby stipulated and agreed by and between

15 the counsel for the respective parties and the deponent

16 that the reading and signing of the deposition

17 transcript be reserved.

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INDEX OF EXHIBITS

20 (NONE MARKED)

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Page 4

P R O C E E D I N G S

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1 COURT REPORTER: Would you raise your right

2 hand, please?

3

4 Do you solemnly swear or affirm that the

5 testimony you're about to give in this cause is the

6 truth, the whole truth and nothing but the truth?

7

8 THE WITNESS: I do.

9 THEREUPON

10 GERALD C. HARTMAN, PE, BCEE, ASA

11 Was called as a witness and, having first been duly

12 sworn, testified as follows:

13

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

14 BY MR. HOLLIMON:

15 Q. Good morning, Mr. Hartman. My name is Bill

16 Hollimon. I represent Pasco County in this proceeding.

17 I'm going to ask, if I state a question in a

18 way that's unclear to you, I'll ask that you let me know

19 that so that I can rephrase or restate it, so that we

20 can hopefully communicate. Is that fair to you?

21 A. Yes.

22 Q. Okay. Would you just state for me, please,

23 your name and business address?

24 A. Gerald Charles Hartman, 301 East Pine Street,

25 GAI Consultants, Suite 500, Orlando, Florida, 32801.

Page 5

1 Q. And you've been engaged to provide testimony in

2 this proceeding. Is that correct?

3 A. Yes.

4 Q. And who engaged you?

5 A. Evans.

6 Q. Evans Properties, Inc.?

7 A. Yes. It would be Ron Edwards and their

8 corporation.

9 Q. So Evans Property, Inc. is your client?

10 A. Yes.

11 Q. Okay. And that's whose paying you?

12 A. Yes.

13 Q. So you haven't been engaged by

14 Skyland Utilities or Evans Utilities?

15 A. Well, they're all -- this is a -- I would have

16 to go back and look at the letter of engagement. I

17 don't really know now. Now that you asked that, since

18 they're all three the related parties, the parent is

19 Evans, and -- at least, to me, it is. And so I would --

20 I would expect it would flow through.

21 Q. You have a written engagement agreement?

22 A. Yes.

23 Q. And does that engagement agreement identify

24 you're client?

25 A. I believe so.

Page 6	Page 8
<p>1 Q. Okay. Would you produce a copy of that 2 agreement? Do you have a copy in front of you?</p> <p>3 A. I don't know if I -- let me see.</p> <p>4 No, I do not have one in front of me. I would 5 have to get it out of the files. Do you want me to do 6 that?</p> <p>7 Q. Yeah, I do.</p> <p>8 MR. WHARTON: No, we're going to decline to do 9 that. We'll take it under advisement.</p> <p>10 BY MR. HOLLINSON:</p> <p>11 Q. What are the terms of your compensation?</p> <p>12 A. Hourly.</p> <p>13 Q. What's your hourly rate?</p> <p>14 A. I don't know.</p> <p>15 Q. You don't know what your hourly rate is?</p> <p>16 A. I don't do the billing.</p> <p>17 Q. I understand that, but I'm asking, do you know 18 what your hourly rate is?</p> <p>19 A. It varies from -- commonly, varies from 200 to 20 \$400 an hour.</p> <p>21 Q. You don't know what it is in this proceeding?</p> <p>22 A. No.</p> <p>23 Q. Have you ever testified previously as an expert 24 witness in utility certification cases?</p> <p>25 A. Numerous.</p>	<p>1 cases that you've identified where you testified as an 2 expert witness. Okay? You understand what I'm talking 3 about?</p> <p>4 A. Generally, yes.</p> <p>5 Q. I mean, we're talking -- I'm talking about the 6 ten cases in Florida that you identified, and the ten 7 cases outside of Florida that you identified. I'm not 8 talking about any other case. Is that clear?</p> <p>9 A. Okay.</p> <p>10 Q. And in those 20 cases, have you ever made a 11 recommendation, as an expert witness, that certification 12 is not proper?</p> <p>13 A. Yes. Windstream.</p> <p>14 Q. Okay. Where was that?</p> <p>15 A. Marion County. Windstream Utilities.</p> <p>16 Q. Marion County, Florida?</p> <p>17 A. Yes.</p> <p>18 Q. Do you recall approximately when that was?</p> <p>19 A. At least a decade ago. Marion County 20 intervened on the Windstream Utilities case.</p> <p>21 Q. Okay. So your client in that case was Marion 22 County?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. So you weren't representing the utility?</p> <p>25 A. Oh, I've represented both sides.</p>
<p>Page 7</p> <p>1 Q. How many do you think you've testified in?</p> <p>2 A. Oh, I didn't come prepared for that, so it 3 would be a best guess at this time, if you don't mind 4 that.</p> <p>5 Q. I don't mind.</p> <p>6 A. In the state of Florida, probably somewhere 7 around ten or so, maybe. You're talking about just 8 original certification, not rate cases?</p> <p>9 Q. Correct, original certification.</p> <p>10 A. At least ten, probably. And then in other 11 states, probably a like amount.</p> <p>12 Q. Okay. So somewhere around 20 cases in Florida 13 and outside of Florida. Is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. Have you ever recommended that a utility not be 16 certificated in one of those cases?</p> <p>17 A. Your question is -- your question is what -- 18 when I'm working for the landowner -- by the time we 19 made the application, the decision's whether it was 20 proper to get certification. Many times, I've talked to 21 landlords, when they've asked me whether they should 22 certificate or not, I've recommend them not to, and 23 there's other times I've recommend them to, based on my 24 opinion.</p> <p>25 Q. What we're talking about right now are the 20</p>	<p>Page 9</p> <p>1 Q. No, I understand that. But in that case, in 2 the Windstream case.</p> <p>3 A. I was not representing the utility.</p> <p>4 Q. Okay. When you were -- have you ever 5 represented a utility and come -- strike the question. 6 Okay. All right. So you've prepared and filed 7 direct testimony in this case. Is that correct?</p> <p>8 A. Yes, I have.</p> <p>9 Q. And your resumé is attached to that testimony. 10 Is that correct?</p> <p>11 A. A resumé is attached. Yes.</p> <p>12 Q. Okay. Is the resumé that's attached to your 13 direct testimony, is that a current resumé?</p> <p>14 A. Fairly current. I mean, it's not 15 comprehensive. A resumé is a summary of your 16 experience, so it doesn't cover everything, by far.</p> <p>17 Q. Okay. Does it cover the significant portions 18 of your experience?</p> <p>19 A. It covers some of my experience.</p> <p>20 Q. Does it cover the significant portions of your 21 experience?</p> <p>22 A. Well, it depends -- you would have to make a 23 determination of significant or not. I mean, for me, 24 you know, it's a resumé that the company uses, so 25 that's --</p>

Page 10	Page 12
1 Q. What do you choose to put on your resumé?	1 fact testimony.
2 A. Well, I fill out pages, and then the	2 Q. Okay. So you would have to have personal
3 corporation marketing people summarize it into a resumé.	3 knowledge of it in order to deliver that fact testimony?
4 Q. So you didn't prepare your resumé?	4 A. That's typical. Personal knowledge, or you
5 A. Well, I give the background information. They	5 know it to be a fact.
6 take projects I've done over time, and it's what -- you	6 Q. How would you know it to be a fact otherwise,
7 know, it's a marketing thing.	7 other than personal knowledge?
8 Q. Okay. What about your educational	8 A. If you research it and you know it -- and you
9 qualifications on your resumé, is your resumé complete	9 verify it and you know it to be a factual item, like one
10 as to your education?	10 is one, then you know it to be a fact. And you research
11 A. I would think so. I have both my undergraduate	11 it and you have -- you understand that.
12 and graduate degrees from Duke University. I have --	12 Q. Okay. Can you look at your resumé? It's
13 are you just talking about post-high school education?	13 GCH 3, to your testimony.
14 Q. Yes.	14 A. Okay.
15 A. Yeah. That's what I have.	15 Q. I only have one copy. I thought you were going
16 Q. Okay. Are there any certifications that are	16 to have a copy. Actually, I do have two copies, but I
17 not listed on your resumé that you hold?	17 think I may have marked it up. Let me see.
18 A. I don't believe so.	18 MR. HOLLIMON: John, do you have a copy of
19 Q. Is there any relevant training or courses that	19 exhibits for his testimony?
20 you've attended that's not listed in your resumé?	20 MR. WHARTON: I'm sure we do, don't we, Gerry?
21 A. I'm sure there are. I mean, there's all kinds	21 the exhibits to the testimony.
22 of -- I've taken -- I've been practicing for 35 years.	22 THE WITNESS: Yes, we probably do, somewhere.
23 I've taken all kinds of courses, and I've taken graduate	23 MR. HOLLIMON: Can you refer to your copy?
24 school courses and, you know, I've done all kinds of	24 Because I've marked up some of mine, so I really
25 stuff.	25 don't want you to have a --
Page 11	Page 13
1 So I'm sure -- I mean, when you -- I'm sorry.	1 MR. WHARTON: A copy of your opinion to your
2 But I'm a gray-haired guy, and so I've been around a	2 direct testimony.
3 while. So there's a lot of stuff that's not on my	3 THE WITNESS: I have the direct testimony. I
4 resumé on courses and all that kind of thing. I don't	4 don't think I have all the exhibits in here.
5 think they list the courses.	5 MR. HOLLIMON: Don't have all the exhibits.
6 Q. Okay. Are you offering expert opinion	6 THE WITNESS: Let me see if the resumé is in --
7 testimony in this case?	7 I don't think it's in this.
8 A. Yes, I am.	8 MR. WHARTON: I'm sure you can get it.
9 Q. Are you offering fact witness testimony in this	9 THE WITNESS: We can get it.
10 case?	10 MR. WHARTON: You want us to grab it?
11 A. I'm providing information that I believe to be	11 MR. HOLLIMON: Well, let me just -- this copy
12 fact, yes. Some information, yes.	12 actually is not marked up, so we'll just proceed
13 Q. Okay. So when I say, fact witness, what's your	13 with that.
14 understanding of what a fact witness is?	14 THE WITNESS: Okay. Thank you.
15 A. A fact witness verifies facts for the court.	15 BY MR. HOLLIMON:
16 An expert witness clarifies and provides understanding	16 Q. And I'll ask if you can identify what's been
17 and provides their professional analysis and opinion to	17 handed to you, please.
18 support -- to actually assist the court in -- through	18 A. It's Exhibit GCH 3, Gerald C. Hartman, resumé.
19 their education, experience and training, to assist the	19 Q. And is this the exhibit that was provided with
20 court relative to understanding the issues at hand and	20 your direct testimony?
21 the analyses and the various other matters before them.	21 A. Yes.
22 Q. So if your testimony had to do with whether the	22 Q. Okay. All right. If you can look on page 16
23 traffic light was red or green, would that be fact	23 of 18, in the top right corner, there's a page
24 testimony or opinion testimony?	24 designation. You see that?
25 A. If I was there, looking at it, that would be	25 A. Yes, sir.

Page 14	Page 15
<p>1 Q. And in the middle of the page, there's a 2 paragraph that has to do with expert testimony. Do you 3 see that?</p>	<p>1 others, we've done lots of different ones. Water 2 treatment here.</p>
<p>4 A. Yes.</p>	<p>3 Let's see. Doesn't really get into waste 4 water. I have waste water collection, waste water</p>
<p>5 Q. Okay. What I'm curious is, is this a complete 6 listing of the areas in which you have previously 7 testified as an expert witness?</p>	<p>5 treatment bio solids. For Desoto County, did a federal 6 case on bio solids. Effluent disposal, reuse, testified 7 on that.</p>
<p>8 A. No.</p>	<p>8 That's all I can think of right now.</p>
<p>9 Q. Okay. In which areas have you testified as an 10 expert that are not listed there?</p>	<p>9 Q. Okay. 10 A. And, of course, when you -- when you say 11 you're --</p>
<p>11 A. I've testified for the past over 30 years, so 12 it's difficult for me to remember every instance --</p>	<p>12 Q. There's no question pending. Thank you.</p>
<p>13 Q. Okay.</p>	<p>13 A. Well, just to finish my answer. When you 14 provide testimony at the</p>
<p>14 A. -- of every situation. Do you have anything 15 specific that you --</p>	<p>15 Florida Public Service Commission on original 16 certification, it's all the points delineated in the 17 application that typically sponsor the application, so</p>
<p>16 Q. Well, I just, I'm asking you. I mean, you have 17 a resumé. You provided this resumé as an exhibit to 18 your testimony. Your resumé lists certain areas that 19 you have provided expert testimony in. My question to 20 you is, it's your resumé. You know, what's missing?</p>	<p>18 I'm testifying relative to those points. 19 Q. Okay. And so have you ever been qualified as 20 an expert witness in the area of land use planning?</p>
<p>21 A. Okay. Let's see. I've been qualified in 22 circuit courts, DOAH cases at the 23 Florida Public Service Commission. Doesn't show federal 24 court.</p>	<p>21 A. I don't remember it specifically as land use 22 planning. I'm not a registered planner. But I have 23 been qualified relative to compliance of utility plans 24 on numerous occasions, and I've done public utility 25 planning, Chapter 9J-5. So specifically, I'm not a</p>
<p>25 Q. No, I'm talking about the subject matters right</p>	
Page 15	Page 17
<p>1 now, not the courts. My question to you is, are there 2 subject matters in which you've been qualified or you 3 provided expert witness testimony?</p>	<p>1 registered or accredited, what do they call it, AICP. 2 There's an association for planners. I am not one of 3 those.</p>
<p>4 A. Oh, yeah. On rates, charges, bond feasibility. 5 I testified in bond validation hearings. I'm the credit 6 worthiness criteria consultant to --</p>	<p>4 Q. Have you ever worked as a planner? 5 A. I've worked serving cities, supporting the 6 planning staffs. City of Sanibel, you know, probably 20 7 cities in Florida.</p>
<p>7 Q. I'm sorry. I want you to slow down. I'm 8 making notes. Okay?</p>	<p>8 Q. Have you ever worked as a planner in your 9 full-time job?</p>
<p>9 A. Okay.</p>	<p>10 A. No.</p>
<p>10 Q. So rates, charges, bond validation, is that 11 what you said?</p>	<p>11 Q. Okay. So are your capabilities coextensive 12 with Mr. DeLisi's?</p>
<p>12 A. Bond validation hearings, credit worthiness 13 analysis. We serve the Florida Department of 14 Environmental Protection, or I did. I wrote the credit 15 worthiness criteria for the State of Florida relative to 16 the SRF program. The manager consulting areas, utility 17 management consulting. There's permitting areas, 18 utility -- it has facility planning, which is more 19 limited.</p>	<p>13 A. There's some overlap in -- probably in some 14 training, some of the aspects. I've given papers, 15 talked over at the land institute and things like that, 16 but relative to comprehensive planning issues. But 17 not -- he's a specialist in his arena. I think he 18 stands capable in his areas.</p>
<p>20 I've done Chapter 9J-5 and testified in -- 21 relative to consistency to planning aspects, like in 22 Bartow, relative to landfill siting, facility siting. 23 Public utility, planning.</p>	<p>19 Q. What's his arena? 20 A. He's more of a land use planner, if you will. 21 Q. Okay. And that's not what you are? 22 A. I am not. I'm not a full-time employee in land 23 use planning. No, I'm not.</p>
<p>24 We did the -- besides doing the Pinellas County 25 utility master plan and Tampa's and Lakeland's a few</p>	<p>24 Q. Okay. And that's why Mr. DeLisi is also a 25 witness in this case, because he is a full-time land use</p>

Page 18

1 planner?

2 A. Well, I believe that he has the equivalent

3 qualifications, if not, you know, matches up with the

4 various planners that have intervened in this case, or

5 provided testimony.

6 Q. All right. You have a copy of your direct

7 testimony there. Is that correct?

8 A. Yes, I do.

9 Q. Okay. Can you look -- I'm going to ask you a

10 question about that testimony, so if you can refer to

11 it.

12 A. Okay.

13 Q. In your direct testimony, on page 2, beginning

14 line 23, you're asked about the areas you're going to

15 provide testimony in this matter. Is that correct?

16 A. Yes.

17 Q. And you do not identify land use planning as an

18 area in which you're going to provide testimony, do you?

19 A. In the testimony, is your question?

20 Q. Correct.

21 A. Well, the question is, do you believe the

22 documents meet the requirements of --

23 Q. No, no.

24 A. -- Public Service Commission.

25 Q. I'm sorry.

Page 19

1 A. Are you talking about meeting the requirements

2 or --

3 Q. No, no.

4 A. I don't understand your question, I guess.

5 Q. Let me clarify, then. On page 1, line 23, the

6 question goes --

7 A. Page 2?

8 Q. I'm sorry. Maybe I misspoke before.

9 A. Okay. So you directed to page 2.

10 Q. I apologize.

11 A. Okay.

12 Q. Page 1, line 23.

13 A. Okay.

14 Q. In what areas are you going to provide

15 testimony in this matter. Okay? And then you respond.

16 And my question to you was, you don't identify

17 land use planning as an area in which you're going to

18 provide testimony. Isn't that correct?

19 A. That is correct. On that -- that question on

20 page 1, line 23, and the answer in lines 24, 25, going

21 on to page 2, lines 1 and 2, it does not touch that

22 area, but it does touch the area of the original water

23 and waste water certificate application. The last and

24 portion.

25 Q. Okay. All right. So you indicate, page 1,

Page 20

1 line 24, that you're providing testimony related to

2 utility management in this case. Is that correct?

3 A. Yes.

4 Q. Now, are you providing expert testimony with

5 respect to utility management?

6 A. Yes, it would be. And what I personally know,

7 also. So it would be both, I guess.

8 Q. Okay. Expert and fact testimony?

9 A. I guess it would be, yeah.

10 Q. Okay.

11 A. I really haven't considered these things, in

12 breaking down whether it's, you know, in that fashion.

13 Q. I think we're going to have an opportunity to

14 look at some of those. And we can make some

15 determinations.

16 A. Okay.

17 Q. So in this -- in the area of utility

18 management, I want to talk to you about any opinions

19 that you may have that you have provided in your

20 testimony. So can you identify any expert opinion

21 related to utility management that's included in your

22 direct testimony?

23 A. Oh, absolutely. Absolutely. My direct

24 testimony includes, as an attachment and by reference to

25 the exhibit, which is the application. The application,

Page 21

1 this assumes maybe 500 pages, I don't know. That's at

2 least a ream of paper in that notebook, and maps and

3 that kind of thing. It also answers the questions about

4 technical, operational, et cetera, abilities for the

5 utility to function. And those are utility management

6 opinions.

7 Q. Okay. Yeah, I hear what you're saying, and I

8 think that that may not be an effective way for us to

9 communicate on that issue, because utility management

10 may be a little bit broad.

11 Okay. Looking at your testimony again, on page

12 2, beginning on line 3, asked if this application that

13 you referred to in supporting exhibits was prepared by

14 your firm.

15 And your answer is, yes, our firm prepared the

16 engineering, accounting and utility management aspects

17 of the application on behalf of our client,

18 Skyland Utilities, LLC.

19 Okay. Does that refresh your recollection as

20 to --

21 A. Yes.

22 Q. -- who your client is in this case?

23 A. Yes. It would be Skyland Utilities, LLC, and

24 going up through the parent, to the parent, that's

25 Evans Properties.



Page 22	Page 24
<p>1 Q. Well, this is important. Okay? I believe you 2 said you were not engaged by all three, but you were 3 only engaged by one entity. Is that correct?</p> <p>4 A. I have to -- I don't -- said I don't have the 5 contracts in front of me. I don't remember right now.</p> <p>6 Q. Okay.</p> <p>7 A. So, you know, I can't answer your question.</p> <p>8 Q. Okay. All right. Now, does the application 9 contain aspects that are not engineering, accounting or 10 utility management?</p> <p>11 A. Does the application contain any that are not?</p> <p>12 Q. Correct.</p> <p>13 A. Not to my knowledge.</p> <p>14 Q. Okay. So when you answered this question, yes, 15 our firm prepared the engineering, accounting and 16 utility management aspects of the application --</p> <p>17 A. Right.</p> <p>18 Q. -- you mean that's the entirety of the 19 application?</p> <p>20 A. That's our intent.</p> <p>21 Q. There are no parts of the application your firm 22 did not prepare?</p> <p>23 A. Well, we -- there are some legal aspects that 24 are provided by counsel, of course.</p> <p>25 Q. So there's sections in the application that you</p>	<p>1 Q. No, no, that's not my question. Let me 2 rephrase it, because I want to make sure -- I want you 3 to answer the question that I'm asking. Okay?</p> <p>4 A. I didn't understand your question. Are there 5 different components to the rates? Yes, there are 6 different components to the rates.</p> <p>7 Q. Let me restate the question. Okay?</p> <p>8 A. Because they're done differently.</p> <p>9 Q. Right. So when you figure the rates for a 10 private utility, is the property tax that's paid on the 11 land owned or controlled by the utility included within 12 the rate?</p> <p>13 A. Oh, yeah. Taxes are recovered, yes.</p> <p>14 Q. Okay. Is their regulatory assessment fee 15 recovered?</p> <p>16 A. Oh, absolutely.</p> <p>17 Q. Does a public utility pay property taxes?</p> <p>18 A. No. They pay a payment in lieu of taxes.</p> <p>19 Q. Do they pay a regulatory assessment fee?</p> <p>20 A. No, they pay an allocated overhead.</p> <p>21 Q. Who do they pay that to?</p> <p>22 A. The city, the general fund, or the county.</p> <p>23 Q. In every instance?</p> <p>24 A. Most of the ones I've done, and I've done 200 25 in Florida, so I'd be -- most of them I know of, they're</p>
<p>1 did not prepare?</p> <p>2 A. I would say yes, relative to the legal 3 documents. And the financial, confidential financial 4 records, we do not prepare. The client provided those.</p> <p>5 Q. Okay. And like letters that are included as 6 exhibits, did you prepare those?</p> <p>7 A. No. We didn't prepare the request for service. 8 No.</p> <p>9 Q. Okay. Have you ever testified as an expert 10 witness with respect to valuation of a private utility?</p> <p>11 A. Oh, yes.</p> <p>12 Q. And have you done that many times?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And is it true that public utilities 15 have advantages over private utilities with respect to 16 cost of service?</p> <p>17 A. Relative to cost of service?</p> <p>18 Q. Yeah. I mean, when you look at what goes into 19 the rates for a public utility, as opposed to a private 20 utility, are there things that have to be built into the 21 rates for private utilities that aren't built into the 22 rates of public utility?</p> <p>23 A. But you're asking -- your question was, are 24 there benefits or are there advantages for public 25 utilities over private utilities.</p>	<p>1 transfers to the general fund, allocated overhead and 2 payment in lieu of taxes, in whatever form you want to 3 call it.</p> <p>4 Q. Have you ever testified in a valuation 5 proceeding that a public utility has got numerous 6 advantages over a private utility with respect to 7 components of rates?</p> <p>8 A. Specifically for that case, yes.</p> <p>9 Q. Okay. And what were those advantages in that 10 case that you're referring to?</p> <p>11 A. The utility, the public utility had grant 12 funds, and the private utility did not. And the north 13 Orlando water and sewer company, we assisted in getting 14 the grant funds and other funding for the public 15 utilities that the private, or the investor-owned public 16 utility did not have access to at the time.</p> <p>17 The rules and regulations have changed since 18 then. There are -- now investor-owned public utilities 19 can get certain, some of those grants, just not the same 20 ones as public utilities.</p> <p>21 Q. Okay. Do public utilities typically earn a 22 profit?</p> <p>23 A. It not called a profit, it's called a return, 24 and it's monies available for lawful purposes. And 25 it's -- so it's not unusual, say, like the utilities</p>

Page 26

1 commission of New Smyrna Beach transferred six percent  
 2 ia, and it's not unusual for cities, counties, et  
 3 cetera, to have the return that comes back to the public  
 4 entity. But it's not considered a profit. They're a  
 5 not-for-profit entity from the tax basis.

6 Q. Okay. I'm going to hand you a document and ask  
 7 if you can identify that document, please (tenders  
 8 document).

9 A. This is a lease agreement.

10 Q. Okay. Is this document included in the  
 11 application that you submitted?

12 A. I believe so.

13 Q. I want you to be certain.

14 A. Yes.

15 Q. It is. Okay.

16 Is this one of the documents that your firm did  
 17 not prepare?

18 A. That's -- that's correct, we did not prepare  
 19 this document. This lease was prepared -- we provided  
 20 typical leases that have been approved by the  
 21 Public Service Commission on other cases to counsel,  
 22 because we have several of those. But we did not  
 23 prepare this. The attorneys prepared this.

24 Q. Okay. And you weren't involved in negotiating  
 25 this lease between Evans Property and Skyland Utilities.

Page 27

1 were you?

2 A. I provided information --

3 Q. That wasn't my question. Excuse me. My  
 4 question was, did you negotiate, on behalf of either  
 5 party, the terms of this agreement?

6 A. Did I negotiate, on behalf of either party, the  
 7 terms of this agreement.

8 Q. Correct, that's my question.

9 A. Versus providing consulting information for the  
 10 agreement. I don't think I would be considered a  
 11 negotiator on this agreement, but I would say that I was  
 12 a consultant, providing information.

13 Q. Okay. How did you get this agreement for  
 14 inclusion in the --

15 A. From counsel.

16 Q. From counsel. Which counsel?

17 A. From Dean, Head.

18 Q. Dean, Head. Okay.

19 Okay. Now, I've handed you the waste water  
 20 lease agreement. Is that correct?

21 A. Yes.

22 Q. Now, what is your understanding of what the --  
 23 the purpose of this document? What's the purpose of  
 24 this document?

25 A. It provides -- following certification provides

Page 28

1 for Skyland Utilities, Inc. to have land rights to  
 2 effectuate their mission.

3 Q. Okay. So Skyland needs to have control over  
 4 land where waste water facilities are located?

5 A. Skyland, once they're certificated, Skyland  
 6 needs to have rights or perfect rights to effectuate  
 7 their mission. There's no doubt about that.

8 Q. Okay. They got to have those rights. Okay.  
 9 So what --

10 A. No, they've got to get them, one way or the  
 11 other, after -- after certification. I mean, there's  
 12 other means to do this. You can -- you know, there's  
 13 other -- a lease is just a -- between the parties is a  
 14 cooperative fashion.

15 Q. Okay. What other -- what are the other means?  
 16 A. Oh, after certification, as an investor-owned  
 17 utility, it's been my experience that publicly -- that  
 18 public utility has rights, if they need to obtain  
 19 property, to obtain that property.

20 Q. Yeah, a public utility. Skyland is not a  
 21 public utility.

22 A. Once certificated, they're a public utility.

23 Q. So they can have the eminent domain, once they  
 24 get certificated?

25 A. Absolutely.

Page 29

1 Q. Okay. Now, can you tell me what land is  
 2 covered by this lease?

3 A. There's a legal description that's provided --  
 4 I don't see it on here -- that you gave me.

5 Q. So there would need to be a legal description  
 6 for you to know what land is covered by this lease?

7 A. It would be -- specifically, you asked me a  
 8 specific parcel, that would be based upon need and how  
 9 the work works. I mean, it's based on, whenever you  
 10 plan something, beings you have to be able to have the  
 11 flexibility to move your facilities to be responsive to  
 12 the request for service.

13 So I believe this lease, the last the time I  
 14 read it, had tentative parcels that they were looking at  
 15 and that this lease covered.

16 Q. All right. Let's explore that a little bit.  
 17 Okay. Paragraph 1 is the granting clause of this lease.  
 18 Correct?

19 A. Uh-huh.

20 Q. It identifies nine acres, more or less, located  
 21 in Hernando County and Pasco County, Florida, identified  
 22 as the leased premises. Then it says, a more detailed  
 23 description of the leased premises is attached as  
 24 Exhibit A. Is that correct?

25 A. Yes.

Page 30

1 Q. Is there any other language in this document  
2 that talks about what the leased premises are?

3 A. That's typical for these things. You have the  
4 leased premises and the legal description for them.

5 Q. Okay. And so what I'm asking is, where is the  
6 legal description for the leased premises in this  
7 document?

8 A. What you gave me, I don't see the Attachment A.

9 Q. Okay. So in the application that you filed, is  
10 there a legal description that I didn't hand you?

11 A. No. There are maps that show what the intent  
12 is for locations that are shown in the application.

13 Q. Okay. So from this waste water lease  
14 agreement, you can't tell me what land is the leased  
15 premises, as defined in this document?

16 A. Not based on this.

17 Q. Okay. Can you tell me --

18 A. You have to look -- when you generalize it back  
19 to the application, the intent is delineated based on  
20 the planning associated with the application because  
21 there's an area shown there on the map.

22 Q. Okay. Would you agree with me that this  
23 document that I've handed you does not contain a legal  
24 description of what's defined in the document in  
25 Paragraph 1 as the leased premises?

Page 31

1 A. What you handed me, and limited to that, does  
2 not have the Attachment A, as I testified earlier.

3 Q. Okay. To your knowledge, has a legal  
4 description defining what the leased premises is ever  
5 been developed?

6 A. I don't recall whether it has been. I know  
7 that there's maps that have been discussed between the  
8 parties that delineate a tentative location for these  
9 facilities.

10 Q. Mr. Hartman, you know the difference between a  
11 map and a legal description, don't you?

12 A. Yes, I do.

13 Q. My question was, to your knowledge, has there  
14 been a legal description of the leased premises as  
15 defined in Paragraph 1 ever prepared?

16 A. And if you listen to my response, I said, to my  
17 knowledge, I did not know of that, that there are maps  
18 that delineate a tentative location for it between the  
19 parties. That's what I said.

20 Q. Okay. So as we sit here today, looking at this  
21 waste water lease agreement, you can't tell me, based  
22 upon this document, what is covered -- what property is  
23 included within the leased premises?

24 A. Solely from the document and the bounds of what  
25 you gave me --

Page 32

1 Q. That's my question.

2 A. -- at this time, as of October 1st, 2009, based  
3 upon what you handed me, the answer is, no, you cannot.

4 Q. Okay. And let me ask you this. Now, did you  
5 rely on this document, this waste water leased  
6 agreement, in forming any opinion that you provided in  
7 your direct testimony?

8 A. Not solely. But in part, yes.

9 Q. Okay. So you relied upon this document?

10 A. In part, but not solely.

11 Q. Okay. What else did you rely on?

12 A. I relied on the -- I've relied on many other  
13 items. I mean, there's a ton of stuff in the  
14 application. I relied upon the meetings and the  
15 information I was given by the parties.

16 Q. Hand you another document and ask you -- here,  
17 John. Ask that you identify that document for me,  
18 please (tenders document).

19 A. Yes.

20 Q. What is that document?

21 A. The water lease agreement.

22 Q. And this is a copy of the water lease agreement  
23 that's provided in the application you submitted on  
24 behalf of Skyland?

25 A. Yes. Date of October 1st, 2009, and it covers

Page 33

1 16 acres.

2 Q. Okay. And you didn't draft this document, did  
3 you?

4 A. No. This is, again, drafted by the attorneys,  
5 obviously.

6 Q. Okay. And you didn't negotiate, on behalf  
7 Evans Property or Skyland Utilities, the terms of this  
8 document?

9 A. The water -- the same answers for the water  
10 agreement that I have for the waste water agreement  
11 would be true.

12 Q. Okay. And did you rely on this document in  
13 forming any opinions in your testimony?

14 A. As I answered before, for the waste water  
15 agreement, it would be the same answer for this.

16 Q. Okay. And as you answered before, can you tell  
17 from this document what property is included within the  
18 leased premises as defined in Paragraph 1?

19 A. As I answered before on waste water, is the  
20 same for this.

21 Q. And to your knowledge, there's never been a  
22 legal description, as referred to in Paragraph 1 of this  
23 document that's been prepared?

24 A. I don't recall that, as I answered the last  
25 time.

<p style="text-align: center;">Page 34</p> <p>1 Q. Okay. Is the existence of a legal description 2 something you would normally recall?</p> <p>3 A. What I normally and don't normally recall is -- 4 I can't even answer that question. What my memory is?</p> <p>5 Q. Yeah. Understand what we can recall.</p> <p>6 All right. I've handed you another document, 7 and I ask if you can identify this document. Or 8 these -- actually, it's two separate documents. Can you 9 identify those two documents?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. What are they?</p> <p>12 A. One is a letter by Ron Edwards, dated 13 October 2nd, 2009, stating that Evans Properties is 14 supporting the original certificate filed by 15 Skyland Utilities, LLC, and that Evans plans on 16 utilizing the utility services provided by 17 Skyland Utilities in both Hernando and Pasco counties, 18 that Evans owns the properties.</p> <p>19 Q. Okay. What about the second document, can you 20 identify that one?</p> <p>21 A. Yes.</p> <p>22 Q. What is that?</p> <p>23 A. That's an October 9th, 2009 letter from 24 Evans Properties, Inc. This is from Emmet Evans, vice 25 president, and it's a request for service.</p>	<p style="text-align: center;">Page 36</p> <p>1 content of this letter, prior to him drafting the 2 letter?</p> <p>3 A. I don't recall any -- you know, I didn't write 4 the letter for him to provide it or anything. I just 5 said that, you know, these are things that I would need 6 for the application and covered the points that are 7 necessary, that I believe are necessary for the 8 application.</p> <p>9 Q. How did you come in possession of these 10 letters?</p> <p>11 A. Made copies and provided to me.</p> <p>12 Q. By whom?</p> <p>13 A. You know, I don't have a chain of custody for 14 the letters. So they're signed by Ron Edwards and 15 Emmet Evans, and I believe they were sent to me from 16 each individual. Whether -- you know, how it actually 17 got to my office, I don't know, I mean, just other than 18 that we have them.</p> <p>19 Q. Okay. Did you rely on these letters in forming 20 any of your opinions in this case?</p> <p>21 A. Oh, absolutely.</p> <p>22 Q. Okay. I've handed you another document. Can 23 you identify this document, please?</p> <p>24 A. This is a funding agreement.</p> <p>25 Q. Okay. And is this another one of the documents</p>
<p style="text-align: center;">Page 35</p> <p>1 Q. Okay. Now, you didn't draft either one of 2 these letters, did you?</p> <p>3 A. No.</p> <p>4 Q. And did you have any input into these letters?</p> <p>5 A. I've read the letters and understand them.</p> <p>6 Q. Right. Did you -- the first one that's written 7 by Ron Edwards, did you speak with Mr. Edwards about 8 this letter or about the content of this letter, before 9 he wrote it?</p> <p>10 A. I asked for documentation that covers the areas 11 of this letter for the application.</p> <p>12 MR. HOLLIMON: Would you read back my question, 13 please.</p> <p>14 (Thereupon the requested testimony was read back.)</p> <p>15 THE WITNESS: My answer was, I requested, for 16 the application, the documents that showed the 17 request for service and the circumstances for 18 service and to provide the information that is 19 normally provided for certification.</p> <p>20 And then, you know, Mr. Edwards is responsible 21 for the October 2nd letter, and Mr. Evans is 22 responsible for the October 9th letter.</p> <p>23 BY MR. HOLLIMON:</p> <p>24 Q. Did you speak to Mr. -- referring to the 25 October 9th letter, did you speak to Mr. Evans about the</p>	<p style="text-align: center;">Page 37</p> <p>1 that's included in the application that your firm did 2 not prepare?</p> <p>3 A. Yes. This is a -- a funding agreement, similar 4 to other funding agreements for other utilities that 5 have been certificated at the commission.</p> <p>6 Q. Okay. Did you draft this agreement?</p> <p>7 A. No. We provided information to Dean, Mead 8 relative to this agreement, similar to the leases.</p> <p>9 Q. Okay. Do you have any personal knowledge as to 10 the finances of Evans Properties, Inc.?</p> <p>11 A. I do not do their taxes. I do know that they 12 own 43,000 acres in the state of Florida, I believe, 13 that are free and clear.</p> <p>14 Q. How do you know that?</p> <p>15 A. It's been represented to me by the Evans and 16 Ron Edwards.</p> <p>17 Q. Somebody has told you that?</p> <p>18 A. Yes.</p> <p>19 Q. That's the basis of your knowledge?</p> <p>20 A. Yes. I -- you know, so you would have to 21 ask -- the financial situation is being held, you know, 22 as typically as a confidential document.</p> <p>23 Q. Let me ask you about that. Have you reviewed 24 the confidential financial information submitted in this 25 case?</p>

Page 38	Page 40
1 A. I do not know all of it. I have seen some 2 information.	1 Q. Okay. 2 A. And I am an officer of GAI.
3 Q. Have you reviewed the confidential financial 4 documents that were submitted to the 5 Public Service Commission in this case?	3 Q. All right. In the second paragraph, it says, 4 Evans owns all the land inside the surface boundary of 5 the utility.
6 A. For the confidentiality reasons, I believe I 7 have not reviewed what was -- exactly what was 8 submitted. No.	6 Do you see that?
9 Q. Did you rely upon this funding agreement in 10 forming any opinion in this case?	7 A. Yes.
11 A. Yes. The obligation, contractual obligation to 12 provide the funding is not any different than any of the 13 others that we've done in the state of Florida.	8 Q. How do you know that?
14 Q. Are you a financial agent for 15 Evans Properties, Inc.?	9 A. Through the representations and the documents 10 that were provided by Evans to us.
16 A. A financial agent?	11 Q. Okay. And you next refer to an existing 12 residence and shop that have a need for central service. 13 Do you see that?
17 Q. Are you authorized to act on their behalf in 18 financial matters?	14 A. Yes.
19 A. I don't believe so.	15 Q. Now, is that based purely upon the letters that 16 we previously discussed?
20 Q. Are you generally privy to their books and 21 records?	17 A. It's based upon the letters and meetings that 18 we've had concerning this application.
22 A. Generally, no. And an answer, generally, no --	19 Q. Okay. So what is the need for central service 20 for that residence in a shop? What is the need?
23 Q. There's no question pending.	21 A. Well, central service provides for -- you know, 22 one aspect is fire protection. Others are for 23 reliability, improved reliability for service, and other 24 aspects.
24 A. I can finish my answer.	25 Q. Okay. Are you aware of any reliability
25 In answering the, generally, no, I took the	
Page 39	Page 41
1 word "generally" to be over, you know, a long period of 2 time and all the various aspects of the records, 3 financial records. That was my understanding of the 4 question.	1 problems that the existing residence and the shop has 2 with its current water supply?
5 Q. Okay. I'm going to hand you another document 6 (tenders document). Can you identify this document, 7 please?	3 A. No.
8 A. Yes. This is a write-up that we prepared in 9 Exhibit A.	4 Q. Are you aware of any reliability problems that 5 the existing residence and the shop has with its waste 6 water disposal systems?
10 Q. Okay. So this was actually prepared by you?	7 A. No.
11 A. Yes.	8 Q. Are you aware of anything in this application 9 that indicates that fire protection will be provided?
12 Q. You, personally?	10 A. You improve the firefighting capabilities when 11 you upgrade these facilities. There's no doubt about 12 it.
13 A. Under my direct charge, yes.	13 Q. Is there anything in the application that 14 indicates that fire protection will be provided by 15 Skyland Utilities, LLC?
14 Q. Okay. That's different than you, personally. 15 So somebody under your responsible charge prepared this. 16 Is that correct?	16 A. Specifically?
17 A. I don't recall all -- because this has been -- 18 when you draft these things, they go through changes, 19 you know, before they're submitted. So, yes, we have a 20 team. I'm in responsible charge for the entire team. 21 Assisting me and my team include Tara Hollis, 22 Tony Isaacs and Scott Quinlan. That was our team.	17 Q. Correct.
23 Q. That was your team. Okay. So Exhibit A is a 24 team effort, then?	18 A. No. It's just that for fire protection, having 19 improved facilities improves the situation.
25 A. All through, all through GAI.	20 Q. Is there anything in the cost of service that 21 shows -- that includes a cost for the provision of fire 22 protection services?
	23 A. Improved fire protection, not ISO fire 24 protection. When you say fire protection, to me, I 25 immediately go to the standards of ISO out of

Page 42	Page 44
<p>1 Jacksonville, which is the Insurance Services Offices, 2 and at that level of service.</p>	<p>1 other certification cases.</p>
<p>3 But improving -- yes, there is, in the cost of 4 service. There's \$25,000 for rehab of the well, and 5 there's \$8,000 for new pumps and piping. So there's 6 \$33,000 in the cost of service to improve the 7 facilities.</p>	<p>2 Q. Okay. So you've identified three or four 3 different possibilities, biofuels, cluster development, 4 water cleansing, TMDL training. How do you know that 5 those things are being considered by Evans?</p>
<p>8 Q. Okay. The next sentence in this Exhibit A, in 9 the second paragraph of the next clause, Evans has plans 10 for utilizing utility services for a variety of 11 ventures. Do you see that?</p>	<p>6 A. Well, I would -- yesterday, I was with Carol 7 Wehle down in the 8 South Florida Water Management District. You know, the 9 top, if you will, the top brass of the 10 South Florida Water Management District on -- this is a 11 consolidated situation.</p>
<p>12 A. Uh-huh.</p>	<p>12 I mean, you have -- you have Skyland, you have 13 Groveland, you have -- and the last one, Bluefield. And 14 that one was relative to the C25 reconnect between the 15 South Florida Water Management District and St. Johns. 16 And -- and we're looking at -- that's impacting 17 Groveland and that application. But they're supporting 18 the improved water quality aspects down there, and 19 that's water cleansing.</p>
<p>13 Q. Tell me about those ventures.</p>	<p>20 Agri business, Biofuel companies wish to have 21 water supplies. And there's other agricultural 22 interests similar to -- you know, we'd have subleases 23 to -- there would be public entities that may have small 24 residential clusters, if you will, for their work force, 25 shops on each of the subleases, not unlike what you see</p>
<p>14 A. There's -- there are all kinds of things that 15 are being discussed right now. There's -- they have 16 various experimental aspects that are going on relative 17 to the biofuels. They have the ability to have, with 18 future approvals, if those approvals were forthcoming, 19 for residential clustered development in a fashion 20 similar to the B and C and D and E type of applications 21 of FTCT. They have water cleansing aspects to improve 22 the environmental situation and enhance recharge. We're 23 looking at TMDL trading to assist. There's all kinds 24 of -- 25 Q. Okay. So --</p>	
Page 43	Page 45
<p>1 A. There's ability, there's all kinds of things 2 we're talking about.</p>	<p>1 on Babcock Ranch. There's a greening and the canker 2 have basically put a huge hurt on a lot of the present 3 operations. They're looking to diversify.</p>
<p>3 Q. Well, let me focus you.</p>	<p>4 Q. Are you finished?</p>
<p>4 A. Mr. --</p>	<p>5 A. Yes, I am. For now.</p>
<p>5 Q. Go ahead and finish.</p>	<p>6 Q. Okay, to that question.</p>
<p>6 A. Okay. Well, I'll just -- it's an incomplete 7 answer. I'll stop.</p>	<p>7 Well, my question actually was, I'm wondering 8 about the source of your knowledge about these different 9 ventures that you've identified that Evans Properties is 10 considering.</p>
<p>8 Q. Okay. The statement is that there are plans 9 for doing these things that you described. Is that 10 right?</p>	<p>11 A. Well, of course, you have to be -- 12 Evans Properties. They're the ones considering it.</p>
<p>11 A. We're discussing them, and we're planning on 12 various different aspects. What we do need, you know, 13 we see that what we can -- we believe that we have the 14 ability for is potential clustered residential and 15 commercial properties and agri business.</p>	<p>13 Q. Right. So that --</p>
<p>16 Q. Okay. So it's Evans Properties' intent to 17 develop clustered, like cluster development on some of 18 these parcels?</p>	<p>14 A. So the source is Evans. Yeah.</p>
<p>19 A. Well, that's one concept.</p>	<p>15 Q. Oh, the source is Evans.</p>
<p>20 Q. Is there any present intention to do that, that 21 you're aware of?</p>	<p>16 So tell me how -- have you seen documents, have 17 you had meetings, have you talked to people? How do you 18 have this knowledge?</p>
<p>22 A. There's one concept or plans. You know, the 23 market pushes where you go, and we're looking at various 24 options. So, but that is one that, with the densities 25 that are allowed, that has potential, similar to the</p>	<p>19 A. Because I, yesterday, was in a meeting with 20 them, with the water management districts, relative to 21 water cleansing. 22 Q. Well, I'm referring to -- 23 A. And -- 24 Q. Excuse me. I'm referring to, this is Exhibit A 25 to your application that was filed in October,</p>

Page 46

1 approximately, 2009. Okay?

2 A. Right.

3 Q. You make statements in this Exhibit A. I want

4 to know about the basis for your knowledge in this

5 statement, in this exhibit, filed in October of 2009.

6 A. Discussions with Evans Properties, primarily,

7 meetings with them in Vero Beach.

8 Q. Okay. So now let's go down to this third

9 paragraph of Exhibit A. You say, the most immediate

10 need for water and waste water services for Evans is the

11 existing residential and commercial properties. Okay?

12 Now, are you referring to the existing

13 residence and the shop? Is that what you're referring

14 to there?

15 A. As existing, yes.

16 Q. Okay. And what's the existing commercial

17 property?

18 A. Well, the shop is --

19 Q. Commercial?

20 A. -- commercial.

21 Q. So the one residence is the residence, and the

22 shop is the commercial properties?

23 A. Yes.

24 Q. And those are both, I believe you testified,

25 adequately served right now with wells for their water

Page 47

1 supply. Is that correct?

2 A. I didn't testify to that.

3 Q. I strike the question. You're exactly right.

4 I strike the question.

5 Is it true that they are now adequate -- is it

6 true, right now, that the existing house is served from

7 a private well?

8 A. Yes.

9 Q. Is it true that the shop is served from a

10 private well?

11 A. Yes.

12 Q. Are you aware of any problems with the well

13 that serves the house?

14 A. I stated before, there's no -- I did not know

15 of any problems.

16 Q. And you're not aware of any problem with the

17 well serving the shop?

18 A. That's correct.

19 Q. Okay. So what is the immediate need that

20 you're talking about here?

21 A. There's a desire for improved service, as well

22 as the desire to diversify and to accomplish other -- to

23 serve the public in other needs.

24 Q. Okay. Can you go back to your pre-file direct

25 testimony now?

Page 48

1 A. Yes.

2 Q. All right. If you refer to page 4, please,

3 beginning on line 1. Let me know when you've gotten

4 there.

5 A. Yes.

6 Q. And you're asked whether or not

7 Skyland Utilities system would be in competition or

8 duplication of another system. Is that correct?

9 A. That's correct.

10 Q. Okay. And what is your opinion with regard to

11 that question?

12 A. There would not be.

13 Q. Would not be. Okay.

14 What's the basis of that opinion?

15 A. There are no assets within the service area.

16 There's no assets for Phase 1 within miles of the need.

17 There -- the assets that surround the service area, or

18 the utilities that surround the service area have not

19 planned for service in this area. In fact, their

20 planning excludes central service for this area as a

21 utility standpoint, while the utilities do have service

22 in the rural areas.

23 So there is no competition or duplication of

24 financing document that I have reviewed, provides for

25 debt or for expansion to service of this area.

Page 49

1 Q. Okay. Is that the entirety of the basis for

2 your opinion?

3 A. And to my knowledge, there are no other assets

4 within the service area that are -- would be in

5 competition with Skyland Utilities for service.

6 Q. All right. Now, same page, line 5, you're

7 asked, does Skyland have the technical ability to serve

8 the requested territory.

9 Do you see that?

10 A. Yes.

11 Q. Okay. And what's your opinion there? Excuse

12 me.

13 Let me ask you this. You provide an answer.

14 Is that opinion -- is that an opinion, or is that a

15 fact-based answer?

16 A. That's an opinion. You know, technical ability

17 is a conclusion, and it's based upon facts. There's a

18 basis and a verification thereof. The basis is that,

19 you know, Ron used to be with Tropicana and, you know, I

20 served the county and the city relative to interlocal

21 utility agreements with Tropicana. It's a major

22 installation. They have a major waste water treatment

23 plant, as well as millions of gallons a day of water

24 facilities there. And he is the head of this company, a

25 very experienced individual.

Page 50	Page 52
<p>1 Our firm has provided the technical, from an 2 engineering standpoint and those aspects, for numerous 3 investor-owned utilities throughout the state of 4 Florida. And I would just proffer our experience and my 5 experience relative to that over 35 years here in the 6 state -- or over 30 years here in the state of Florida. 7 And I know and have worked with operational concerns, 8 that would be contract operations that have those 9 abilities.</p>	<p>1 A. Well, they can -- there are others besides us. 2 You can retain -- 3 Q. I'm asking -- 4 A. -- vendors, but -- 5 Q. I believe you testified that part of the reason 6 why you believe that they are -- they have the technical 7 ability is the fact that they have retained GAI. Is 8 that correct? 9 A. That's part of it. Yeah.</p>
<p>10 We do provide, if Evans does not want to, the 11 financial billing and other services associated with 12 running an investor-owned utility.</p>	<p>10 MR. WHARTON: You know, hang on, Gerry. I'm 11 going to interject at this point. You know, Bill, I 12 really think you are interrupting the witness quite 13 a bit. And it's a deposition. I understand, at 14 trial, you might seek to control this testimony very 15 tightly, but I ask that you not do that.</p>
<p>13 So, and I know as a fact that Evans Properties 14 has won awards and all kinds of recognition for their 15 environmental stewardship, which they have on the walls 16 in their conference room. We're not -- I mean, have 17 been shown to me and I've seen on the wall.</p>	<p>17 I think I refrained in doing -- I don't think 18 that your witnesses were exactly the most 19 responsive. I think that's what happens in 20 depositions. But I feel like it's happening quite a 21 bit, and I'll just ask you to try to keep it in 22 mind.</p>
<p>18 Q. Okay. So Skyland, as a company, has never 19 provided any utility service. Is that correct?</p>	<p>22 MR. HOLLIMON: John, I hear you, and I'll keep 23 it in mind. And I also would submit that the 24 witness, on occasion, answers a question I haven't 25 asked. So while I'm perfectly willing to listen to</p>
<p>20 A. Well, this is original certification. That's 21 the way it has to be. When you do original 22 certification, they haven't provided the service yet. 23 Q. Right. 24 A. You can't provide the service, you know, 25 because you have to require the certificate first.</p>	
Page 51	Page 53
<p>1 Q. Right. Okay. So, but Skyland, as an entity, 2 has never provided utility services. I think the answer 3 to that is, that's a correct statement. Is that 4 correct?</p>	<p>1 a lot of that, at that point, I would like to get us 2 focused back on to the question that's --</p>
<p>5 A. Yes.</p>	<p>3 MR. WHARTON: I understand that, and I don't 4 think the witness is going on so long that you don't 5 have the opportunity to do that.</p>
<p>6 Q. Okay. And that your experience has been with 7 Evans Properties, Inc. Is that correct?</p>	<p>6 MR. HOLLIMON: Well, it's all a balancing act, 7 and --</p>
<p>8 A. Evans Properties, I was talking about Ron's 9 capabilities and what he has done, and then I was also 10 talking about our firm. And we've been retained by the 11 company to provide these services, and we commonly do 12 such.</p>	<p>8 MR. WHARTON: I know, but --</p>
<p>13 And the question is, the technical ability to 14 serve, and yes, technical ability is, do you have the 15 ability to do that or can you cause that ability to 16 occur. And, of course, as evidenced in every one of 17 those applications that I've been involved in, we 18 function quite well. The historical record is replete 19 with the certificated utilities having the technical 20 ability and doing a very, very good job and being a very 21 positive situation.</p>	<p>9 MR. HOLLIMON: -- I appreciate your comments.</p>
<p>22 Q. So one aspect of -- one of the factors that you 23 consider important in your opinion that Skyland has the 24 requisite technical ability is the fact that they 25 retained GAI?</p>	<p>11 MR. WHARTON: -- I don't think interrupting him 12 is proper in the scope of a deposition.</p>
	<p>13 MR. HOLLIMON: Well, we'll see if we can work 14 through this.</p>
	<p>14 MR. WHARTON: We will.</p>
	<p>15 MR. HOLLIMON: Okay.</p>
	<p>16 BY MR. HOLLIMON: 17 Q. All right. So page 4, line 16, you opine on 18 the financial ability of Skyland Utilities.</p>
	<p>19 A. Yes.</p>
	<p>20 Q. Now, again, is this an opinion that you're 21 rendering in this proceeding?</p>
	<p>22 A. Yes.</p>
	<p>23 Q. Okay.</p>
	<p>24 A. And as stated in my testimony. I believe that 25 to be true and correct.</p>



Page 54	Page 56
<p>1 Q. Okay. All right. So I want to know the 2 basis -- I want you to identify for me the things that 3 you've relied upon in reaching the conclusion that 4 Skyland has the requisite financial ability.</p> <p>5 A. You have, first, there's a funding agreement 6 executed that was contractual to Evans Properties, Inc. 7 And so they have -- Skyland has the financial backing of 8 Evans Properties. Evans Properties is a significant 9 landowner. It's been in the business here in the state 10 for a long, long time.</p> <p>11 And with that funding agreement and Evans' 12 capabilities, not unlike many certifications of a lot of 13 other companies, you take, you know, major 14 investor-owned utilities. They have a parent company. 15 They have significant financial backing and original 16 certification. This is a parent company that has 17 significant financial capabilities. And I think it's -- 18 I believe that, fully.</p> <p>19 Q. How much debt does Evans Property have? 20 A. On their properties, none, to my knowledge. 21 Q. How much debt do they have on other things? 22 A. On other things? 23 Q. Well, I mean, you just said that Evans Property 24 has significant financial capabilities. I'd like to 25 explore a little bit the basis of your knowledge that</p>	<p>1 financial capabilities. Is that a correct summary? Is 2 there anything --</p> <p>3 A. Based on the documents we've seen, yes.</p> <p>4 Q. Is there anything else that you relied upon in 5 reaching that conclusion?</p> <p>6 A. No. And the representations of 7 Evans Properties and -- and their representations.</p> <p>8 Q. Okay. All right. So anything else that you 9 relied upon in order to reach your opinion that Skyland 10 has the financial ability to --</p> <p>11 A. Not that I can recall now.</p> <p>12 Q. Okay. Okay. So top of page 5, beginning on 13 line 1, you're asked, does Skyland have an adequate 14 water supply to provide utility service in the proposed 15 service territory.</p> <p>16 Okay. Now, and you respond. And my question 17 is, is your response here an opinion, or is this 18 fact-based testimony?</p> <p>19 A. Both.</p> <p>20 Q. Okay. So for the opinion aspect, tell me what 21 you relied upon to reach -- well, first, tell me what 22 your opinion is.</p> <p>23 A. That they do have adequate water supply.</p> <p>24 Q. Okay. And what are the things that you relied 25 upon in reaching that opinion?</p>
<p>Page 55</p> <p>1 allows you to make that statement.</p> <p>2 A. Okay.</p> <p>3 Q. Okay. So, and that's -- I'm asking, have you 4 seen their balance sheet?</p> <p>5 A. Which one? What are you talking about?</p> <p>6 Q. Evans Properties, Inc., have you seen their 7 balance sheet for fiscal year 2009?</p> <p>8 A. I've seen financial -- some financial 9 information, but I don't know if it was an audited 10 financial -- audited balance sheet or not, no.</p> <p>11 Q. Have you ever seen an income statement, recent 12 income statement?</p> <p>13 A. I've had discussions relative to their income 14 and that they're a plus corporation.</p> <p>15 Q. You've had discussions with whom?</p> <p>16 A. With both Ron and Emmet.</p> <p>17 Q. But you never reviewed any of their financial 18 documents?</p> <p>19 A. We have not conducted an audit on them. No.</p> <p>20 Q. Okay. I'm sorry. We were talking about 21 financial ability, and I was asking you for the things 22 that you found, that you relied upon in reaching your 23 opinion. You identified, I believe, the funding 24 agreement, the fact that Evans Properties was the 25 parent, and that Evans Properties has significant</p>	<p>Page 57</p> <p>1 A. The installed capacity of the wells that exist, 2 their consumptive use permit for the agricultural 3 operations which exist. The hydrologic work that was 4 associated with their consumptive use permits. And the 5 determination by the St. -- by the 6 Southwest Florida Water Management District that there 7 was reasonable and special use and did not have an 8 adverse impact on the environment, et cetera, et cetera, 9 the normal three-part test.</p> <p>10 Q. I'm sorry. What does that test apply to?</p> <p>11 A. The granting of a consumptive use permit.</p> <p>12 Q. Okay. So, in other words, for them to get the 13 consumptive use permit, that three-part test had to have 14 been satisfied?</p> <p>15 A. That's correct. And an agency ruling 16 conducted, with the opportunity to intervene or object 17 and a determination made and permit granted.</p> <p>18 Q. Okay. Did you review all the consumptive use 19 permits that Evans Properties holds?</p> <p>20 A. Yes, we do have them.</p> <p>21 Q. Did you review them in order to --</p> <p>22 A. Yeah. Oh, I have seen them, and I have 23 reviewed them.</p> <p>24 Q. Okay. Was that review part of what you relied 25 upon in reaching this opinion?</p>

Page 58	Page 60
<p>1 A. As I stated earlier.</p> <p>2 Q. Well, I'm not sure it was real clear, so --</p> <p>3 A. I stated that COP is a -- you asked me what</p> <p>4 fact aspect.</p> <p>5 Q. Right.</p> <p>6 A. And the fact aspect is that they have a</p> <p>7 consumptive use permit for agricultural purposes that</p> <p>8 far exceed the demand in this application. That's a</p> <p>9 fact.</p> <p>10 Q. I understand that. My question was, did you</p> <p>11 review each and every of the consumptive use permits</p> <p>12 held by Evans Properties that are on properties that you</p> <p>13 seek or that Skyland seeks to certificate?</p> <p>14 A. Yes. But current, not historically in time,</p> <p>15 from the beginning of time, no.</p> <p>16 Q. Well, that's fair. I mean, I'm just trying to</p> <p>17 understand what you did.</p> <p>18 A. Okay.</p> <p>19 Q. All right. Page 5, line 10, you're asked, does</p> <p>20 Skyland have continued use of the land upon which the</p> <p>21 utility facilities are or will be located.</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And what's your response to that?</p> <p>25 A. Yes.</p>	<p>1 Q. How are they related?</p> <p>2 A. They're related, they have the same and</p> <p>3 similar, they have similar management staffs. They have</p> <p>4 a cross requirement to be able to function. You know,</p> <p>5 one depends upon the other.</p> <p>6 Q. Okay. Are there any documents that you're</p> <p>7 aware of that define the relationships between those</p> <p>8 three entities?</p> <p>9 A. I think there are. I've seen some box</p> <p>10 diagrams, and then the lawyers have discussed that.</p> <p>11 I've been in those meetings. I don't recall all the</p> <p>12 legal aspects of it.</p> <p>13 Q. Are you aware of any documents that --</p> <p>14 A. I'm not a lawyer.</p> <p>15 Q. Okay. Are you aware of any documents -- strike</p> <p>16 that.</p> <p>17 You talked about a consent between the parties</p> <p>18 as one of the things that you relied upon for your</p> <p>19 opinion. Is that correct?</p> <p>20 A. Yeah. The parties discussed that in a meeting,</p> <p>21 and they agreed that, you know, to make sure that</p> <p>22 Skyland had the continued use.</p> <p>23 Q. Okay. And who were the parties that were in</p> <p>24 this meeting?</p> <p>25 A. Got, I guess, about five different people from</p>
<p>Page 59</p> <p>1 Q. Okay. And tell me, what did you rely upon in</p> <p>2 reaching that conclusion?</p> <p>3 A. The lease, as well as the consent between the</p> <p>4 parties. And the fact that, you know, the parties are</p> <p>5 related. I couldn't envision that Skyland would not</p> <p>6 have continued use, when they're a part of</p> <p>7 Evans Properties.</p> <p>8 Q. Skyland is a separate and distinct corporate</p> <p>9 entity. Is that correct?</p> <p>10 A. But being funded by Evans Properties,</p> <p>11 initially.</p> <p>12 Q. Skyland is --</p> <p>13 A. In part.</p> <p>14 Q. -- a separate and distinct corporate entity?</p> <p>15 Is that correct?</p> <p>16 A. It's a corporate entity. It's an -- I believe</p> <p>17 it's an LLC.</p> <p>18 Q. And Evans Utilities, Inc. is a separate and</p> <p>19 distinct corporate entity. Is that correct?</p> <p>20 A. It's Evans Properties, Inc.</p> <p>21 Q. Isn't there also an Evans Utilities, Inc.?</p> <p>22 A. Yes, there's an Evans Utilities, Inc.</p> <p>23 Q. And it's a separate and distinct entity from</p> <p>24 Evans Property, Inc. and from Skyland. Is that correct?</p> <p>25 A. They're -- they're all related.</p>	<p>Page 61</p> <p>1 Skyland -- from the various organizations, you know,</p> <p>2 from Evans, from -- you had both Ron and Emmet. You</p> <p>3 had -- and three other individuals.</p> <p>4 Q. Okay. But, as far as you know, there's no</p> <p>5 written document that defines the relationships between</p> <p>6 Skyland and Evans Properties, other than the funding</p> <p>7 agreement? Are you aware of any agreement that has,</p> <p>8 like, with management control or those kind of things?</p> <p>9 A. All that kind of stuff was being discussed. I</p> <p>10 don't know exactly the status of all those items. That</p> <p>11 was all the legal stuff.</p> <p>12 Q. Yeah, but when you formed this opinion that</p> <p>13 Skyland has the continued use of the land, it wasn't</p> <p>14 based upon any written documents, other than the lease</p> <p>15 agreements. Is that correct?</p> <p>16 A. And the representations of parties.</p> <p>17 Q. Yeah. My question had to do with whether --</p> <p>18 what written documents that you relied upon. Okay?</p> <p>19 A. And I -- and I agreed that it was the lease</p> <p>20 agreement and the representation of the parties.</p> <p>21 Q. Okay. Well, what -- the representation of the</p> <p>22 parties in what document?</p> <p>23 A. Oh, I'm sorry. It's a verbal situation that I</p> <p>24 remember. I mean, this is a question that we discussed</p> <p>25 in the meeting, and that was a commitment of the</p>

<p style="text-align: right;">Page 62</p> <p>1 parties.</p> <p>2 Q. Okay. But just so it's clear, the only</p> <p>3 documents that you relied upon, in forming the opinion</p> <p>4 that Skyland has continued use of the land, are the</p> <p>5 lease agreements?</p> <p>6 A. Of a signed contract nature, that I know of,</p> <p>7 that I have, at the time of this application, yes.</p> <p>8 Q. Okay. I'm really trying to make it -- I'm just</p> <p>9 trying to get something that's clear. Okay? So the</p> <p>10 only written document -- excuse me. The only written</p> <p>11 documents that you relied upon in forming your opinion</p> <p>12 that Skyland has the continued use of the land are the</p> <p>13 waste water lease agreement and the water lease</p> <p>14 agreement that we've discussed earlier in your</p> <p>15 deposition. Is that correct?</p> <p>16 A. At the time of this application, yes.</p> <p>17 MR. HOLLIMON: Thank you.</p> <p>18 Let's take a five- or ten-minute break.</p> <p>19 MR. WHARTON: Sure.</p> <p>20 (Thereupon, at 9:55 a.m., a recess was taken in the</p> <p>21 proceedings, after which, at 10:04 a.m., the proceedings</p> <p>22 were reconvened and the following proceedings were had:)</p> <p>23 BY MR. HOLLIMON:</p> <p>24 Q. We're back on.</p> <p>25 Okay. Mr. Hartman, if you can get your</p>	<p style="text-align: right;">Page 64</p> <p>1 those other applications that were found to be in the</p> <p>2 public interest.</p> <p>3 Q. So the referenced section that I've asked you</p> <p>4 about is in rebuttal to Mr. Stapf's testimony. Is that</p> <p>5 correct?</p> <p>6 A. On the public interest test and . . .</p> <p>7 Q. Any other witness that you're rebutting there?</p> <p>8 A. Let's see. Also, Mr. Gehring's testimony, at</p> <p>9 the end, it says it's a public interest test, again,</p> <p>10 about denial. It's not -- his pages aren't numbered in</p> <p>11 what I have. It's the very last page of his testimony.</p> <p>12 I believe Bruce Kennedy states, in his</p> <p>13 deposition, versus his testimony, that it's not in the</p> <p>14 public interest. And I'd have to go to his deposition.</p> <p>15 It's those.</p> <p>16 Q. All right. Did you review the deposition</p> <p>17 transcripts of all depositions that had preceded your</p> <p>18 deposition in this proceeding?</p> <p>19 A. I would say, most.</p> <p>20 Q. And is some of the rebuttal in your rebuttal</p> <p>21 testimony based upon information that you learned in the</p> <p>22 deposition transcripts?</p> <p>23 A. Well, if it's repetitive, we -- I just made a</p> <p>24 general one, and here, there's some direct testimonies</p> <p>25 that I delineated. And then on Bruce's, Mr. Kennedy's,</p>
<p style="text-align: right;">Page 63</p> <p>1 rebuttal testimony now.</p> <p>2 A. Yes.</p> <p>3 Q. All right. I'm going to ask you to look, page</p> <p>4 3, line 1, through page 4, line 2. Okay. I want you to</p> <p>5 take a second and look at that. When you've had an</p> <p>6 opportunity to generally review it, just let me know.</p> <p>7 A. I finished page 3. How far?</p> <p>8 Q. Just the top of line -- top of page 4, really.</p> <p>9 A. Okay.</p> <p>10 Q. Okay. My question for you is, whose direct</p> <p>11 testimony are you rebutting here?</p> <p>12 A. Well, the statements that the application</p> <p>13 should be denied, generally. And that's relative to</p> <p>14 the, you know, similar types of utilities that have been</p> <p>15 certificated.</p> <p>16 Q. So whose testimony are you rebutting here?</p> <p>17 A. Well, this is the basis, background for the</p> <p>18 rebuttal, also. So individual persons?</p> <p>19 Q. Yes.</p> <p>20 A. Let's see. We tried to do it generally,</p> <p>21 because the witnesses were fairly repetitive on a lot of</p> <p>22 the different issues. See here. But it's generally on</p> <p>23 the -- let's see. Well, there's a general aspect that</p> <p>24 it's not in the public's interest and that Joseph Stapf</p> <p>25 has delineated in his testimony. And this shows that in</p>	<p style="text-align: right;">Page 65</p> <p>1 I believe it was, he said that in his deposition, not in</p> <p>2 his direct testimony, I believe. That's my recollection</p> <p>3 right now.</p> <p>4 Q. So I guess my question is, more generally, in</p> <p>5 the 40-some-odd pages of rebuttal testimony that you</p> <p>6 filed, is there some of the rebuttal, of your rebuttal</p> <p>7 testimony, is it directed to issues or concerns that</p> <p>8 were raised in deposition -- in deposition, but not in</p> <p>9 direct testimony, other than what you said about</p> <p>10 Mr. Kennedy?</p> <p>11 A. I would have to go through it with you.</p> <p>12 Q. I'm not asking for a specific example. I'm</p> <p>13 asking, in general, that occurred?</p> <p>14 A. If it was duplicative in the depositions to</p> <p>15 direct testimony, the answer would be yes. I do not</p> <p>16 recall right now. I'd have to go through each page to</p> <p>17 say whether it was solely on deposition and not direct</p> <p>18 testimony. So I could not answer that part.</p> <p>19 Q. Okay. But you can't categorically state that</p> <p>20 your rebuttal testimony is based exclusively upon the</p> <p>21 direct testimony that was filed in this proceeding?</p> <p>22 A. I would say that I believe that it is, in -- it</p> <p>23 is, and then, because it's repeated in deposition, it</p> <p>24 also covers some deposition items.</p> <p>25 Q. Can you categorically state that there are no</p>

Page 66	Page 68
<p>1 issues covered in your rebuttal --</p> <p>2 A. I would have to go through it page by page. I</p> <p>3 don't -- I can't do that right now. Can't answer.</p> <p>4 Q. I'd ask you to let me finish my question before</p> <p>5 you answer, please, sir.</p> <p>6 A. Okay.</p> <p>7 Q. Can you categorically state that there are no</p> <p>8 issues in your rebuttal testimony that were not</p> <p>9 addressed in direct testimony?</p> <p>10 A. I cannot -- I cannot state that there's issues</p> <p>11 in my rebuttal testimony that were not addressed in the</p> <p>12 direct testimony of the interveners. I believe it all</p> <p>13 relates to direct testimony of the interveners, which</p> <p>14 involves, in summary fashion, four major areas. And one</p> <p>15 was public interest, which is a very broad area. One</p> <p>16 was associated with the need. Another was associated</p> <p>17 with duplication of service. Another was associated</p> <p>18 with urban sprawl.</p> <p>19 Q. Okay. On page 4 of your rebuttal, from line 3</p> <p>20 to line 7, I'd like for you to review that and tell me</p> <p>21 whose testimony you're rebutting there.</p> <p>22 A. On page 4?</p> <p>23 Q. Page 4, yeah, lines 3 to 7.</p> <p>24 A. Well, that's just a fact, I believe. I</p> <p>25 believe, based on the facts of this document, that --</p>	<p>1 A. Well, sure. That this application is not</p> <p>2 unlike similar applications in the state of Florida that</p> <p>3 have -- that have, and this one is the intent of the</p> <p>4 applicant to provide very positive aspects in the public</p> <p>5 interest.</p> <p>6 I mean, as the examples I provided before,</p> <p>7 there's numerous examples throughout the state of</p> <p>8 Florida, over the past, you know, 20, 25 years, of large</p> <p>9 landowner, investor-owned utilities assisting in the</p> <p>10 situation and not creating urban sprawl that is alleged.</p> <p>11 I do not know of a single instance of B and C, D and E,</p> <p>12 ECFS, Farmington, you know, all these, there's a bunch</p> <p>13 of them.</p> <p>14 In the past 30 years, based on the fact and</p> <p>15 based upon the historical record, there has not been one</p> <p>16 instance that I know of of urban sprawl that has</p> <p>17 actually occurred from certification of a public</p> <p>18 utility.</p> <p>19 Q. Okay. So if I can summarize, and let me know</p> <p>20 if I do this correctly.</p> <p>21 A. That's one aspect.</p> <p>22 Q. Okay. For that aspect, you say that there are</p> <p>23 other pre-existing prior private utilities that have</p> <p>24 been formed, that you're not aware of any urban sprawl</p> <p>25 having occurred after these private utilities were</p>
<p>Page 67</p> <p>1 and the historical record, that this is the proper</p> <p>2 venue. I mean, I . . .</p> <p>3 Q. I understand --</p> <p>4 A. That's a -- that is a supporting opinion to the</p> <p>5 larger opinion of the four that I mentioned to you</p> <p>6 earlier.</p> <p>7 Q. Okay. But that's not in direct rebuttal to any</p> <p>8 direct testimony filed by an intervener in this case?</p> <p>9 A. Not to my knowledge. It's a supporting opinion</p> <p>10 to the other opinions.</p> <p>11 Q. Okay. And I think you said you're not a</p> <p>12 lawyer. Right?</p> <p>13 A. No, I'm not.</p> <p>14 Q. All right. Okay. On page 5 --</p> <p>15 A. Yes.</p> <p>16 Q. -- line 20, the very last word, going through</p> <p>17 line 21, you say, I believe that Skyland application is</p> <p>18 in the public interest.</p> <p>19 I just want to make sure that I understand the</p> <p>20 basis for this statement. When I say the basis, what I</p> <p>21 mean are the things that you relied upon in forming that</p> <p>22 opinion.</p> <p>23 A. Okay.</p> <p>24 Q. Okay. Would you tell me the things that you</p> <p>25 relied upon in forming that opinion?</p>	<p>Page 69</p> <p>1 formed. Is that correct?</p> <p>2 A. Of the kind that we have in the application</p> <p>3 here, which are large landowner certifications. And I</p> <p>4 just delineated them.</p> <p>5 Q. So you said B and C, D and E, ECFS and</p> <p>6 Farmington.</p> <p>7 A. Yeah. Those are four, right off the top of my</p> <p>8 head. Yeah.</p> <p>9 Q. Okay. Now, for B and C, did it include</p> <p>10 multiple noncontiguous parcels?</p> <p>11 A. I believe so. There's some noncontiguous</p> <p>12 parcels there. Yes.</p> <p>13 Q. Did it include multiple noncontiguous parcels?</p> <p>14 A. I believe so.</p> <p>15 Q. For D and E, did it include multiple</p> <p>16 noncontiguous parcels?</p> <p>17 A. I don't recall that D and E had -- now, B and</p> <p>18 C, my recollection, is Baker Union, and D and E being</p> <p>19 Flaglex, Volusia. And I may have the two mixed up</p> <p>20 because of the lettering. But that's how I'm speaking</p> <p>21 of them. And I don't believe that D and E had multiple</p> <p>22 noncontiguous parcels. No.</p> <p>23 Q. How about ECFS, did it have multiple</p> <p>24 noncontiguous parcels?</p> <p>25 A. There's some. What do you mean by multiple?</p>

<p style="text-align: right;">Page 70</p> <p>1 How many are you talking about?</p> <p>2 Q. Well, I mean more than two pieces of property</p> <p>3 that were not contiguous.</p> <p>4 A. Yes.</p> <p>5 Q. Did.</p> <p>6 A. They did.</p> <p>7 Q. And Farmington?</p> <p>8 A. No.</p> <p>9 Q. No. Okay.</p> <p>10 Is the nature of the Skyland territory</p> <p>11 substantially similar to the four different examples we</p> <p>12 just discussed?</p> <p>13 A. It's a large landowner, very similar to those</p> <p>14 other ones, from a -- this is an overall situation</p> <p>15 for -- of a large landowner in the state of Florida,</p> <p>16 relative to the proper management of their properties.</p> <p>17 Q. So that's very similar?</p> <p>18 A. Quite similar.</p> <p>19 Q. What about the nature of the actual property</p> <p>20 that sought to be under the certificate?</p> <p>21 A. And how do you mean, the nature of the</p> <p>22 property?</p> <p>23 Q. The geographic nature. I mean the proximity of</p> <p>24 the parcels to each other, the number of -- the number</p> <p>25 of separate parcels that are involved, the number of</p>	<p style="text-align: right;">Page 72</p> <p>1 sprawl?</p> <p>2 A. As I stated before, those kinds of situations,</p> <p>3 I've never seen a large landowner situation like this</p> <p>4 create urban sprawl in the state of Florida.</p> <p>5 Q. Right. But you -- but all the examples you</p> <p>6 provided are all where the vast majority of the property</p> <p>7 is in a single contiguous parcel. Correct?</p> <p>8 A. Yes.</p> <p>9 Q. You don't have any experience where you have a</p> <p>10 large number of noncontiguous parcels that are</p> <p>11 relatively dispersed across a county. Is that correct?</p> <p>12 A. I wouldn't -- this is all in one area. I mean,</p> <p>13 it's not -- they're very close to each other. I mean,</p> <p>14 from a -- you're talking about a pure geographic aspect.</p> <p>15 It's not dispersed throughout the entire county. I</p> <p>16 mean, they're all in one area, as the planners for all</p> <p>17 the interveners say. It's a certain, you know, area of</p> <p>18 the county.</p> <p>19 So, yes, it's a discrete area of the county,</p> <p>20 and they're large holdings that are -- there's some</p> <p>21 separation on some of them. Yes.</p> <p>22 Q. Okay. So you don't see any distinction</p> <p>23 whatsoever between the geographic nature of Skyland,</p> <p>24 versus the examples you provide me, with respect to the</p> <p>25 issue of urban sprawl?</p>
<p style="text-align: right;">Page 71</p> <p>1 noncontiguous parcels that are involved.</p> <p>2 A. The number, versus -- the number is not</p> <p>3 different, all that different. The size of them</p> <p>4 individually, one being much larger than all the rest,</p> <p>5 is different.</p> <p>6 Q. Okay. So like for B and C, is the majority of</p> <p>7 the certificated area in a single contiguous parcel?</p> <p>8 A. Yes.</p> <p>9 Q. The vast majority?</p> <p>10 A. I would say so.</p> <p>11 Q. Yeah. And for D and E is the vast majority --</p> <p>12 A. Yes.</p> <p>13 Q. -- of the property within a single</p> <p>14 contiguous --</p> <p>15 A. It would be true for all four.</p> <p>16 Q. Be true for all four.</p> <p>17 So that's a material distinction between those</p> <p>18 four and Skyland, is it not?</p> <p>19 A. It's a configuration change on the geographic</p> <p>20 aspect of the properties that one parcel is not much</p> <p>21 larger than all of the rest, you know, like, you know,</p> <p>22 20 times the rest of the parcels. The other ones, the</p> <p>23 noncontiguous parcels are very small. They're smaller,</p> <p>24 in comparison to the larger, bigger parcels.</p> <p>25 Q. Okay. Does that have any effect on urban</p>	<p style="text-align: right;">Page 73</p> <p>1 A. With respect to urban sprawl, I do not.</p> <p>2 Relative to factual acreage and their location and the</p> <p>3 relative size, yes. But not to urban sprawl.</p> <p>4 Q. So you -- I mean, you recognize there's a</p> <p>5 difference in the way they're laid out geographically,</p> <p>6 but you don't see that that difference makes -- or that</p> <p>7 difference doesn't affect your opinion as to urban</p> <p>8 sprawl. Is that correct?</p> <p>9 A. Well, and -- no, it doesn't. My opinion there</p> <p>10 is based upon all the other large landowners and my</p> <p>11 understanding of these types of certificates, which, you</p> <p>12 know, I do have a long track record relative to these</p> <p>13 type of certificates, in multiple counties throughout</p> <p>14 the state.</p> <p>15 Q. All right. Okay. If you'll refer now to</p> <p>16 page 7 of your rebuttal.</p> <p>17 A. Yes.</p> <p>18 Q. This whole page is quoting 373.016, Florida</p> <p>19 Statute. Is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. So you see where you have 4A there?</p> <p>22 A. Yes, I do.</p> <p>23 Q. All right. So 4A says that it's the policy of</p> <p>24 the legislature, the waters in the state be managed on a</p> <p>25 state regional basis. Is that correct?</p>

Page 74	Page 76
<p>1 A. Uh-huh.</p> <p>2 Q. Is this section applicable to a utility such as</p> <p>3 Skyland?</p> <p>4 A. It's applicable as water policy under the CUP</p> <p>5 permitting, which would impact Skyland. Yes.</p> <p>6 Q. Okay. So does Skyland operate on a state</p> <p>7 basis?</p> <p>8 A. Skyland is part -- no, it doesn't. It's not</p> <p>9 throughout the entire state. It's multi county.</p> <p>10 Q. Does it act on a regional basis?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So if you act multi county, you are a</p> <p>13 regional player?</p> <p>14 A. Oh, there's no doubt about it.</p> <p>15 Q. Okay. So there's --</p> <p>16 A. That's defined by DEP and the water management</p> <p>17 district.</p> <p>18 Q. Okay. Okay. Can you -- page 10.</p> <p>19 A. Yes.</p> <p>20 Q. Beginning on line 3, you state, both</p> <p>21 Hernando and Pasco counties have allowed for the</p> <p>22 pollution of ground waters through the inducement of</p> <p>23 saltwater intrusion.</p> <p>24 Okay. I want to understand what you're talking</p> <p>25 about here. How have Hernando and Pasco allowed for</p>	<p>1 serving part of that area that you're referring to?</p> <p>2 A. Well, the county made the land use decision.</p> <p>3 I'm not talking about the -- necessarily, their wells.</p> <p>4 It's what the county did relative to the</p> <p>5 comprehensive -- you know, you're talking about the</p> <p>6 planning aspect.</p> <p>7 Q. Okay. So I'm just having --</p> <p>8 A. Their approvals, their approvals. The county</p> <p>9 is a broad, is a broad entity. I mean, they have a lot</p> <p>10 of things besides Bruce's -- you know, public -- you</p> <p>11 know, the county's under Bruce's public utilities.</p> <p>12 Q. Right. I'm just trying to understand, are you</p> <p>13 saying that there's a direct correlation between the</p> <p>14 allowing the density of development and the saltwater</p> <p>15 intrusion? Like the weight of the development caused</p> <p>16 the ground to sink? Is that what you're saying?</p> <p>17 A. No.</p> <p>18 Q. Okay. Then help me understand.</p> <p>19 A. I'm not saying that the intensity of the</p> <p>20 development caused the ground to sink. I'm answering</p> <p>21 the second part of your question. The first part of</p> <p>22 your question, in the fashion that it was done,</p> <p>23 historically, and approved by both counties, the</p> <p>24 historical record reflects, as a matter of fact, that</p> <p>25 that was the outcome.</p>
<p>Page 75</p> <p>1 ground water pollution through saltwater intrusion?</p> <p>2 A. By allowing for the densities along the coastal</p> <p>3 areas that -- with their water supplies, their land use</p> <p>4 approvals, which were greater than the water resources,</p> <p>5 depressurizing the potentiometric surface along the</p> <p>6 saltwater interface, thereby allowing the inducement of</p> <p>7 saltwater intrusion, which has been a finding by the</p> <p>8 Southwest Florida Water Management District along the</p> <p>9 coastal areas of that area, and that's why it's a</p> <p>10 caution use, water caution use area.</p> <p>11 Q. Okay. So what did -- so Hernando and Pasco,</p> <p>12 the actions that they took that allowed for the</p> <p>13 pollution was that they allowed for too dense</p> <p>14 development? Is that what you said?</p> <p>15 A. Yeah. Yes. Their land use approvals were for</p> <p>16 development at such a level that created, with the local</p> <p>17 supplies that were historically constructed, as</p> <p>18 evidenced and documented by the water management</p> <p>19 district, and that they classified the area as a</p> <p>20 cautionary and made that finding.</p> <p>21 Q. Okay. And during the time they were allowing</p> <p>22 those densities, who was the utility serving those, the</p> <p>23 coastal areas there?</p> <p>24 A. There's cities and there's the county.</p> <p>25 Q. Okay. So Pasco County was actually the utility</p>	<p>Page 77</p> <p>1 Q. Okay. So in order for the -- is the assumption</p> <p>2 that you make is that when you have denser development,</p> <p>3 you pump more ground water?</p> <p>4 A. No, I didn't say that. I said, in the fashion.</p> <p>5 It's the complete, all the approvals associated with</p> <p>6 development along the coastal areas of those two</p> <p>7 counties. In the fashion that it occurred, it's a fact</p> <p>8 that the ground waters of the state of Florida were</p> <p>9 polluted and documented by the</p> <p>10 Southwest Florida Water Management District to be so.</p> <p>11 Q. But your statement is that it was because of</p> <p>12 Pasco, actions taken by Hernando and Pasco counties that</p> <p>13 this occurred.</p> <p>14 A. Oh, absolutely. Who else approves development?</p> <p>15 Q. Okay. So I guess, if -- but my question is, I</p> <p>16 mean, didn't the saltwater intrusion occur because so</p> <p>17 much ground water was pumped out?</p> <p>18 A. There's all kinds of reasons for saltwater</p> <p>19 intrusion. Dewatering is a fashion. There's all kinds.</p> <p>20 So I'm not going to a specific one reason causing it.</p> <p>21 It's the overall approvals that were made, and what was</p> <p>22 the effect of those approvals on the water resources of</p> <p>23 the area.</p> <p>24 Q. Okay. All right. Page 11, line 7, beginning</p> <p>25 at the end of line 7, you state, the facts that are no</p>

Page 78

1 other entity but Skyland can as efficiently or  
 2 effectively serve the customers requiring service with  
 3 the proposed certificated area.  
 4       You see that?  
 5       A. Absolutely.  
 6       Q. Okay. So what I want to know there is, what --  
 7 when you say efficiently, what do you mean?  
 8       A. Timely, providing the services at the  
 9 locations, when the demand occurs, in a fashion meeting  
 10 all the requirements of the landowner and providing the  
 11 service needed.  
 12       Q. Okay. And when you say effectively, what do  
 13 you mean?  
 14       A. In the same -- in the same fashion. It's  
 15 saying, efficiently and effect -- I would say, you know,  
 16 it's -- I'm using the terms, efficiently and  
 17 effectively, together, you know. And that's the  
 18 responsiveness, getting it right there, getting the  
 19 facilities rights there at the time, and meeting the  
 20 needs of the various entities as they contract for  
 21 service to the public. So, you know, that's a  
 22 responsiveness, as well as landowner requirements that  
 23 is consistent with the other aspects that are ongoing on  
 24 the property.  
 25       Q. Okay. So you're not referring to cost?

Page 79

1       A. Wholistically, when you look at development  
 2 costs, user costs and utility costs, it's probably quite  
 3 cost effective, potentially pushing costs to one of the  
 4 other various entities. There may be one that might be  
 5 higher than a regional utility further away, I mean.  
 6 But when you look at the cost to get service, the  
 7 inducement of service, miles of pipe, et cetera, and you  
 8 add in all those other aspects, I think it's quite  
 9 effective.  
 10       Q. All right. On the same page, just below the  
 11 area we were discussing, you talk about costly  
 12 duplication of pipelines for service. Do you see that?  
 13       A. Yes.  
 14       Q. Okay. So when you -- what are you referring to  
 15 there? What's being duplicated? What are you referring  
 16 to?  
 17       A. Require costly -- well, it's not duplication.  
 18 It's extension. That's a miss -- thank you.  
 19       Q. I read carefully sometimes.  
 20       A. It should be extension. That word is  
 21 inappropriate there. That's page 11, line 11, third to  
 22 the last word, strike duplication and put in the word  
 23 extension. Should have caught that.  
 24       Q. In the application, you make some assumptions  
 25 regarding how development will occur on the certificated

Page 80

1 property. Is that correct?  
 2       A. We provide a conceptual plan for how  
 3 development would occur.  
 4       Q. Okay. And so does that require you to make  
 5 some assumptions about --  
 6       A. Yes.  
 7       Q. -- about how development will occur? Yes, it  
 8 does?  
 9       A. Yes.  
 10       Q. Okay. And what assumptions have you made in  
 11 the application about how development will occur?  
 12       A. As shown on the maps.  
 13       Q. Okay. Can you express that in words, the  
 14 assumptions that you made?  
 15       A. Yeah. That the development would be in a  
 16 fairly low-density situation, and as compared to the  
 17 entire property, clustered. But not extremely clustered  
 18 because, it's clustered from a utility configuration  
 19 standpoint because you would put the facilities at where  
 20 those -- where the services are, come close together,  
 21 even though they extend outward for large, larger  
 22 acreages.  
 23       Q. So is the development that's assumed in the  
 24 application, would it require any comp plan revisions to  
 25 occur?

Page 81

1       A. It meets the density requirements. It would  
 2 have to go through development approval at the county.  
 3 There's many other approvals that you have to go through  
 4 before you get there.  
 5       MR. HOLLIMON: Would you read that question  
 6 back again, please?  
 7 (Thereupon the requested testimony was read back.)  
 8       THE WITNESS: Subject to Dan's testimony, I  
 9 don't want to go there.  
 10       Based upon what we have here, it meets the  
 11 densities and the overall densities, and it's  
 12 something that we've seen not requiring comp plan  
 13 approve -- comp plan changes, because I think we  
 14 meet the comp plan. But there may be something in  
 15 the comp plan, and if there is, then you apply for  
 16 it, you apply for a comprehensive plan change.  
 17       But it does -- in my opinion, that it looks  
 18 like that it meets the densities. It is rural in  
 19 character, and it provides for investor-owned public  
 20 utility and not governmentally-owned public  
 21 utilities in the rural areas.  
 22 BY MR. HOLLIMON:  
 23       Q. Was that a no?  
 24       A. I didn't -- based upon my work, I didn't see  
 25 that you would need a -- I thought it was -- you know,

<p style="text-align: right;">Page 82</p> <p>1 it's my opinion that it was consistent with the 2 comprehensive plan, and that's the opinion that Dan has, 3 also. So I feel pretty good with that. 4 Q. Okay. So the development that's assumed to 5 occur, for you to -- well, back up. Let me strike that. 6 Okay. In order for you to develop this 7 application, you had to assume that some form of 8 development would occur on this property, did you not? 9 A. Yes. We came up with a conceptual plan. 10 Q. Okay. Tell me about the conceptual plan. What 11 is the conceptual plan and development that you came up 12 with for this property? 13 A. Clustered, from a utility standpoint, parcels 14 that have large acreages, that are served by a 15 privately-owned central water and waste water service. 16 Q. Okay. And so when you say clustered, are you 17 referring to the receivers of, for instance, the water? 18 Would the receivers of the water be clustered? 19 A. Yes. They would be clustered, but the parcels 20 would be, you know, meeting the densities. The 21 structures are clustered, while the parcels meet the 22 densities. 23 Q. Okay. So you would still only have one 24 structure per ten acres, but they would be positioned on 25 their each individual ten-acre spot so that they were</p>	<p style="text-align: right;">Page 84</p> <p>1 required. 2 Q. So could -- let's assume the certificate is 3 granted here, upcoming here this summer, then Skyland 4 would have that obligation to serve whatever need there 5 was on the certificated property? 6 A. At -- responsive to the request of service. 7 Absolutely. 8 Q. Okay. So Skyland, they've got a request for 9 service for a house and a barn. Right? 10 A. That's correct. 11 Q. So they're obligated to serve those two? 12 A. Right. 13 Q. And are they obligated to actually change 14 anything about how they're served right now, the house 15 and the barn? 16 A. Obligated to change the facilities. Well, they 17 would be upgrading the facility, because that's the 18 desire of the -- for that service. 19 Q. Okay. So they'd be obligated to go ahead 20 and -- 21 A. They would -- I believe that they would go 22 ahead and upgrade those facilities, because that's part 23 of the rates and charges that we showed. 24 Q. Okay. So it's your opinion that, if 25 certificated, Skyland is obligated to --</p>
<p style="text-align: right;">Page 83</p> <p>1 close to the other structures? 2 A. Yes. 3 Q. Okay. 4 A. Very similar to what we do in the other ones. 5 Q. Okay. I'm just trying to understand -- 6 A. Yeah. 7 Q. Again, I'm trying to understand what the 8 assumption that -- 9 A. Absolutely. 10 Q. Okay. So you would have, again, if it's a 11 ten-acre, one house, one structure per ten acres, you're 12 not changing the parcel size that the house is on, 13 you're just making sure that the structures are all as 14 close together as possible on the individual ten acres? 15 A. That's right. 16 Q. Okay. All right. And you can do -- that can 17 be done now without any kind of comp plan amendment? 18 A. That's my belief, yes. That's my opinion. 19 Q. Okay. Is there anything in the application 20 that commits Skyland to putting the first piece of pipe 21 in the ground? 22 A. Oh, once certificated, yes, you have the 23 obligation for service. That's the basic rules and 24 regulations of the FPSC. There's a commitment for 25 service. So service, however it is derived, is</p>	<p style="text-align: right;">Page 85</p> <p>1 A. That they would, you know, it's my opinion that 2 they would, because that's shown in our rate and charge 3 analysis. 4 Q. But my question was whether they're obligated 5 to do it. 6 A. They're obligated to provide the service. 7 Q. Okay. And then my follow-up question to that 8 was, are they obligated to change the way the service is 9 provided now? 10 A. I think that's the intent. I don't know if 11 there's an obligation to change the way the service is 12 provided right now. It would be provided, you know, 13 immediately. It would have to be done in a reasonable 14 period of time. You said now, and so I'm taking that to 15 be immediately. 16 Q. Let me ask you, in your opinion -- we talked 17 about, you know, request for service. What makes up a 18 request for service? What are the elements, the 19 component pieces and parts of a request for service? 20 A. A letter saying that you want service. 21 Q. Okay. Who does the letter have to come from? 22 A. A customer. 23 Q. A customer. So it has to come from somebody 24 within the certificated territory? 25 A. Well, it can come inside or outside. But you</p>



Page 76	Page 88
<p>1 only serve within your certificated area without --                  2 usually, you say it's people who are outside the                  3 certificated area, you know, there are other utility                  4 providers or something else. Or if you want to extend                  5 the certificate to include your property adjacent to                  6 this or somewhere close to it, then you go through an                  7 amendment to the certificated area. I mean, that's how                  8 that goes.                  9 Q. So let's assume that we have somebody -- we're                  10 only talking about the existing certificated area. So                  11 to have a request for service, would you have to -- let                  12 me see if this is correct, what you're saying. You'd                  13 have to have a property owner within the certificated                  14 area who expressed a need for service and communicated                  15 that need to the utility.                  16 A. It doesn't have to be a property owner. It                  17 could be a potential customer.                  18 Q. Okay. A potential customer --                  19 A. Yes.                  20 Q. -- within the certificated area --                  21 A. Yes.                  22 Q. -- who communicates a --                  23 A. Yes.                  24 Q. -- request or a need, or a need and a request                  25 for service?</p>	<p>1 knowledge that leads you to make that statement.                  2 A. Discussions of, you know, if you had -- have --                  3 we had conceptual plans about what it would cost to                  4 serve so many units, in meetings, on maps, you know,                  5 what it would cost.                  6 And then to get that service to the same                  7 location, which is remote, to either Hernando or                  8 Pasco County, what would it cost, and then what the                  9 tariffs are for Pasco and Hernando County, what CIC is                  10 required, what contributions is typical in their                  11 development agreements for donations to the utilities,                  12 versus what it would cost to individually serve right                  13 there.                  14 Q. Okay. And then the next one is, the ability to                  15 provide utility service is important to the                  16 diversification opportunities of Evans Properties.                  17 Do you see that?                  18 A. Oh, absolutely.                  19 Q. Okay. Tell me what -- why that statement is                  20 true.                  21 A. Because it's --                  22 Q. If it's true.                  23 A. It is true, first.                  24 Secondly, the discussions for, you know, the                  25 public have come, you know, others that they have in</p>
<p>Page 87                  1 A. That's correct.                  2 Q. Okay. All right. On page 13, at the very top                  3 of the page, you state that Evans Properties is very                  4 aware of the concept and need for water resource                  5 planning. Do you see that?                  6 A. Yes.                  7 Q. All right. So I want to know, how do you know                  8 what Evans Properties is aware of?                  9 A. Because that was related to me by their                  10 managing professionals, in meetings.                  11 Q. Okay. When did that occur, those meetings?                  12 A. Between the beginning of 2009 and October of                  13 2009, over that ten-month period.                  14 Q. Okay.                  15 A. Approximate ten-month period.                  16 Q. All right. Then you say, beginning at line 4,                  17 Evans Properties, in looking for ways to diversify their                  18 business interest and take advantage of opportunities as                  19 they are presented, determined that creating a utility                  20 company to provide additional utility service to their                  21 property would be the most cost efficient and effective                  22 method for utility service delivery.                  23 Do you see that?                  24 A. Yes.                  25 Q. Okay. Tell me about the basis of your</p>	<p>Page 89                  1 their business relative to leases to other entities                  2 to -- relative to biofuel situations, relative to county                  3 estate development. You know, it's important to be able                  4 to have utility service. Biofuel people use a lot of                  5 water. So the leaseholders want water and waste water,                  6 you know, both water and waste water.                  7 And the cluster aspect, to have additional                  8 protections in the fashion and the quality and the level                  9 of service provided in the development, or potential                  10 development, of county estates that are clustered, you                  11 know, need to have central utility service.                  12 Q. So county estate development, is that -- is                  13 that the same kind of development that you just                  14 described as --                  15 A. Yeah.                  16 Q. -- what you assumed, so no comp plan amendment                  17 in order to do that?                  18 A. That's right.                  19 Q. Okay. And so could the county estate                  20 development be served by private wells and septic?                  21 A. Could it be?                  22 Q. Yeah.                  23 A. It's possible. But you wouldn't have to same                  24 level of service.                  25 Q. Okay.</p>

Page 90	Page 92
<p>1 A. And you don't attract as high quality -- you 2 don't have the same quality.</p> <p>3 Q. Okay. And biofuel, you mentioned, as a, I 4 guess, diversification opportunity? Would that be --</p> <p>5 A. Yes.</p> <p>6 Q. -- fall into -- okay.</p> <p>7 A. That's a commercial business.</p> <p>8 Q. What is the water, waste water needs of a 9 biofuel business?</p> <p>10 A. Depending upon the capacity of the business, 11 but it's a few gallons per day for a single gallon of 12 biofuel. You know, they use, you know, three or four 13 gallons per day of -- they want additional, besides 14 recycled water, three or four gallons per day of supply, 15 and then also, be able to generate a half gallon per day 16 of waste.</p> <p>17 Q. Okay. And so you're talking about not an 18 agricultural application, but a manufacturing type 19 application?</p> <p>20 A. You want to locate the biofuel conversion 21 facilities right on top of where you're developing the 22 biofuels. Yeah, you can't afford to trans -- you 23 can't -- transportation of the raw materials in biofuel 24 doesn't work.</p> <p>25 I mean, you know, I did the Okolona and Osceola</p>	<p>1 this is -- I probably need to put a period right there. 2 And as well as the opportunity for service.</p> <p>3 The request for service is what's specific. 4 The Evans Properties asked for service to their 5 property. And because their plan does also include, 6 that's the first letter, also includes the others. So 7 it's, as well as the opportunity for service for future 8 intensified agri business and future planned 9 development.</p> <p>10 Q. All right. On the top of page 14, you refer to 11 an E-mail from somebody with -- Mr. Charles Caltis 12 (phonetic), DEP. You see that?</p> <p>13 A. Yes.</p> <p>14 Q. Now, did Mr. Caltis, send that E-mail to you?</p> <p>15 A. No.</p> <p>16 Q. How did you get this E-mail?</p> <p>17 A. It was provided to me through counsel.</p> <p>18 Q. Okay.</p> <p>19 A. Well, there's many other unforeseen and 20 unexpected needs for service besides just that letter. 21 I just used that as an example. I mean that E-mail.</p> <p>22 Q. You talk about contaminated potable private 23 wells south of Brooksville. Okay. Where is that area 24 in relation to the area for which Skyland seeks 25 certification?</p>
<p>Page 91</p> <p>1 power plants down -- you know, with gas, and -- which is 2 sugar cane. And if they didn't have those rail lines, 3 be very limited on fuel for those power plants, so -- as 4 alternative energy. And for biofuels, it's the same 5 thing. Transportation costs for bulk materials that you 6 have to get reduced is prohibitive.</p> <p>7 Q. Okay. All right. If you'd look at the bottom 8 of page 13. And you say, Skyland received a request for 9 service from Evans Properties for existing structures 10 within the service area, as well as service for future 11 intensified agri business and future planned 12 development.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Are you referring to the letters that we --</p> <p>16 A. Yes.</p> <p>17 Q. And let's go back. Do you still have those 18 letters in front of you?</p> <p>19 A. Yes, the two letters. Yes, I know what you're 20 referring to.</p> <p>21 Q. Okay. Show me in those letters where they -- 22 where they -- where Evans Properties requests service 23 for future intensified agri business.</p> <p>24 A. Well, request for service for the existing 25 structures within the service area. I think, again,</p>	<p>Page 93</p> <p>1 A. I believe it's down -- it's down in this area 2 right here (indicating). This is the city limits of 3 Brooksville, I believe.</p> <p>4 Q. Can you reference what you're referring to?</p> <p>5 A. Figure --</p> <p>6 MR. KIRK: Hernando is not getting any sound. 7 THE WITNESS: Sorry. We hit the button. 8 Unintentional. Are you back? 9 MR. WHARTON: You missed the good stuff. 10 MR. KIRK: Yeah, Hernando can hear you now. 11 THE WITNESS: Okay. 12 And it's in this area here. It's closer to 13 ID 5, 8 and 2.</p> <p>14 BY MR. HOLLIMON:</p> <p>15 Q. Okay. So is it north of ID 5 and ID 2?</p> <p>16 A. It's in a generalized area. Yeah. So it's -- 17 it's generally north of ID 5 and 2 and 8.</p> <p>18 Q. Okay.</p> <p>19 A. But I don't have the location of all of the -- 20 you know, it was not provided to us, that -- all the 21 well locations themselves. I qualify that statement, 22 basically, now. It was an indication, that's all.</p> <p>23 Q. All right. So in this top of 14, you then say 24 that this is a request for service to those areas.</p> <p>25 A. Excuse me. Where are you?</p>

<p style="text-align: right;">Page 94</p> <p>1 Q. Line 6, top of page 14. You see that?</p> <p>2 A. Yeah.</p> <p>3 Q. Well, let me --</p> <p>4 A. He was wondering if Skyland's proposal would go</p> <p>5 through, and if it did go through, then this --</p> <p>6 Q. I'd ask --</p> <p>7 A. Yeah.</p> <p>8 Q. I'd ask --</p> <p>9 A. You should have been hypothetical. Yeah.</p> <p>10 Q. I'd ask that you let me ask the question before</p> <p>11 you answer it. Okay?</p> <p>12 A. Oh, okay.</p> <p>13 Q. All right. My question is that you say this is</p> <p>14 a request for service. Are you referring to the</p> <p>15 e-mail --</p> <p>16 A. Yes.</p> <p>17 Q. -- that you referred to earlier?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So does this meet the definition of a</p> <p>20 request for service that we just discussed earlier?</p> <p>21 A. And I was going to put no, and I should insert</p> <p>22 some wording here to clarify. This is the type of</p> <p>23 potential request for services. This is the type of</p> <p>24 potential request for services. Thank you.</p> <p>25 Q. Okay. The bottom of that paragraph, page 14,</p>	<p style="text-align: right;">Page 96</p> <p>1 biofuel production?</p> <p>2 Q. Yeah.</p> <p>3 A. I'm not going to -- some names were said. But</p> <p>4 I'm not at liberty to talk about that.</p> <p>5 Q. So --</p> <p>6 A. So I think that, you know, they know of --</p> <p>7 right now, it's too early on. We need to have a</p> <p>8 certificate before we can really move forward in some of</p> <p>9 these situations. So that's a business situation.</p> <p>10 Q. Have you sat in on a meeting with a prospective</p> <p>11 biofuel production person or company that wanted to make</p> <p>12 use of Evans Properties?</p> <p>13 A. I have sat in meetings with Evans, not with the</p> <p>14 actual biofuel company.</p> <p>15 Q. So you don't have any personal knowledge, you</p> <p>16 have no direct knowledge that biofuel opportunities</p> <p>17 exist?</p> <p>18 A. I have direct knowledge from Evans Properties.</p> <p>19 Q. So what they've told you --</p> <p>20 A. Yes.</p> <p>21 Q. -- those opportunities exist?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And they've told you that water cleaning</p> <p>24 opportunities exist?</p> <p>25 A. Well, I have direct knowledge of that.</p>
<p style="text-align: right;">Page 95</p> <p>1 starting on line 10, Evans Property has been approached</p> <p>2 regarding opportunities relating to biofuels, water</p> <p>3 cleaning, et cetera. All right. My question here is,</p> <p>4 what's the basis of your knowledge to make that</p> <p>5 statement?</p> <p>6 A. The biofuels is meetings with Evans relative to</p> <p>7 biofuel developers, water cleansing meetings with the</p> <p>8 water management districts relative to holding water and</p> <p>9 being the living kidneys, if you will, for pollution</p> <p>10 abatement, using the nitrosomes and soil bacteria in the</p> <p>11 soils for water cleansing, as well as percolation</p> <p>12 through porous media and those types of things.</p> <p>13 Q. So those have been proposed for the area sought</p> <p>14 to be certificated, the water cleansing and things you</p> <p>15 just discussed?</p> <p>16 A. The water cleansing is an ability for us to</p> <p>17 take water and put it there, and we're talking about</p> <p>18 that for this area and for others. But primarily, it's</p> <p>19 for some of their other areas, also.</p> <p>20 Q. Okay. So the statement is that Evans has been</p> <p>21 approached, okay, relating, for instance, to biofuels.</p> <p>22 Who has approached Evans relating to biofuels?</p> <p>23 A. I can't relate that to you.</p> <p>24 Q. You don't know?</p> <p>25 A. I'm not going to -- you're talking about the</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. Okay. You have direct --</p> <p>2 A. I have direct knowledge with water management</p> <p>3 district.</p> <p>4 Q. Right. You have direct knowledge --</p> <p>5 A. -- meeting yesterday on that point.</p> <p>6 Q. Right. You have direct knowledge of what the</p> <p>7 opportunities are.</p> <p>8 A. On at least one, I can tell you.</p> <p>9 Q. Okay. And that --</p> <p>10 A. There was a major meeting on one of them.</p> <p>11 Q. Okay. So tell me, who has approached</p> <p>12 Evans Property with respect to water cleaning?</p> <p>13 A. There's been -- water cleansing?</p> <p>14 Q. Yeah.</p> <p>15 A. Yeah. The C25 canal reconnect project is all</p> <p>16 about that. With an STA, we're talking about 2,000-acre</p> <p>17 STA and facilitation of the cert project down, you know,</p> <p>18 through water cleansing and the canal restrictions in</p> <p>19 various counties to maintain the levels, and as well as</p> <p>20 the 3200-acre reservoir for peak dampening, if you will,</p> <p>21 for water dampening capabilities.</p> <p>22 Q. Is there an entity that is -- that's pushing</p> <p>23 the peak dampening and the canal issue? Is there an</p> <p>24 entity --</p> <p>25 A. Oh, yeah. The federal government, the</p>

<p style="text-align: right;">Page 98</p> <p>1 South Florida Water Management District, the  2 St. Johns River Water Management District.  3 Q. And have those entities approached Evans about  4 using Evans Property?  5 A. We just had a meeting with the  6 South Florida Water Management District, and we're  7 having another meeting coming up with the St. Johns.  8 Yeah, I was just in a meeting yesterday morning down  9 there.  10 Q. And the discussion had to do with this --  11 A. Using --  12 Q. -- this property that's within the certificated  13 area that's sought in this proceeding?  14 A. Not in this proceeding, no. It's in the  15 Groveland proceeding.  16 Q. Okay. So in this proceeding, Evans Property  17 hasn't been approached with respect to water cleaning?  18 A. It's an opportunity that they had. No, not in  19 this proceeding. To my knowledge, no. That's correct.  20 Q. All right. How about biofuels, has the  21 biofuels discussions been for this proceeding or another  22 proceeding?  23 A. My understanding, it was general, across all  24 their properties.  25 Q. Okay. So it wasn't specific to any piece of</p>	<p style="text-align: right;">Page 100</p> <p>1 business-wise and through the type of development that's  2 provided for under the comprehensive plan.  3 Q. Whether you're referring to a need or a public  4 interest, that would necessarily mean that these good  5 things would have to occur on the property sought to be  6 certificated, wouldn't it?  7 A. The biofuels may very well be, if the  8 certificate is granted, occurring on these properties.  9 MR. HOLLIMON: Would you read back my question,  10 please?  11 (Thereupon the requested testimony was read back.)  12 THE WITNESS: Yes, and yes. Or related to  13 other sister companies.  14 BY MR. HOLLIMON:  15 Q. Explain that to me, or related to other sister  16 companies.  17 A. If there's -- if other sister companies are  18 doing similar activities, then you create a track record  19 to have the same activities occurring at this property.  20 Q. So if Groveland, which is -- Groveland is also  21 owned by Evans Properties?  22 A. Yes.  23 Q. If Groveland got an agri business on  24 certificated property, that would be a basis for you to  25 say that it's in the public interest to grant a</p>
<p style="text-align: right;">Page 99</p> <p>1 property?  2 A. That's correct.  3 Q. So you have no -- even in the knowledge that  4 you have that you obtained through Evans Properties, you  5 don't even know specifically which pieces of property  6 the biofuel potential may even apply to?  7 A. You're asking for a defined site, which can't  8 be defined until you get services for the site and that  9 services are available to the site. So you're asking a  10 question that can't be answered, if you know what I'm  11 trying to say. A developer wants to know whether you  12 have services at a site before they invest in too much  13 specifically, and this is more general.  14 Q. Yeah. And you make the statement that  15 Evans Property has been approached regarding  16 opportunities relating to biofuel production and water  17 cleaning to support your opinion that there's a need for  18 this utility. Isn't that correct?  19 A. No. It really, one, there's additional --  20 that's one aspect. I shouldn't say no. That's just one  21 aspect. Partially, yes, on need.  22 But, also, primarily, these are all positive  23 public interest situations. Biofuel generation creates  24 jobs. And granting of the certificate is positive to  25 allow for those things to occur, both environmentally,</p>	<p style="text-align: right;">Page 101</p> <p>1 certificate for the Skyland property in this proceeding.  2 A. Well, there's a potential for -- what I'm  3 saying is a little bit different. You're asking for  4 clarification of what I said.  5 And what I'm saying is, if you do it on one,  6 it's more likely that you can do it on another, because  7 there's a history and there's a -- you know, that kind  8 of situation. So the opportunity for it to occur  9 continues or is enhanced. Without, you know, without  10 having it occur on one, it's more -- then you have a  11 first-time situation.  12 Q. All right. Page 16, starting on line 11. I  13 think you just finished a recitation of the areas of  14 information required in an application. Is that  15 correct?  16 A. Yes.  17 Q. And you state that there's 20 areas and that  18 there's only one that is fully in dispute and one that  19 is partially in dispute by the interveners. Do you see  20 that?  21 A. Yes.  22 Q. Now, are you authorized to speak on behalf of  23 Pasco County?  24 A. That's my observation. That's what I -- this  25 is my rebuttal testimony. That's, you know . . .</p>

Page 102	Page 104
1 Q. So the answer to my question is, no, you're not	1 correct?
2 authorized?	2 A. Those are a few, and there's probably some
3 A. Oh, no. No.	3 others. But yes.
4 Q. And you're not authorized to speak on behalf of	4 Q. Okay. Have you personally been on each of the
5 Hernando County?	5 separate parcels for which certification is sought?
6 A. No, I'm not. That's basically my reading and	6 A. Not all of them, no.
7 my understanding of those interveners.	7 Q. Not all of them. Has somebody from your firm
8 Q. And are you authorized to speak on behalf of	8 been on each of those parcels?
9 any intervener in this proceeding?	9 A. I think, between myself and my staff, I think
10 A. Oh, no. But that's what rebuttal is. When you	10 we've been to most of them, if not all of them, yes.
11 look at, you have to review what the intervener writes	11 Q. Okay. So as you sit here today, you can't say
12 and then respond.	12 for certain that somebody from GAI has been to each and
13 Q. I just want to make sure that I understand,	13 every parcel for which certification is sought?
14 this is only your opinion as to what issues are in	14 A. I can't, not as we sit here today, couldn't
15 dispute?	15 answer that question. Possibly, because I haven't asked
16 A. That's correct. Based upon the direct	16 that question of my people.
17 testimonies.	17 Q. Okay. Do you know what the existing water and
18 Q. If you'll start, look at page 20, please.	18 waste water uses are on these parcels?
19 A. Yes.	19 A. Just of the ones that are shown that we have in
20 Q. And page 20, middle of the page, you start with	20 the application.
21 a rebuttal of testimony provided by Joseph Stef. Do	21 Q. That's the parcels I'm talking about, the
22 you see that?	22 parcels that are in the application.
23 A. Yes.	23 A. Yeah.
24 Q. And you're discussing need for service. Do you	24 Q. Do you know what the existing water and waste
25 see that?	25 water uses are on those parcels?
Page 103	Page 105
1 A. Yes.	1 A. Yes. We have them in our records, and it's
2 Q. So, in your opinion, is need for service, is	2 just for the existing structures and for the existing
3 that an objective or a subjective standard?	3 house and that kind of thing.
4 A. Well, there's a factual aspect of request for	4 Q. And that --
5 service, and then there's a factual aspect of offering	5 A. And for agricultural use.
6 to provide service to the public, and then the future is	6 Q. Okay. So there's only one parcel that actually
7 a projection. So that would be, I guess, you know, I	7 has a structure on it. Is that correct?
8 don't know if I can classify it as subjective, but I	8 A. Yes.
9 would classify it as an estimate or a future projection.	9 Q. And the rest of the parcels are purely raw
10 Q. Okay. So when -- one of the boxes that has to	10 land?
11 be checked in this proceeding is that there is a need	11 A. Well, agricultural properties.
12 for service. Is that correct?	12 Q. Agricultural properties. Okay.
13 A. Yes.	13 Are you aware of any problems with the existing
14 Q. Okay. All right. And so it's your opinion	14 service on any of the parcels?
15 there is an objective basis by which the determination	15 A. There isn't service. What do you mean,
16 is made, whether or not to check the box?	16 service?
17 A. Well, there are facts. Is there a request for	17 Q. Okay. There's water supply on each of the
18 service, yes. Is service being offered for the public,	18 parcels, is there not?
19 yes. Is there a projection for service in the future,	19 A. Yes, there's water supply.
20 yes. Is that projection for service greater than the	20 Q. Okay. Is there any problem with the water
21 exemption criteria of the FPSC, and the answer is yes.	21 supply on any of the parcels that you know of?
22 So there's a need for service.	22 A. For the use in agricultural use, given that
23 Q. Okay. So these are the objective elements that	23 use, no. Relative to what is desired, yes.
24 you look for when you make your determination or your	24 Q. Okay. I'm just --
25 opinion that there is a need for service. Is that	25 A. Because you don't have the level of service,

<p style="text-align: right;">Page 106</p> <p>1 you don't have -- you know, you can't have --</p> <p>2 Q. Right. And I'm just talking about, as we sit</p> <p>3 here today, the way the status quo is. Okay? I'm not</p> <p>4 talking about the future. I'm just talking about status</p> <p>5 quo today, as we sit here, you're not aware of any</p> <p>6 problems with the water supply on any of those parcels</p> <p>7 of property?</p> <p>8 A. No.</p> <p>9 Q. And if the certificate that's requested in this</p> <p>10 proceeding is not granted, the existing uses on all</p> <p>11 these parcels can continue. Is that correct?</p> <p>12 A. I would assume so.</p> <p>13 Q. So it is your opinion that the letters that we</p> <p>14 looked at, the need letters, that those, standing alone,</p> <p>15 are adequate to check the box that we've discussed with</p> <p>16 respect to, is there a need?</p> <p>17 A. No. What I said, testified just earlier, I</p> <p>18 listed three items with you, and then said, and other</p> <p>19 things as they arise. One was the letters, secondly is</p> <p>20 the offer for service, and other is the potential for</p> <p>21 future service. So, yeah, all that is associated with</p> <p>22 the need.</p> <p>23 Q. Okay. But my question --</p> <p>24 A. Not just the, you know, the letters, you know,</p> <p>25 alone. You have that, plus the -- that Skyland is</p>	<p style="text-align: right;">Page 108</p> <p>1 Q. Right. And I'm asking --</p> <p>2 A. -- petition. So is -- oh, it's a hypothetical?</p> <p>3 Q. Correct.</p> <p>4 A. Oh, okay. Okay.</p> <p>5 Q. Correct.</p> <p>6 A. That's my problem. I'm sorry. I didn't</p> <p>7 understand you.</p> <p>8 Q. Okay.</p> <p>9 A. As a hypothetical, if you only had those two</p> <p>10 letters, would that also create a need, yes.</p> <p>11 Q. So your opinion is that those two letters,</p> <p>12 standing alone, are all that would be required to</p> <p>13 establish the need that's required in this proceeding?</p> <p>14 A. In this proceeding?</p> <p>15 Q. Correct.</p> <p>16 A. Well, there's more than that in this</p> <p>17 proceeding.</p> <p>18 Q. No, I understand that.</p> <p>19 A. But --</p> <p>20 Q. How --</p> <p>21 A. In a hypothetical proceeding, yes, that does</p> <p>22 demonstrate a need.</p> <p>23 Q. Okay.</p> <p>24 A. Hypothetically.</p> <p>25 Q. I think I heard you testify earlier about</p>
<p style="text-align: right;">Page 107</p> <p>1 offering service to the public.</p> <p>2 Q. Okay. So just so that I'm clear, the letters</p> <p>3 that we've looked at earlier in your deposition, if</p> <p>4 those were the only things in the record, those two</p> <p>5 letters, in your opinion, would that be sufficient to</p> <p>6 establish that -- would that be sufficient to establish</p> <p>7 a need, the need that that's required in order for a</p> <p>8 certificate to be granted?</p> <p>9 A. It is my experience that requests from the</p> <p>10 landowner for services in letter form have been utilized</p> <p>11 by the commission as evidence for need.</p> <p>12 Q. But that wasn't my question, was it?</p> <p>13 A. Yes, it was.</p> <p>14 Q. No. My question was, is it, in your opinion,</p> <p>15 if all you had in front of you -- because you've</p> <p>16 rendered an opinion that there is a need in this case,</p> <p>17 haven't you sir?</p> <p>18 A. Yes, I sure have.</p> <p>19 Q. Okay. What I'm asking you is, if all the</p> <p>20 information that was in the record were those two</p> <p>21 letters, all right, would your opinion still be that</p> <p>22 there is a need in this proceeding?</p> <p>23 A. There is need, based on those letters. There's</p> <p>24 no doubt about that. And then, in addition, but that's</p> <p>25 not all that's in the record --</p>	<p style="text-align: right;">Page 109</p> <p>1 interlocal agreements. Is that correct?</p> <p>2 A. Yeah.</p> <p>3 Q. Interlocal agreements, you referred to them?</p> <p>4 A. I've been involved in interlocal agreements.</p> <p>5 Q. What is an interlocal agreement?</p> <p>6 A. There are all kinds of them, but as they</p> <p>7 relates to utilities, it's to utilities entering into a</p> <p>8 contract to assist each other.</p> <p>9 Q. So is it possible that Pasco County could enter</p> <p>10 into an interlocal agreement with Hernando County to</p> <p>11 serve customers in Hernando County?</p> <p>12 A. Yes.</p> <p>13 Q. And, likewise, Hernando County could, through</p> <p>14 an interlocal agreement, serve Pasco County customers?</p> <p>15 A. I would believe so. Yes.</p> <p>16 Q. Okay.</p> <p>17 A. In fact, I believe Flagler County entered into</p> <p>18 an agreement with Ormond Beach that I worked on to allow</p> <p>19 them to serve outside of Volusia County, into Flagler</p> <p>20 County.</p> <p>21 Q. Okay. Can you look at page 21, please. And</p> <p>22 starting on line 2, Evans Properties did not request</p> <p>23 utility services from Hernando County for several</p> <p>24 reasons.</p> <p>25 Okay. What's the -- and then you -- then you</p>

Page 110

1 list some reasons. I want to know, what's the source of  
 2 your information that you present here?

3 A. The company.

4 Q. The company. So you had conversations with --

5 A. Evans.

6 Q. -- Evans about these issues?

7 A. Absolutely. I had numerous conversations with  
 8 Evans over a long period of time.

9 Q. Okay. And then you say, starting on line 5,  
 10 because this service area transverses county boundaries,  
 11 it would not be possible for the Hernando County  
 12 utilities department to provide service. Is that an  
 13 accurate statement?

14 A. Excuse me?

15 Q. Is that an accurate statement?

16 A. Without something else, not as they presently  
 17 exist, to my knowledge.

18 Q. Okay. So if there was an interlocal agreement  
 19 between Pasco County and Hernando County, could either  
 20 county serve an area outside their own county?

21 A. Specifically for this service area, the  
 22 interlocal agreement that Pasco County granted the  
 23 service area to Hernando County and required them, with  
 24 the obligation to serve, and Hernando County took on the  
 25 obligation to serve, not the discretion to serve, for

Page 111

1 the service area, that could happen.

2 Q. Okay. Did Evans ever --

3 A. To my knowledge, that does not exist.

4 Q. I understand.

5 Did Evans ever approach Pasco County or  
 6 Hernando County about serving these areas?

7 A. I don't believe they did, because they felt  
 8 that they could do it more effectively themselves.

9 Q. Okay. On page 21, beginning on line 15, you  
 10 quote some of Mr. Stapf's testimony. Do you see that?

11 A. Yes, I do.

12 Q. All right. Now, I was looking at your  
 13 testimony that follows that, and I didn't see anywhere  
 14 where you rebutted the factual statement or the  
 15 opinions, the actual opinions expressed in Mr. Stapf's  
 16 testimony. Am I reading it incorrectly?

17 A. NO. Throughout this, I've been -- he's stating  
 18 that just because you don't hit an economy of scale,  
 19 it's not effective, basically stating that you don't  
 20 provide service where you don't have an economy of  
 21 scale. And that's, you know, that's not necessarily the  
 22 case.

23 I mean, Mr. Kennedy also talked about whether,  
 24 you know, they would determine whether it was cost  
 25 effective for them, for the county, relative to

Page 112

1 providing the service, not cost effective for the  
 2 customers to obtain the service.

3 So I don't know what Mr. Stapf's qualifications  
 4 are in facility sizing and cost effectiveness of public  
 5 utility properties, which, based upon the resume I saw,  
 6 I didn't see one.

7 But I did write the economy of scale document  
 8 for the Florida Public Service Commission that they do  
 9 have, that it was supplied by the southern states  
 10 utilities in 1996, and testified to the same. So I do  
 11 have some -- and I've been qualified to render opinions  
 12 relative to cost effectiveness and economies of scales  
 13 associated with public utility properties. So, you  
 14 know, versus the planning opinion. Cost effectiveness  
 15 takes on many more aspects than Mr. Stapf has talked  
 16 about here.

17 Q. Okay. So let me ask you about this economy  
 18 of scale document for the  
 19 Florida Public Service Commission. In that document, do  
 20 you make any conclusions with respect to densities  
 21 required to provide utility services?

22 A. No. It's facility sizing and facility  
 23 infrastructure costs. It is relative to no less of a --  
 24 you know, there are standard sizes of utility  
 25 properties, or utility facilities. And let's say you

Page 113

1 have a hundred thousand gallon per day module, whether  
 2 you have 99,000 gallon per day need, you don't design a  
 3 customer 99,000 gallon per day treatment plan. You use  
 4 the normal standard size, a hundred thousand gallon per  
 5 day plan for that 99,000 gallon per day need.

6 But, also, in that document, I show where --  
 7 how many -- you know, where the flow rates are and how  
 8 the cost, the unit cost drops over those flow rates.

9 Q. Do you, as an engineer, do you ever use like  
 10 rules of thumb?

11 A. You always get in trouble with those things,  
 12 but sometimes, yeah.

13 Q. Yeah. Do you have a rule of thumb for -- with  
 14 respect to the density of development that would  
 15 typically support a central sewer system?

16 A. See, you've mixed things. A typical sewer  
 17 system is a gravity sewer system. If you go to a low  
 18 pressure sewer system, the densities drop significantly.

19 Q. Okay. Well, let's talk about a gravity system.  
 20 What's --

21 A. A gravity --

22 Q. -- for a gravity flow system?

23 A. Gravity flow systems, because the unit cost is  
 24 so great, and as you go further, when you separate the  
 25 parcels further and further, it's based on gravity, so

<p style="text-align: right;">Page 114</p> <p>1 your slope continues to get greater and greater, if it's 2 conceptually flat. So the cover goes higher and the 3 manholes get much more expensive and services are very, 4 very expensive when you go over long traverses of 5 property.</p> <p>6 None of those things are the case relative to 7 low pressure because it covers the same, because under 8 pressure, and the unit cost per foot remains the same.</p> <p>9 Q. Okay. So my question, though, was, what's your 10 rule of thumb for the required density for gravity fed 11 systems, water treatment systems?</p> <p>12 A. You mean waste water systems?</p> <p>13 Q. Excuse me. Waste water systems.</p> <p>14 A. And I don't have one.</p> <p>15 Q. You don't have one?</p> <p>16 A. Yeah.</p> <p>17 Q. You're not aware of any people that talk about, 18 you know, is it one unit per ten acre or one unit per -- 19 ten units per ten acre? You don't have any kind of rule 20 of thumb like that on the density that would be required 21 to --</p> <p>22 A. I know what I normally utilize as facilities, 23 and in a one unit per ten-acre type of situation, I 24 would be using low pressure type facility.</p> <p>25 Q. Right. But my question is --</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. Collection system. Okay.</p> <p>2 -- what is the minimum density that you would 3 want to see in the development you were going to serve 4 to make that system economically viable?</p> <p>5 A. It would -- economically viable. If you -- 6 see, the problem I have with even answering that is, you 7 have to compare it to something else. If there is no 8 service and the cost of extension of service is great, 9 then the distances can be great. And, you know, I've 10 seen, you know, on assessment programs, cost for 11 retrofitting of septic tanks being 20,000 a unit. And, 12 you know, and it was done, implemented, accomplished, 13 because in comparison to the value of the home, \$20,000 14 is not much.</p> <p>15 Q. So --</p> <p>16 A. So cost effectively, it worked, the 20,000 per 17 unit. So, I mean, in Sarasota County, I saw stuff at, 18 you know, thirteen, fourteen thousand dollars per unit. 19 I mean, that's heavy, but it occurs.</p> <p>20 Look at all the assessment programs, there are 21 major costs associated with them, and they're done, 22 they're put in. So I can't say that the economic bar 23 the technique when you can have such costs and have that 24 implemented in the state. It has to be compared to the 25 value of the property that it's serving and compared to</p>
<p style="text-align: right;">Page 115</p> <p>1 A. I would not be using gravity.</p> <p>2 Q. You recognized rules of thumb as being things 3 that engineers recognize, didn't you?</p> <p>4 A. Well, I said it gets you in trouble.</p> <p>5 Q. I understand, you did. But you did 6 recognize --</p> <p>7 A. Like two fours is a six and two sixes is an 8 eight, or something like that. None of them are 9 correct --</p> <p>10 Q. Okay. So you don't have --</p> <p>11 A. -- gross approximations.</p> <p>12 Q. You don't have any rule of thumb, then, that 13 you recognize for a basic, you know, 20,000-foot 14 estimate on a utility waste water system that's going to 15 be gravity fed, as to how much density there has to be 16 before it even starts to make sense? You don't have 17 any kind of number like that?</p> <p>18 A. Well, when you say, cost makes sense, it has to 19 be compared to something.</p> <p>20 Q. Let me ask -- let me strike that. Let me ask 21 this question. Okay? Let me ask a question.</p> <p>22 I want to ask you a hypothetical. All right? 23 If you were designing a waste, a gravity flow waste 24 water system --</p> <p>25 A. Collection system.</p>	<p style="text-align: right;">Page 117</p> <p>1 what the options are.</p> <p>2 Q. Would you agree that, all things being equal, 3 that central waste water systems are more economically 4 efficient when the densities are higher, as opposed to 5 lower?</p> <p>6 A. Hypothetically, yes. Have a lower unit cost. 7 There's no doubt.</p> <p>8 Q. Okay.</p> <p>9 A. If all other things are equal, also.</p> <p>10 Q. Are you familiar with Pasco County's water and 11 waste water rate structures?</p> <p>12 A. At one time, I was. Right now, you know, I 13 can't -- I can't quote them to you off the top of my 14 head.</p> <p>15 Q. Are you familiar with Hernando County's water 16 and waste water --</p> <p>17 A. At one time, I was. And I can't -- again, I 18 can't quote them off the top of my head. I believe, at 19 some time in the past, I did the bonds for 20 Hernando County.</p> <p>21 Q. Did you do any kind of a comparison of the 22 rates that you project for Skyland versus the rates that 23 Pasco and Hernando currently have?</p> <p>24 A. No, I didn't do it because it wasn't something 25 that -- the rates alone don't give you cost</p>



Page 118	Page 120
<p>1 effectiveness.</p> <p>2 Q. Okay. Top of page 23, line 2, end of that, I</p> <p>3 do not agree with Mr. Stapf's contention that the</p> <p>4 Hernando County utilities department can timely,</p> <p>5 competitively, potentially and institutionally provide</p> <p>6 service to the Evans properties land.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Tell me every reason why you disagree</p> <p>10 with Mr. Stapf on that.</p> <p>11 A. Well, the timeliness is pretty straightforward.</p> <p>12 Streamlining an investor-owner utility, it's the</p> <p>13 landowner and the user, because they know they don't</p> <p>14 have to go through all the requirements of all the</p> <p>15 applications and determinations and negotiations and all</p> <p>16 those kind of things that go into developer agreements</p> <p>17 between a county and a developer here, or a land user or</p> <p>18 customer.</p> <p>19 Competitively, there's no -- I mean, these are</p> <p>20 systems that we're talking about right there to serve,</p> <p>21 you know, local sources first and that are capable of</p> <p>22 service.</p> <p>23 So when you take in the capital costs, up front</p> <p>24 capital costs for large extensions, as Bruce Kennedy</p> <p>25 testified, it wasn't cost effective to enter --</p>	<p>1 the next statement, a private utility is accountable to</p> <p>2 the same state federal agencies as a public utility.</p> <p>3 A. Yes, they are.</p> <p>4 Q. So what are the state and federal agencies that</p> <p>5 a private utility is accountable to?</p> <p>6 A. A state agency, they're accountable to the</p> <p>7 water management districts, DEP, and if they discharge,</p> <p>8 WPDs permitting.</p> <p>9 Q. Okay.</p> <p>10 A. To state a few.</p> <p>11 Q. That's all?</p> <p>12 A. There may be others. I just can't think of any</p> <p>13 others right now.</p> <p>14 Q. How about the Public Service Commission?</p> <p>15 A. Oh, excuse me. That's not the same, though.</p> <p>16 Q. It's not the same?</p> <p>17 A. The public utilities are not accountable to the</p> <p>18 Public Service Commission. It says, the same. The</p> <p>19 Public Service Commission, that's an extra level of</p> <p>20 regulation on investor-owned utilities that public</p> <p>21 utilities are exempted from. And that sentence says the</p> <p>22 same, to the same. That's why the PSC isn't in there.</p> <p>23 But you're right, there's actually a higher</p> <p>24 level of accountability that an investor-owned utility</p> <p>25 has, because the PSC can audit them and, well, actually</p>
<p>Page 119</p> <p>1 historically, to interconnect his more rural systems</p> <p>2 that are smaller in capacity and that weren't</p> <p>3 interconnected yet, because, you know, it was more cost</p> <p>4 effective to serve it in an isolated fashion. And, you</p> <p>5 know, you know, I agree with that. I mean,</p> <p>6 competitively, you can't compete with it.</p> <p>7 And then I said -- oops, there's another and in</p> <p>8 here. On line 4, the comma and and should be struck.</p> <p>9 Thank you. Now I understand. You were confused by that</p> <p>10 or . . .</p> <p>11 Q. I just want you to finish your answer.</p> <p>12 A. Okay. Institutionally, again, without</p> <p>13 interlocal agreements between the parties, specifically</p> <p>14 obligating and mandatory for them to provide the service</p> <p>15 in Pasco County by Hernando County, without those</p> <p>16 institutional documents in place, how can they do it?</p> <p>17 Because, you know, Hernando County wouldn't have the</p> <p>18 interlocal agreements necessary to make that happen, so</p> <p>19 they have to negotiate those and get them in place, with</p> <p>20 the specific terms and conditions comparable to the</p> <p>21 obligations associated with an FPSC certificate.</p> <p>22 Q. Okay. Did you complete your list?</p> <p>23 A. I'm done.</p> <p>24 Q. All right. Good.</p> <p>25 Page 26, line 22, the very end of that line,</p>	<p>Page 121</p> <p>1 does audit them in rate cases. And since you bring it</p> <p>2 up, the FPSC goes through a lot of due diligence</p> <p>3 relative to these activities.</p> <p>4 Q. Right, right. So what are your -- why is this</p> <p>5 statement in here? What are you trying to support or</p> <p>6 suggest when you make that statement?</p> <p>7 A. That the same public interest tests relative to</p> <p>8 permitting between public and private utilities are</p> <p>9 done. So they're both -- the public interest is</p> <p>10 protected relative to the same aspects.</p> <p>11 Q. What about the public interest with respect to</p> <p>12 rates?</p> <p>13 A. Oh, yeah. The public interest with respect to</p> <p>14 rates is in the purview of the</p> <p>15 Florida Public Service Commission. They regulate rates.</p> <p>16 Q. Right. But it's not the same as it is for a</p> <p>17 public utility, is it?</p> <p>18 A. A public utility, they take the rates to the</p> <p>19 board of county commissioners, and they have the</p> <p>20 opportunity for that review. It's a different thing.</p> <p>21 It can get political in governmental entities.</p> <p>22 Q. Well, the Public Service Commission is not</p> <p>23 political, either, is it?</p> <p>24 A. I always thought the Public Service Commission</p> <p>25 was, technically, highly qualified.</p>

Page 122	Page 124
<p>1 Q. I couldn't agree more.</p> <p>2 All right. Page 27, beginning on line 17. You</p> <p>3 say, in my opinion, the provision of centralized water</p> <p>4 and waste water services is always in the public</p> <p>5 interest, in that it provides for the health, safety and</p> <p>6 welfare of utility customers.</p> <p>7 So my question is --</p> <p>8 A. Absolutely.</p> <p>9 Q. -- when you say, centralized water services,</p> <p>10 what are you referring to?</p> <p>11 A. Having a water plant that has a water operator,</p> <p>12 versus the responsibility of a homeowner or just a</p> <p>13 property -- you know, just a one -- not a certificated</p> <p>14 operator. If you have just a homeowner or even a</p> <p>15 private property owner of any kind, you know, running</p> <p>16 their own well, you're not getting the coverage, the</p> <p>17 sampling, the operations, all those kinds of things.</p> <p>18 You also don't have the provision of capacity,</p> <p>19 additional capacity over and above the necessary</p> <p>20 capacity for the individual use, which takes care of</p> <p>21 emergency capacities. You don't have many other things</p> <p>22 that centralized water provides, redundancy, et cetera.</p> <p>23 And then on waste water --</p> <p>24 Q. Let me ask a question first, before you answer</p> <p>25 it. Okay.</p>	<p>1 Q. Can you use a septic tank in centralized waste</p> <p>2 waters services?</p> <p>3 A. Septic tanks go up to, you know, 5,000 gallons,</p> <p>4 typically. You can, if you improve upon those, yes.</p> <p>5 Q. How would you improve upon them?</p> <p>6 A. There are -- I'm talking about conventional</p> <p>7 septic tanks versus treatment plant septic tanks. You</p> <p>8 can take a septic tank and convert into a treatment</p> <p>9 facility in a centralized fashion.</p> <p>10 In fact, there are even AWT type of septic</p> <p>11 tanks when you do it like that, versus the conventional,</p> <p>12 just normal anaerobic, baffle drain field type septic</p> <p>13 and drain field conventional facility. That's what I</p> <p>14 was referring to.</p> <p>15 Q. Okay. So when you say it's always in -- the</p> <p>16 provision of centralized water and waste water services,</p> <p>17 it's always in the public interest, that's even if</p> <p>18 you're using septic tanks on a centralized basis?</p> <p>19 A. Well, if you use them in centralized basis, it</p> <p>20 would be a higher level of a septic tank. It wouldn't</p> <p>21 be your conventional septic tank, because you wouldn't</p> <p>22 have the capacity. I think they're limited to</p> <p>23 5,000 gallons or less. At least in my experience. I</p> <p>24 may be off on that, but that's my experience.</p> <p>25 Q. Well, I mean, for this utility, are septic</p>
<p>Page 123</p> <p>1 A. Okay.</p> <p>2 Q. So when you refer to centralized waste water</p> <p>3 services, what are you referring to?</p> <p>4 A. Again, that's where the waste water is</p> <p>5 collected and transmitted to a treatment facility with</p> <p>6 effluent disposal. Without centralized service, what</p> <p>7 you have is a septic tank, typically. And a septic</p> <p>8 tank's level of service and treatment of waste is far</p> <p>9 less well-documented by the State of Florida, far less</p> <p>10 than treatment facilities. And there are requirements</p> <p>11 by DEP by much higher levels of treatment for treatment</p> <p>12 facilities, which are centralized, such that the</p> <p>13 environment is protected much better by that.</p> <p>14 Q. So --</p> <p>15 A. Ground waters.</p> <p>16 Q. So does central waste water services refer to</p> <p>17 particular types of treatment facilities?</p> <p>18 A. No, it's a configuration. But to have a --</p> <p>19 when you get permitted for a central treatment plant,</p> <p>20 you must meet the FDEP regulations, which have a much</p> <p>21 higher level of treatment than the septic tank</p> <p>22 regulations.</p> <p>23 Q. Okay.</p> <p>24 A. There's a big difference in pollution patrol.</p> <p>25 Huge.</p>	<p>Page 125</p> <p>1 tanks proposed?</p> <p>2 A. Not conventional septic tanks, no.</p> <p>3 Q. Are unconventional septic tanks proposed?</p> <p>4 A. We're talking about a small treatment facility.</p> <p>5 Q. But is it a septic tank?</p> <p>6 A. There's concrete associated with it. I don't</p> <p>7 think it's just a -- it's not a normal septic tank.</p> <p>8 Q. So if, somewhere in this application, it says</p> <p>9 that you're going to use a septic tank, you're not</p> <p>10 referring to a septic tank, you're referring to</p> <p>11 something else?</p> <p>12 A. No. If it's a central fashion, it's a</p> <p>13 treatment septic tank, versus what you commonly know of</p> <p>14 as a -- and I have done that on start-up situation,</p> <p>15 versus what you commonly know of as a typical household</p> <p>16 septic tank, which does not have treatment facilities.</p> <p>17 Q. Well, when you say septic tank in the</p> <p>18 application, what are you referring to?</p> <p>19 A. It's a centralized facility.</p> <p>20 Q. Okay. So what kind of septic tank is it?</p> <p>21 A. It's a treatment septic tank.</p> <p>22 Q. Okay. So if the existing structure, the only</p> <p>23 one existing structure that's on any of the parcels of</p> <p>24 property, if it continues to use the existing septic</p> <p>25 system for it, do we get that public interest benefit</p>

Page 126	Page 128
<p>1 that you refer to in your testimony?</p> <p>2 A. I think, long term, that will not occur. It</p> <p>3 would occur probably for a short period of time.</p> <p>4 Q. When will the existing building go off of the</p> <p>5 septic tank that it's currently on?</p> <p>6 A. Once there's sufficient capacity. Once there's</p> <p>7 sufficient additional need, over and above that.</p> <p>8 Q. Okay. So nothing is going to happen until</p> <p>9 there is either some other additional development on</p> <p>10 that property?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay.</p> <p>13 A. But it's planned to be taken care of.</p> <p>14 Q. When is it going to be taken care of?</p> <p>15 A. When the need occurs.</p> <p>16 Q. Okay. And we don't know when that's going to</p> <p>17 be. You don't know when that's going to be.</p> <p>18 A. That's true. I can't give you a defined month,</p> <p>19 date and time.</p> <p>20 Q. Does -- in the development, in the development</p> <p>21 that you had assumed to put together your cost of</p> <p>22 service study, is one of the assumptions that the</p> <p>23 property would no longer be solely owned by</p> <p>24 Evans Properties, Inc.?</p> <p>25 A. We didn't address that.</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. And you further assumed that all of</p> <p>3 those structures would be clustered as close together as</p> <p>4 possible, given the existing zoning for the parcels?</p> <p>5 A. The configuration that the structures would be</p> <p>6 located close to each other in relationship to the</p> <p>7 remainder of the land. Yes.</p> <p>8 Q. Okay. And to your understanding, is there any</p> <p>9 intention of Evans Property to divest itself of</p> <p>10 ownership of any of these parcels or any parts of these</p> <p>11 parcels as part of the development process?</p> <p>12 A. They may.</p> <p>13 Q. They may. Have you had discussions with Evans</p> <p>14 about that issue?</p> <p>15 A. I don't recall them in detail. We did talk</p> <p>16 about, you know, how things occur over time.</p> <p>17 Q. So let me see if I can summarize here. You</p> <p>18 don't have any present knowledge about Evans' intention</p> <p>19 to either not -- Evans having any current intention to</p> <p>20 sell, divest itself of ownership of any of the parcels</p> <p>21 included in the area sought to be certificated?</p> <p>22 A. No. They do have that option, and they're</p> <p>23 considering that option, as well as other options in</p> <p>24 their land ownership.</p> <p>25 Q. If my question wasn't so long, I'd ask you to</p>
<p>Page 127</p> <p>1 Q. So when you assume a number of ERCs, okay, is</p> <p>2 an ERC associated with anything?</p> <p>3 A. It's a generation of flow, yeah. ERCs are</p> <p>4 equivalent residential connections.</p> <p>5 Q. Okay. So you don't assume that there are</p> <p>6 actually going to be 155 new residences built on the</p> <p>7 Phase 1 properties, then? Did you make that assumption?</p> <p>8 A. You said the land ownership. Now, you can</p> <p>9 lease the land or you can sell the land or you can have</p> <p>10 covenants relative to the land. So, you know, the legal</p> <p>11 aspect of ownership of the land was your first question,</p> <p>12 and I said that's not what I -- what we're dealing with.</p> <p>13 We're dealing with services, and we're dealing with flow.</p> <p>14 And I said the ERC flow, yes, there would have to be</p> <p>15 development, and there would be sale to the public</p> <p>16 relative to that.</p> <p>17 Q. Okay. So in the Phase I, the 155 ERCs, is</p> <p>18 there an assumption in that, that there would actually</p> <p>19 be 155 structures that would need to be served?</p> <p>20 A. We costed it out on one, an ERC basis per</p> <p>21 services.</p> <p>22 Q. Okay. So that's an assumption you made in your</p> <p>23 cost study, that there would be that many connections</p> <p>24 that you would have to serve over some period of time.</p> <p>25 Is that correct?</p>	<p>Page 129</p> <p>1 read it back. But my question had to do with whether or</p> <p>2 not you have any knowledge of any present intention to</p> <p>3 do so.</p> <p>4 A. Well, if they got -- if they started to cluster</p> <p>5 development, I think that the intention would be to</p> <p>6 have, associated with the sale of the land, a</p> <p>7 configuration requirement, a covenant, like a</p> <p>8 neighborhood covenant, to -- for the location of the</p> <p>9 structures, such that these things worked as we</p> <p>10 delineated.</p> <p>11 Q. Right. But, again, I need you to focus on</p> <p>12 trying to answer my question. I'd appreciate it.</p> <p>13 A. I thought I did. But, you know, because I</p> <p>14 said, if, if it's in the cluster situation, that is the</p> <p>15 result.</p> <p>16 Q. Have you ever sat and -- you referred to a lot</p> <p>17 of meetings that you've been in with Evans Property and</p> <p>18 other people.</p> <p>19 A. Yes.</p> <p>20 Q. Have you ever been in a meeting where there was</p> <p>21 a developer who sought to, you know, put residential</p> <p>22 development on pieces of property owned by Evans?</p> <p>23 A. A third party, besides us and them?</p> <p>24 Q. Yes.</p> <p>25 A. No.</p>

<p style="text-align: right;">Page 130</p> <p>1 Q. Yeah. Have you ever -- in one of these 2 meetings, was there a discussion with Evans' people 3 about acting as a developer for this, any one of these 4 parcels of property? 5 A. They have that opportunity. 6 Q. Was there ever any discussion about it in one 7 of your meetings? 8 A. Yes. 9 Q. Okay. And is there any present intention, that 10 you're aware of on behalf of Evans, to actually go 11 forward with such a development? 12 A. All I know is that they reviewed and approved 13 the plans and the layouts that we have in this 14 application. And so, from that standpoint, they 15 understand what the basis of the application is. And 16 their intentions in hiring, you know, you know, all the 17 people necessary for that, if you don't have a 18 certificate, may not make a whole lot of sense. 19 Q. Has -- to your knowledge, has Evans Property 20 gone through the process of subdividing any of the 21 parcels? 22 A. That are in this application? 23 Q. Yes. 24 A. I do not know of that. 25 Q. Okay. To your knowledge -- strike that.</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. Okay. 2 A. But it's -- I don't know how that we could have 3 those projected 155, I'll say individuals, review this 4 at this juncture. I mean, I just don't understand how 5 that would occur. 6 Q. Right. But doesn't your application 7 contemplate the fact that there will be people besides 8 Evans Properties that -- 9 A. Yeah. Public -- 10 Q. -- share in those rates? 11 A. Oh, sure. 12 MR. HOLLIMON: John, I'd like to take a 13 break -- 14 MR. WHARTON: Sure. 15 MR. HOLLIMON: -- and get some lunch. 16 MR. WHARTON: I understand. What's your 17 preference? 18 MR. HOLLIMON: I probably have somewhere 19 between a half hour and an hour. 20 MR. WHARTON: More? 21 MR. HOLLIMON: More. 22 MR. WHARTON: Well, you want to go ahead and 23 take an hour, then? 24 MR. HOLLIMON: Let's take an hour. 25 MR. WHARTON: Okay. Then what we'll do, guys,</p>
<p style="text-align: right;">Page 131</p> <p>1 On page 27, line 20, your testimony is, 2 regarding Mr. Stapf's statement that the cost to provide 3 service in the proposed service area is generally cost 4 prohibitive and generally impractical. Do you disagree 5 with that statement? 6 A. Yes. 7 Q. Okay. And why do you disagree with that 8 statement? 9 A. Because, you know, I don't -- I don't believe 10 it to be -- it's shown in our application, and I don't 11 think the costs shown in our application are prohibitive 12 or impractical. And, in fact, Evans Properties, who 13 requested the service, have reviewed the proposed rates 14 and charges and agree with them. So how can it be 15 prohibitive and impractical when you have someone 16 willing to do it. 17 Q. What about third parties, does anybody have to 18 pay the rates? Have they reviewed them? 19 A. What do you mean, third parties? 20 Q. Well, the application, the assumption in the 21 application is that you're going to have 155 structures 22 built. They're going to be -- is it the intention that 23 you understand it that all 155 structures would be 24 inhabited by Evans Property people? 25 A. I doubt that.</p>	<p style="text-align: right;">Page 133</p> <p>1 it's just about noon, straight up. We'll call you 2 back at one o'clock. 3 MR. HOLLIMON: We'll reestablish at one 4 o'clock. 5 (Thereupon, at 11:58 a.m., a recess was taken in the 6 proceedings, after which, at 1:05 p.m., the proceedings 7 were reconvened and the following proceedings were had:) 8 BY MR. HOLLIMON: 9 Q. Okay. Mr. Hartman, in your rebuttal testimony, 10 page 29, line 8, and in this section, you're quoting 11 testimony from Mr. Kennedy. You see that? 12 A. Uh-huh. 13 Q. Okay. The very end of that line 8, generally, 14 density of at least two units per acre is necessary for 15 central water and sewer service to be economical. 16 Do you see that? 17 A. Yes. 18 Q. Do you disagree with that? 19 A. That's a gross generalization. I mean, you 20 know, and it's compared to something. I don't know what 21 he's comparing it to. So because there's no basis on 22 what he's comparing it to, he has something in his mind 23 relative to this. I'm sure, to him, he believes that's 24 true. My testimony stays the same as I testified 25 earlier.</p>

<p style="text-align: right;">Page 134</p> <p>1 Q. Okay. But as a general statement, you disagree 2 with that?</p> <p>3 A. Well, I don't think you can make a general 4 statement --</p> <p>5 Q. Okay.</p> <p>6 A. -- like that.</p> <p>7 Q. So it's your opinion that you cannot make a 8 general statement about density that would be required 9 for central services to be economical?</p> <p>10 A. You need to do it specifically to a 11 circumstance. Yeah.</p> <p>12 Q. So did you answer my question, or not?</p> <p>13 A. The answer is, just wholistically and 14 generally, no, I don't think you can, because cost 15 effectiveness brings in other factors than just how many 16 units per acre, the type of services, how -- you know, 17 gravity versus low pressure, et cetera. So, I mean, I'm 18 sure that he is, for what the parameters that are 19 probably the basis of his statement, that, you know, 20 that's what he believes. I don't agree with it.</p> <p>21 Q. Okay. The good news is, there was a lot of 22 redundant stuff that I was able to X off.</p> <p>23 A. Well, good.</p> <p>24 Q. So we're closer to the end than I thought we 25 were.</p>	<p style="text-align: right;">Page 136</p> <p>1 A. Yes.</p> <p>2 Q. And you're not speaking on behalf of those 3 future customers, are you?</p> <p>4 A. Well, I don't know who they are. I believe, 5 generally, that the rates and charges delineated herein 6 are -- as well as the associated other costs, are 7 effective for the service that -- you know, they're 8 appropriate for the service being proposed.</p> <p>9 Q. Okay. Earlier, we talked about the assumptions 10 that you made when you put together the application, and 11 you talked about clustering of developments. Do you 12 recall that?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Are you aware of any developments that 15 have -- that have been developed in the type of 16 clustering you assumed for purposes of this application?</p> <p>17 A. Oh, yes.</p> <p>18 Q. Are you aware if any of those developments are 19 served by central water and waste water services?</p> <p>20 A. Yes.</p> <p>21 Q. Where are these developments?</p> <p>22 A. FCTC's development in Volusia County. It's an 23 equestrian development, and they're clustered in an 24 estate fashion. That's but one.</p> <p>25 Q. What's the density there?</p>
<p style="text-align: right;">Page 135</p> <p>1 A. Good.</p> <p>2 Q. All right. On page 33 of your testimony --</p> <p>3 A. Yes.</p> <p>4 Q. -- beginning on line 9, you state, the 5 counties', quote, citizens, as Mr. Kennedy is referring 6 to in his testimony, is, in this case, Evans Properties, 7 since they own all the land in Parcel ID 4, and they 8 have requested service from Skyland and are aware of the 9 associated costs.</p> <p>10 Do you see that?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. Now, is it your understanding that the 13 property sought to be certificated will always be owned 14 by Evans Property?</p> <p>15 A. No. They're offering the service to the 16 public. How the property ownership moves, it could be 17 leased, it could be -- you know, I don't know exactly 18 how the property ownership works in the future. But 19 there will be service to the public, and individual, you 20 know, other, you know, third parties would be creating 21 the flow and requesting the service.</p> <p>22 Q. So will there be people other than 23 Evans Properties that will be customers of 24 Skyland Utilities that will be paying the rates imposed 25 by Skyland Utilities?</p>	<p style="text-align: right;">Page 137</p> <p>1 A. Oh, I think it's -- it may be one to ten acres. 2 It's, I think it's -- best of my best recollection, I 3 think it's one to ten acres. But it was only on 4 16,000 acres, with 360 units.</p> <p>5 Q. Okay, 360 units.</p> <p>6 A. On 16,000 acres.</p> <p>7 Q. And what's the size of the parcel the 360 units 8 are clustered on?</p> <p>9 A. I think it's about 3,600 acres, or 4,000 acres.</p> <p>10 Q. So it's truly a one to ten in that --</p> <p>11 A. Well, how we have it laid out is something like 12 a one to ten. Yeah.</p> <p>13 Q. Okay. And they're served by central water, you 14 said?</p> <p>15 A. And sewer.</p> <p>16 Q. Okay. What type of sewer?</p> <p>17 A. It's a low pressure, EI type system.</p> <p>18 Q. Okay. Are you aware of any other examples 19 where there's been densities of one to ten and central 20 services have been provided?</p> <p>21 A. I didn't come prepared for a complete listing 22 of that. I could go back and go through that.</p> <p>23 Q. Well, as you sit here right now --</p> <p>24 A. As we sit here right now, I know that one, 25 right off the top of my head. There's other equestrian</p>

Page 138

1 types of properties, and I think that we did one -- I  
 2 don't know whether they actually built everything yet or  
 3 not. There was one that I consulted on near  
 4 Grape Hammock down in eastern Polk County, off  
 5 State Road 60, that was going to be a similar equestrian  
 6 situation. I forget the name of that one. I don't know  
 7 if that got built, though.

8 Q. What does PCTC stand for?  
 9 A. Plum Creek Timber Company.  
 10 Q. I'm sorry?  
 11 A. Plum Creek Timber Company.  
 12 Q. Okay.  
 13 A. I think they're the largest REIT in the United  
 14 States.  
 15 Q. Are you aware of anything that would  
 16 preclude --  
 17 A. I'm sorry, there's another sort of a clustered  
 18 type situation, is in ECFS, down by the headquarters.  
 19 Q. Okay. Clustered as in still one unit per ten  
 20 acres, or clustered --  
 21 A. Oh, I don't know exactly how many units are in  
 22 there right now. But there's -- I think there's maybe  
 23 40 or 50 units in there. But the acreage, the overall  
 24 acreage in that area, in that unit is, I think it's  
 25 8,000 acres.

Page 139

1 Q. Right. But what's the parcel size for each,  
 2 that each unit is on?  
 3 A. Those are, it's owned by the landowner and the  
 4 land is, and the units are -- you know, the units are  
 5 built on land owned by the landowner. I mean, the  
 6 overall, by the Mormon church, I mean the Farmland  
 7 Corporation. And -- but units that are built on it have  
 8 individual public persons that live there.  
 9 Q. Right.  
 10 A. But they don't own the land. That's why I  
 11 said, I don't know what Ron's -- you know, what they're  
 12 going to do, because deseret (phonetic) does it on a, I  
 13 believe, on a lease basis.  
 14 Q. Okay. My question, though, is the density of  
 15 those units.  
 16 A. Oh, the density is something like that.  
 17 Q. Something like what?  
 18 A. Is in the order of what you're talking about,  
 19 one per ten acres.  
 20 Q. On the order of that?  
 21 A. Yes. I don't know exactly, because it's a  
 22 leased -- you don't create -- when it's leased, it's  
 23 overall parcel. So the parcel size is fairly large, and  
 24 they lease areas.  
 25 Q. So there's not -- not it's not subdivided, the

Page 140

1 property hasn't been subdivided, is what you're saying?  
 2 A. I don't know. That, I can't testify to.  
 3 Q. Okay. Are you aware of anything that would  
 4 preclude Pasco or Hernando County providing service in  
 5 the area, providing service in the same fashion that  
 6 Skyland proposes?  
 7 A. That precludes them from doing so?  
 8 Q. Yes.  
 9 A. Well, the owner wishes to serve himself. Other  
 10 than that, if they committed for service on the same  
 11 basis, you would think that that could happen. That's a  
 12 possibility.

13 MR. HOLLIMON: Okay. That's all I have.  
 14 MR. WHARTON: Caroline or Jeff?  
 15 MR. KIRK: I have some questions. I don't  
 16 know, you have any particular order, Caroline?  
 17 MS. KLANCKE: I also have questions. But I  
 18 would defer to you to go first, if you'd like.  
 19 MR. KIRK: Okay.

CROSS-EXAMINATION

20 BY MR. KIRK:  
 21 Q. Good afternoon, Mr. Hartman.  
 22 A. Good afternoon.  
 23 Q. Can you hear me?  
 24 A. Yes.  
 25

Page 141

1 Q. My name is Jeff Kirk. I'm an assistant county  
 2 attorney with Hernando County. I work for Garth Collier  
 3 who says he says hello.  
 4 A. Well, good. I think we both are Duke  
 5 graduates.  
 6 Q. Going back to your earlier testimony about your  
 7 initial involvement, how long have you been providing  
 8 professional services for Ronald Evans or Ron Evans or  
 9 Evans Property?  
 10 A. In the order of -- let me look at the project  
 11 number on it. By today, it would be, say, ten months by  
 12 October, then from October to today is how many months.  
 13 It's two plus six, another maybe 18 months.  
 14 Q. So did you provide services to them on other --  
 15 I mean, projects prior to Skyland?  
 16 A. Yes. On Groveland and Bluefield.  
 17 Q. Have you had any -- in connection with the  
 18 subject application or any of the parcels covered by the  
 19 subject application, have you had any dealings with  
 20 Coastal Engineering, Cliff Manuel or Don Lacey?  
 21 A. I met with Cliff Manuel, yes.  
 22 Q. And, generally, what did you discuss?  
 23 A. We were discussing the Brooksville objections,  
 24 and we were -- we were discussing potential settlement  
 25 with the City of Brooksville.

Page 142	Page 144
1 Q. And are you aware that in 2009,	1 Q. Let's go to, earlier, you were asked about
2 Evans Properties filed an application with the	2 Exhibit A to the application. I'm going to go to
3 Hernando County planning department for comprehensive	3 Exhibit B. Could you briefly describe -- it begins
4 plan amendment?	4 about page 19. What is the nature of Exhibit B?
5 A. For these parcels?	5 A. It addresses -- it's the -- if you go back to
6 Q. For the parcels within Hernando County.	6 the application, page 3, Part 2, parens B, a statement
7 A. Excuse me. I can't --	7 that, to the best of the applicant's knowledge, the
8 THE WITNESS: What did he say?	8 provision of service will be consistent with the water
9 MR. WHARTON: For the parcels within	9 and waste water sections of the local comprehensive
10 Hernando County.	10 plan.
11 THE WITNESS: That they did a comp plan request	11 Q. And did you prepare this exhibit?
12 for amendment?	12 A. Yes.
13 BY MR. KIRK:	13 Q. And what -- and earlier, you say you're not a
14 Q. Yes.	14 land planner. What did you use to, or rely upon to
15 A. I did not -- I don't recall that.	15 prepare this exhibit?
16 Q. Did you --	16 A. The water and waste water sections of the
17 A. They may have stated that to me. I don't know	17 comprehensive plan. I have been held as an expert
18 what the status of that is.	18 relative to Chapter 9J-5 for utility stuff, and I've
19 Q. But you were not involved with the preparation	19 been held as an expert for utility planning. And this
20 of the comprehensive plan amendment or consulting, or	20 relates to the utility planning aspects.
21 any consulting relating to that?	21 Q. On -- going to Exhibit C.
22 A. No, I do not believe so.	22 A. Exhibit what?
23 Q. And as we sit here today, are you aware of the	23 Q. Exhibit C.
24 status of that comprehensive plan amendment --	24 A. C? Thank you, sir.
25 A. As I testified --	25 Q. C as in Charles.
Page 143	Page 145
1 Q. -- that application?	1 A. Okay. Thank you. I'm there.
2 A. Right now, I am not. I do not know the status	2 Q. Okay. Did you prepare this exhibit?
3 of the Hernando County comp plan amendment.	3 A. Yes.
4 Q. Changing. I'm looking -- you have the	4 Q. Okay. Flip over to Exhibit D. Is this also an
5 application with you?	5 exhibit that you prepared?
6 A. Yes.	6 A. Yes.
7 Q. Okay. I'm looking at Figure 3A, which is	7 Q. The second page of this exhibit is Table E2.
8 approximately page 62. It's the map showing the	8 A. Yes.
9 different parcels owned by Evans Property.	9 Q. Can you explain this table, please?
10 A. Yes, I have Figure 3A.	10 A. Surely. That is our estimate and our
11 Q. Earlier, there was some discussions, noting	11 projection for the number of ERCs that would be absorbed
12 that some of the parcels were contiguous and some of the	12 over time, following certification.
13 parcels were not contiguous.	13 Q. So at the present time, you have no customers;
14 A. That's correct.	14 and for the first year of operations, you're projecting
15 Q. How is Skyland proposing to provide water	15 20 customers; the second year of operation, you're
16 service to noncontiguous parcels?	16 projecting another 20 customers. Is that the way I'm
17 A. They would obtain the ability to do so, either	17 reading this?
18 through rights of way or through their -- through	18 A. At year end, yes. It's a midyear convention
19 negotiations with their meeting property owners or	19 for the average. You're correct, on the first line
20 through their ability to condemn.	20 going across is year end, the second line is the midyear
21 Q. Do they have a plan to connect the	21 convention for an average for the year. And then the
22 noncontiguous parcels to each other?	22 third line is the cumulative aspect.
23 A. Well, ultimately, at build-out.	23 Q. And this will be for Phases -- this would be
24 Q. But not as part of Phase I?	24 for Phase I?
25 A. No.	25 A. That's correct.

Page 146	Page 148
<p>1 Q. Has there been any design work for Phases II, 2 or Phase III? 3 A. Not to my knowledge. 4 Q. Going back to the first page of Exhibit D, this 5 will be, I think, approximately page 23 of the 6 application. The last sentence says -- could you please 7 read the last sentence from that page? 8 A. Did you say Exhibit E? 9 Q. No, D. I'm sorry. D, as in Doug. 10 A. Okay. The last page? The last -- 11 Q. The last sentence on the first page. 12 A. Oh, on the first page? 13 Q. Yes, sir. 14 A. Yeah. As I stated, Phases II through V have 15 not been conceptually designed at this time. Therefore, 16 they are shown for allowable future land use, the 17 maximum -- let me read it exactly. 18 Phases II through V have not been conceptually 19 designed at this time, as I testified earlier. And, 20 therefore, the ERCs and gallons per day shown are for 21 the maximum allowable by future land use element 22 densities. Density, singular. Excuse me. 23 Q. As we sit here today, in your opinion, is this 24 still an accurate statement? 25 A. I believe so.</p>	<p>1 A. Go right ahead. 2 Q. Good afternoon, Mr. Hartman. My name is 3 Caroline Klancke. I'm an attorney with the 4 Florida Public Service Commission. 5 A. Yes. 6 Q. I have just the briefest of questions for you. 7 A. Okay. 8 Q. For these questions, I would like you to have 9 both the cost of service study, which is part of the 10 application that you previously discussed, and Skyland's 11 response to staff's first set of interrogatories, 12 Numbers 8 and 19, in particular. Okay? 13 A. Okay. Let me get there. 14 Q. Sure. Let me know when you're there. 15 A. Third set is 15. Okay. I have the third set 16 of interrogatories. And then cost of service. I have 17 the cost of service study. I am ready. 18 Q. Great. 19 Would you -- Mr. Hollimon asked you some 20 extensive questions in which you referenced the cost of 21 service study. Do you recall that? 22 A. Yes. 23 Q. And you stated, in your direct testimony and 24 then again today, that it was your firm that prepared 25 the cost of study service. Isn't that correct?</p>
<p>Page 147</p> <p>1 Q. Go back to Exhibit C, please. 2 A. Yes. 3 Q. On the second page of Exhibit C, at the very 4 end of Exhibit C, could you please read the last 5 sentence? 6 A. The very last sentence on Exhibit C? 7 Q. C, yes. Yes. 8 A. Physical interconnections will occur that 9 traverse county lines during future phase. 10 Q. As we sit here today, is that still your 11 understanding? 12 A. Yes. 13 Q. And what does that sentence mean to you? 14 A. That pipe will traverse the county boundary. 15 Q. Like water pipe or waste water pipe? 16 A. That's correct. 17 Q. Some kind of pipe? 18 A. That's correct. 19 MR. KIRK: Hernando County has no further 20 questions. 21 CROSS-EXAMINATION 22 BY MS. KLANCKE: 23 Q. The Florida Public Service Commission has a few 24 very brief questions for this witness. Should I go 25 right ahead?</p>	<p>Page 149</p> <p>1 A. Yes. 2 Q. Would you please refer to Roman numeral VIII-X 3 of the cost of service study. Let me know when you're 4 there. 5 A. There. I'm there. 6 Q. On -- in Table 3 on this page, it indicates 7 that you're recommending water rates that will produce 8 annual revenues from the base facility charge of 30,391. 9 Do you see that? 10 A. Oh, I'm sorry. You said Roman numeral VIII-X. 11 Yes. 12 Q. Dash ten, that's correct. 13 A. Yes, that's correct. Yes, it's a -- they will 14 show total annual revenue of 131,481. Right. 15 Q. I'm sorry. It is Roman numeral VIII-X, and I'm 16 talking about Table 3, water rate revenue proof. Do you 17 see that? 18 A. Yes. 19 Q. And my question to you was that on this table, 20 it indicates that you're recommending water rates that 21 will produce annual revenues from the base facility 22 charge of 30,391. Is that correct? 23 A. That's correct. 24 Q. And also on Table 3, it indicates that you're 25 proposing water rates produced from revenues from the</p>



Page 150

1 gallonage charge of 101,090. Is that correct?

2 A. Yes.

3 Q. Would you agree, subject to check, that 30,391

4 is approximately 23 percent of the total annual revenue?

5 A. Yes.

6 Q. And that leaves approximately seventy-eight

7 seven percent revenues from the gallonage charge. Is

8 that correct?

9 A. Yes.

10 Q. Could you walk us through why you chose a

11 revenue split of approximately 25 percent to 75 percent

12 between base facility charge and gallonage charge in

13 developing the proposed water rate?

14 A. Surely. On the base facility charge, we wanted

15 to recover the cost centers of, you know, the billing,

16 the nonvariable, certain nonvariable costs, not all of

17 the nonvariable costs, but certain nonvariable costs

18 that are associated with the utility, as well as the

19 costs that go into direct service, without the quantity

20 of water being applied.

21 And then we then pushed the remainder of the

22 costs to be recovered on a gallonage basis as a

23 conservation provision because we wished to assure that

24 it's appropriate utilization. It's in a water use

25 caution area, and because of that, we wanted to have a

Page 151

1 fairly high consumptive rate. We could have pushed more

2 into the base facility charge, but we pushed the

3 remainder into the gallonage rate as a conservation

4 element.

5 Q. Fair enough.

6 Now, I'd like you to turn to the waste water

7 ones. I'd like to turn, in particular, Roman numeral

8 VIII-XIX contained in the cost of service study.

9 A. I've got it. Yes.

10 Q. Do you see the table set in at the bottom of

11 the page entitled, waste water rate revenue proof?

12 A. Yes.

13 Q. Similar to water, Table 7 on this page reflects

14 that you developed waste water rates that will recover

15 approximately 23 percent of the waste water revenue

16 requirement from the base facility charge and 77 percent

17 from the gallonage charge. Is that correct?

18 A. That's correct.

19 Q. Could you walk us through your reasoning for

20 this revenue split of 25 to 75 between base facility and

21 gallonage charge with respect to waste water?

22 A. Yes. First, we looked at, you know, the

23 billing costs, you know, and the fixed costs, overhead

24 costs and all those, and we put those into the base

25 facility charge, which are nonvariable to the treatment

Page 152

1 requirements that are based upon the water flow and the

2 metered water use.

3 And then we utilized the rest of the costs into

4 the gallonage charge as a furtherance -- it's not only

5 the variable costs which you see here, but also, some of

6 the fixed costs to generate a -- like a conservation

7 cost per thousand gallons. And we could have had a

8 larger base facility charge, but you wouldn't be seeing

9 the same conservation signal back to your customer in a

10 similar fashion as we designed the water rates.

11 MR. KLANCKE: That is all the questions that I

12 have for this witness.

13 MR. WHARTON: I have a couple.

14 CROSS-EXAMINATION

15 BY MR. WHARTON:

16 Q. I just want to clear up one thing in my own

17 mind, Mr. Hartman. You talked to Mr. Hollimon this

18 morning about various parts of the direct testimony of

19 Pasco and Hernando that your rebuttal testimony was

20 intended to rebut. Do you recall that?

21 A. Yes.

22 Q. And at one point, Mr. Hollimon had you look

23 through some of the testimony, and you found a few

24 references where witnesses had indicated they believed

25 that Skyland's proposal was not in the public interest.

Page 153

1 Do you recall that?

2 A. Yes.

3 Q. So let me see if I can ask you the question in

4 a way that's not too convoluted.

5 To the extent you indicated that part of your

6 rebuttal testimony addressed testimony that the

7 application of Skyland was not in the public interest,

8 was that testimony intended to address each such

9 instance in which an adverse witness indicated that

10 Skyland's proposal was not in the public interest?

11 A. If I could make your question that each

12 intervenor's testimony at the various locations that

13 they made those statements, I would concur and say yes.

14 Q. Okay. Same question with regard to Mead.

15 A. Yes. We tried, for the sake of brevity, to not

16 cite every single location. We just -- the answer is

17 yes.

18 Q. Okay. Same question with regard to the

19 duplication of facilities.

20 A. Yes.

21 MR. WHARTON: That's all we have.

22 Anything else from anyone?

23 MR. HOLLIMON: Let's see.

24 REDIRECT EXAMINATION

25 BY MR. HOLLIMON:

Page 154	Page 156
<p>1 Q. I do have one question, having to do with the 2 interrogatory responses that Ms. Klancke referred to but 3 didn't ask you a question about. Do you still have that 4 in front of you? 5 A. Yes. The third response. 6 Q. Yeah. Did you participate in formulating the 7 responses that are provided in here? 8 A. Yes. I reviewed the responses. 9 Q. You reviewed them. You didn't draft them, you 10 reviewed them? 11 A. Well, I reviewed them and then commented on 12 them. On certain items, I had input directly, saying, 13 this is what I think, blah, blah, blah. And then I had 14 others in my staff type it up and give it back to me for 15 review. 16 Q. Okay. And do you recognize, in that third set, 17 some of the responses that you drafted as being included 18 in the responses? 19 A. Oh, yes. Yes. 20 Q. And did you do the same process on the first 21 two sets of interrogatories from staff? 22 A. Yes. As I said earlier, we have a team that 23 puts this together and, you know, to have a lower cost 24 to the client. My rate's higher than some of the other 25 people that are experienced in this area. So I direct</p>	<p>1 MS. KLANCKE: Now that we're off the record, I 2 actually have a question. 3 (Thereupon there was a conference off the record.) 4 COURT REPORTER: Mr. Hollimon, did you want to 5 order the deposition transcribed? 6 MR. HOLLIMON: Yes. 7 COURT REPORTER: Okay. Mr. Wharton, would you 8 like a copy? 9 MR. WHARTON: Did he order one? 10 COURT REPORTER: Yes. 11 MR. WHARTON: Yeah, we'll take one. 12 (Thereupon the deposition was concluded at 1:44 p.m.) 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>Page 155</p> <p>1 them what to do, they do those things, bring it back to 2 me, I review it. If I concur with it, then we send it 3 out. 4 Q. Okay. So let me make sure I understand this. 5 The process would be, you would receive a set of 6 interrogatories first. Is that right? 7 A. That's correct. 8 Q. And then it would be distributed to your staff, 9 and your staff would work on providing answers? 10 A. With my direction. 11 Q. Correct. I understand. 12 A. And this -- the primary step that I delineated 13 to you before is the same. 14 Q. Okay. And then you would have the final 15 reviewing authority -- 16 A. That's correct. 17 Q. -- to say that the final answers were correct 18 or not? 19 A. Yeah. I'm the witness, yeah. 20 MR. HOLLIMON: Okay. That's all I have. Thank 21 you very much. 22 THE WITNESS: Thank you. 23 COURT REPORTER: Would you like me to 24 explain reading and signing? 25 THE WITNESS: I'd read and sign.</p>	<p>Page 157</p> <p>CERTIFICATE OF OATH</p> <p>STATE OF FLORIDA: COUNTY OF ORANGE:</p> <p>I, Sandra Narup, Registered Professional Reporter and Florida Professional Reporter, Notary Public, State of Florida, do hereby certify that GERALD C. HARTMAN, PE, SCRE, ASA personally appeared before me on June 17, 2010 and was duly sworn. Signed this 22nd day of June, 2010.</p> <p>Sandra Narup Registered Professional Reporter and Florida Professional Reporter Notary Public, State of Florida My Commission No.: DD 825339 Expires: January 15, 2014</p>

