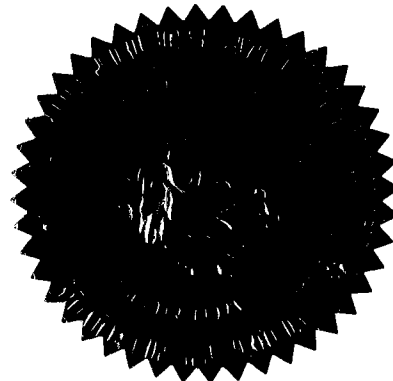


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 991666-WU

In the Matter of

APPLICATION FOR AMENDMENT OF
CERTIFICATE NO. 106-W TO ADD
TERRITORY IN LAKE COUNTY BY
FLORIDA WATER SERVICES
CORPORATION.



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ARE A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING
AND DO NOT INCLUDE PREFILED TESTIMONY.

VOLUME 2

Pages 126 through 281

PROCEEDINGS:

HEARING

BEFORE:

COMMISSIONER LILA A. JABER
COMMISSIONER BRAULIO L. BAEZ
COMMISSIONER MICHAEL A. PALECKI

DATE:

Wednesday, July 11, 2001

TIME:

Commenced at 10:06 a.m.

PLACE:

E. L. Puryear Building
243 South Lake Avenue
Groveland, Florida 34736

REPORTED BY:

TRICIA DeMARTE
Official FPSC Reporter
(850) 413-6736

APPEARANCES:

(As heretofore noted.)

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 09098 JUL 26 2001

FPSC-COMMISSION CLERK

I N D E X

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ID.

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P R O C E E D I N G S

(Transcript follows in sequence from Volume 1.)

COMMISSIONER JABER: Okay. Let's go back on the record. Ms. Brownless, before we recessed the hearing, you and Mr. Menton were going to discuss the possibility of an agreement with respect to Item Number -- what was it?

MS. BROWNLESS: It's Number 6.

COMMISSIONER JABER: -- 6, your official recognition list.

MS. BROWNLESS: Official judicial recognition list. And Mr. Menton and I have reached agreement. Kristopher Barrios of the Department of Environmental Protection will provide an affidavit of authenticity, and I'll read what it will say.

I, Kristopher Barrios, an employee of the Department of Environmental Protection groundwater unit responsible for maintaining Rule 62-524, F.A.C., as more clearly identified below, produced this map of USGS quadrangle 3715, Clermont west, a delineation map under Rule 62-524.420, F.A.C., to show the groundwater contamination as outlined in Florida Statute 62-524, F.A.C., for Suzanne Brownless on July 7th, 2001. And I think it should say it was delivered to her on Monday, July 9th, 2001. This map is true and correct as well as the most current version of the Clermont west map maintained by DEP in conformance with Rule 62-524.420, F.A.C., and is the map

1 referenced in Rule 62-524.430(19), F.A.C., to the best of my
2 knowledge.

3 COMMISSIONER JABER: Okay. Now, Mr. Menton, you
4 don't have an objection to approval of Item 6 on the official
5 recognition list now with that affidavit?

6 MR. MENTON: Correct.

7 COMMISSIONER JABER: And you also don't have an
8 objection to the affidavit being identified as a late-filed
9 exhibit to this hearing?

10 MR. MENTON: That's correct.

11 COMMISSIONER JABER: Okay. I think that's the
12 cleanest way to handle this, Ms. Brownless, is to actually
13 identify the affidavit from Mr. -- what's his last name?

14 MS. BROWNLESS: His name is Kristopher Barrios,
15 B-A-R-I-O-S (sic).

16 COMMISSIONER JABER: B-A-R-I --

17 MS. BROWNLESS: O-S.

18 COMMISSIONER JABER: -- O-S. Okay. Thank you.

19 Late-filed Exhibit Number 4 will be an affidavit by
20 Kristopher Barrios that Ms. Brownless will provide to
21 Mr. Menton and to Staff and to the court reporter. Within how
22 much time, Ms. Brownless? Is a week --

23 MS. BROWNLESS: We're going to try to get Mr. Barrios
24 to execute this today and provide it today.

25 COMMISSIONER JABER: In the next couple of days.

1 MR. MENTON: That's fine. I do think as she was
2 reading that affidavit, there was one point there where the
3 language, I think, may need to be reworked where it talked
4 about pursuant to statute, and then she cited a rule, but we
5 can sit down and figure that out afterward. I mean, the
6 principles we can agree to.

7 MS. BROWNLESS: That's wrong. It ought to say, there
8 is no statute 62-524.

9 MR. MENTON: Right.

10 MS. BROWNLESS: It ought to say, to show groundwater
11 contamination as outlined in Rule 62-524, so with that
12 correction.

13 COMMISSIONER JABER: All right. The affidavit will
14 be identified as Late-filed Exhibit 4. And let the record
15 reflect that Item 6 on Ms. Brownless's request for official
16 recognition has been approved.

17 (Late-Filed Exhibit 4 identified.)

18 MS. BROWNLESS: Thank you.

19 MR. MENTON: Thank you, Commissioner.

20 COMMISSIONER JABER: Thank you both for cooperating
21 on that.

22 MR. MENTON: And, Commissioner, if I might, the one
23 other aspect of this was, under the rule I believe I have an
24 opportunity to respond to issues that are presented for
25 official recognition. At this point, I don't think that I

1 will, but I would like to just reserve that until I have an
2 opportunity to sit down and study the rule a little bit closer.

3 COMMISSIONER JABER: That's fine. That's fine. And
4 you are never -- now, by response, I think what you mean is,
5 you would like the opportunity to identify matters to be
6 officially recognized. And I would note that we have the rest
7 of today and we have tomorrow morning. I would ask that if you
8 do have items that you wish to have officially recognized, that
9 you sit down with counsel and Staff and make sure they have the
10 appropriate notice.

11 MR. MENTON: Okay. Thank you.

12 MS. BROWNLESS: I just -- I don't want to belabor
13 this point, but I want to make sure I'm clear with regard to
14 what Mr. Menton -- the response Mr. Menton is indicating. My
15 understanding of Rule 90.203 is that to the extent written
16 notice is provided to the parties and they have been given an
17 opportunity to respond in a reasonable time frame, that the
18 hearing is the place where they do whatever response they are
19 going to do. We did provide written notice on Monday, and
20 certainly Mr. Menton has had an opportunity to look at the
21 stuff.

22 So I guess if he wishes to identify items for
23 judicial notice on his own, that's fine. I have no objection
24 to him doing that. But I don't think -- I think this is the
25 appropriate time for him to make whatever response he is going

1 to make with regard to these items.

2 COMMISSIONER JABER: Ms. Brownless, why don't we
3 cross that bridge when we come to it? What I hear him saying
4 is he may not. If he does, let's revisit that.

5 MR. MENTON: Thank you.

6 COMMISSIONER JABER: Mr. Menton, you want to call
7 your next witness, Mr. Tillman?

8 MR. MENTON: Thank you, Commissioner. Florida Water
9 would call John Tillman.

10 JOHN L. TILLMAN, JR.

11 was called as a witness on behalf of Florida Water Services
12 Corporation and, having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. MENTON:

15 Q Could you please state your name and business
16 address.

17 A My name is John L. Tillman, Jr., 1000 Color Place,
18 Apopka, Florida.

19 Q Mr. Tillman, by whom are you employed and in what
20 capacity?

21 A Florida Water Services, I'm senior executive vice
22 president in charge of business development.

23 Q Mr. Tillman, are you aware that Charles Sweat had
24 previously caused to be filed in this docket prefiled direct
25 testimony dated August 10th, 2000, consisting of 15 pages?

1 A I am.

2 Q And are you adopting that testimony today?

3 A I am.

4 Q Do you have any changes or corrections to make to
5 that testimony?

6 A Yes, I do. Page 2, Line 2, I would like to
7 substitute my name for Mr. Sweat's name. Page 2, Lines
8 4 through 6, the question should be rewritten to reflect that I
9 am adopting the prefiled testimony previously submitted by
10 Charles Sweat. Page 2, Lines 8 through 12, the reference to
11 Mr. Sweat's previous position with Florida Water should be
12 deleted. My position is described on Page 1, Lines 6 through
13 10 in my rebuttal testimony. My job responsibilities include
14 those described by Mr. Sweat on Page 2, Lines 13 through 22 and
15 Page 3, Lines 1 through 7. Also, Page 3, Lines 10 through 13
16 should be changed to reflect that I have been an officer of
17 Florida Water for approximately three years.

18 Page 3, Lines 14 through 20, Page 4, Lines 1 through
19 20, and Page 5, Lines 1 and 2 is the description of
20 Charles Sweat's experience which is now unnecessary and should
21 be deleted. My educational background and working experience
22 are described in my rebuttal testimony on page --

23 MS. BROWNLESS: Mr. Tillman, can I get you to slow
24 down because it's hard for those of us trying to --

25 COMMISSIONER JABER: I think after your changes to

1 Page 3 we started losing you there. Is that correct,
2 Ms. Brownless?

3 MS. BROWNLESS: Yes, ma'am.

4 COMMISSIONER JABER: So starting with the changes on
5 Page 4.

6 THE WITNESS: Okay. Actually, it's on Page 3, Lines
7 14 through 20, Page 4, Lines 1 through 20, and Page 5, Lines
8 1 and 2.

9 MS. BROWNLESS: Okay. And that will be deleted or --

10 THE WITNESS: I'm sorry, say again.

11 MS. BROWNLESS: And what would be the disposition --

12 THE WITNESS: This is the description of Charles
13 Sweat's experience which is now unnecessary and should be
14 deleted. My educational background and working experience is
15 described in my rebuttal testimony on Page 2, Lines 1 through
16 15 and on my resume, which is Exhibit JLT-1.

17 Page 6, Line 8, "The most recent figures indicate
18 that the average daily flow of Florida Water's existing plant
19 which provides service to the neighboring Palisades development
20 is approximately 319,000 gallons per day."

21 MS. BROWNLESS: I'm sorry, could you repeat that
22 again, please.

23 THE WITNESS: The number 319,000?

24 MS. BROWNLESS: No, sir, the sentence. I'm trying to
25 get the sentence correct.

1 THE WITNESS: Okay. "The most recent figures
2 indicate that the average daily flow of Florida Water's
3 existing plant which provides service to the neighboring
4 Palisades development is approximately 319,000 gallons per
5 day."

6 COMMISSIONER JABER: Go ahead, Mr. Tillman.

7 THE WITNESS: Page 6, Lines 17 through 20, the
8 testimony should be amended to read, "The application was
9 prepared under the supervisor -- supervision of my predecessor,
10 Charles Sweat." Page 7, Line 7, the testimony should be
11 amended to reflect that the application was signed by my
12 predecessor, Charles Sweat, on the behalf of Florida Water.

13 MS. BROWNLESS: Let me back up to Page 6, please. So
14 on Line 17 of Page 6, it should read answer, "Yes. The
15 application was prepared under the supervision of my
16 predecessor, Charles Sweat."

17 THE WITNESS: Yes.

18 MS. BROWNLESS: "And filed with the Commission;" is
19 that correct?

20 THE WITNESS: I don't have that in front of me, but I
21 assume -- is that on Line 20 or 21?

22 MS. BROWNLESS: That's Line 18. This is 17 and 18.
23 I'm just trying to get -- here's --

24 THE WITNESS: Yeah, it was prepared and filed by him,
25 my predecessor.

1 MS. BROWNLESS: Okay. Now, on Page 6, Line 18, it
2 also goes on to say, "I assisted in providing the information
3 needed for the application."

4 THE WITNESS: I can't hear you, I'm sorry.

5 MS. BROWNLESS: Okay. I'm sorry.

6 COMMISSIONER JABER: Wait a second. Ms. Brownless,
7 wait a second. For the purposes of making sure the court
8 reporter has this, Mr. Tillman on Page 6, Lines 17 and 18 of
9 the prefiled testimony submitted by Mr. Sweat, you are
10 proposing to change that sentence to read, "Yes. The
11 application was prepared under the supervision of Charles Sweat
12 and was filed with the Commission."

13 MS. BROWNLESS: Is that correct?

14 THE WITNESS: That's correct.

15 COMMISSIONER JABER: What is your next question,
16 Ms. Brownless?

17 MS. BROWNLESS: What are you going to do with Line
18 18, if anything? The line that starts, "I assisted," meaning
19 Charles Sweat, "assisted in providing the information needed
20 for the application."

21 MR. MENTON: I believe he said he was changing the
22 testimony from Lines 17 through 20.

23 THE WITNESS: Through 20.

24 MS. BROWNLESS: Do you have a statement you can read
25 as to what the correct wording of the testimony as you wish it

1 to be is?

2 MR. MENTON: I think that is what he just did.

3 THE WITNESS: That's what I did the first time.

4 COMMISSIONER JABER: Okay. Let's take it one at a
5 time. Let me make sure that you understand all the changes to
6 Page 6, and then we'll move on.

7 MS. BROWNLESS: Yes, ma'am.

8 COMMISSIONER JABER: Do you have a copy of
9 Mr. Sweat's prefiled testimony?

10 THE WITNESS: Yes, ma'am.

11 COMMISSIONER JABER: Do you have a copy of that?

12 Take a look at that for me. Let's make sure we're all on the
13 same page, literally.

14 Page 6, Lines 17 through 20. We've established your
15 changes to Lines 17 and 18. You agreed with what I read to
16 you. Now, starting with the sentence, "I assisted in providing
17 the information needed for the application," you propose to
18 delete that sentence?

19 THE WITNESS: Yes.

20 COMMISSIONER JABER: Now, Ms. Brownless, what other
21 questions on this page? That took care of it for you?

22 MS. BROWNLESS: That sentence is deleted completely.
23 Okay.

24 COMMISSIONER JABER: Okay. Now, what was your next
25 change?

1 THE WITNESS: Page 7, Line 7, the testimony should be
2 amended to reflect that the application was signed by my
3 predecessor, Charles Sweat, on the behalf of Florida Water.

4 MS. BROWNLESS: Well, do you have language to that
5 effect? Usually when we amend testimony --

6 THE WITNESS: I can't hear you, I'm sorry.

7 COMMISSIONER JABER: Is it that you want to delete
8 the sentence on -- beginning on Line 6, "I thoroughly reviewed
9 it and signed it on behalf of Florida Water"? You want to
10 delete that sentence; is that correct?

11 MS. BROWNLESS: What do you want deleted, I guess, is
12 what we're trying to figure out.

13 THE WITNESS: I want to delete Line 7, I guess which
14 starts on the review -- "reviewed it," and in its place, just
15 state that it was prepared by my predecessor, Charles Sweat.
16 It was not prepared by me and adopted; correct?

17 COMMISSIONER JABER: Ms. Brownless, why do you need
18 anything more than that? He's adopting someone else's
19 testimony that's no longer with the company. He's clarifying
20 that he didn't prepare the application.

21 MS. BROWNLESS: Well, if he's clarifying he didn't
22 prepare the application -- I mean, usually when we do this,
23 Commissioner, we provide to the Commission the exact wording
24 that we would like substituted. I mean, it's just hard to
25 follow.

1 COMMISSIONER JABER: Okay. Mr. Tillman, take just
2 two minutes and look at Page 7, and be specific with what you'd
3 want us to insert and delete.

4 THE WITNESS: On Line 6 after the comma to the end of
5 the sentence on Line 8 delete that, and in its place, place,
6 "The application was signed by my predecessor, Charles Sweat,
7 on behalf of Florida Water."

8 COMMISSIONER JABER: Go ahead, Mr. Tillman.

9 THE WITNESS: Did I get it?

10 MS. BROWNLESS: Yes, sir. Thank you.

11 THE WITNESS: On Page 8, starting with Line 4 and
12 going through Line 5, the sentence should read, "Has decreased
13 since the filing of the application, and there is additional
14 capacity for the" ending with the end of that.

15 COMMISSIONER JABER: Any other changes, Mr. Tillman?

16 THE WITNESS: On Page 10, Line 11, it should read,
17 "Treatment plant is currently flowing at approximately
18 319,000 gallons per day." I think that does it.

19 COMMISSIONER JABER: All right. Mr. Menton.

20 BY MR. MENTON:

21 Q With those modifications, Mr. Tillman, if I asked you
22 the same questions today that are set forth in the prefiled
23 direct testimony of Mr. Sweat, would your answers be the same
24 as contained in that testimony?

25 A My answer would be yes.

1 MR. MENTON: Commissioner, I would request that the
2 prefiled direct testimony of Charles Sweat which has been
3 modified and adopted by Mr. Tillman be entered into the record
4 as though read.

5 COMMISSIONER JABER: Yes. The prefiled direct
6 testimony of Charles L. Sweat as modified and adopted by
7 John Tillman shall be inserted into the record as though read.

8 BY MR. MENTON:

9 Q Mr. Tillman, the prefiled direct testimony of
10 Mr. Sweat included two exhibits, CLS-1, which is a copy of the
11 territory expansion application submitted to the Commission,
12 and CLS-2, which is a copy of the water service agreement
13 entered into between Florida Water and the developer of the
14 Summit. Do you have any changes to either of those exhibits?

15 A No, I do not.

16 MR. MENTON: Commissioner, I would ask that Exhibits
17 CLS-1 and CLS-2 be marked as Composite Exhibit 5.

18 COMMISSIONER JABER: CLS-1 and CLS-2 shall be marked
19 as Composite Exhibit Number 5.

20 (Exhibit 5 marked for identification.)

21 BY MR. MENTON:

22 Q Mr. Tillman, could you please provide a summary of
23 your direct testimony.

24 COMMISSIONER JABER: Mr. Menton, let me ask a
25 question. We were going to take up direct and rebuttal at the

1 same time. Should we -- let's go ahead and identify all of the
2 exhibits, move all the testimony in, and then allow for the
3 summary. Is that what you all contemplated?

4 MS. CHRISTENSEN: Yes, Commissioner.

5 MR. MENTON: Okay. I'm sorry, I thought we would do
6 one at a time. That's fine. We can do it that way.

7 BY MR. MENTON:

8 Q Mr. Tillman, did you also cause to be prepared in
9 this docket rebuttal testimony dated November 30th, 2000,
10 consisting of 10 pages?

11 A I did.

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

14 A Yes. At the time I prepared the rebuttal testimony,
15 our investigation revealed that the city had not begun any
16 construction on the line extensions from then terminus of the
17 system which was approximately five miles from the Summit.
18 During the proceedings, it now appears that the city has begun
19 construction to provide service to the Garden City subdivision
20 which is approximately two and a half miles up State Route 19
21 and then along Cherry Lake Road/County Road 478. Thus, my
22 testimony on Page 3, Lines 12 through 22 should be changed.

23 In addition, my testimony on Page 4, Lines 3 through
24 18 should be modified as well. I am not completely familiar
25 with the construction undertaken by the city, but it does

1 appear that since the filing of my testimony, there has been
2 some construction of lines by the city out Cherry Lake Road to
3 the Garden City subdivision and perhaps beyond. However, I
4 have no knowledge of any city customers beyond Garden City
5 subdivision which is approximately two and a half miles from
6 the Summit.

7 I would like to change my testimony in that it
8 appears the city has not designed, permitted, or begun
9 construction on lines that would extend adjacent to the
10 requested territory. It is not clear whether or when such
11 lines could be extended to the Summit.

12 Q With that correction and update, if I were to ask you
13 the same questions today that are in your prefiled rebuttal
14 testimony, would your answers be the same?

15 A They would.

16 Q Mr. Tillman, did you also prepare supplemental
17 rebuttal testimony dated January 9th, 2001, consisting of 4
18 pages?

19 A I did.

20 Q Are there any changes to that testimony?

21 A No.

22 MR. MENTON: Commissioner, I would ask that
23 Mr. Tillman's prefiled rebuttal and supplemental rebuttal
24 testimony be inserted into the record as though read.

25 COMMISSIONER JABER: Mr. Tillman, I want to ask you a

1 question. On the changes that you made to your rebuttal, is it
2 that you would want -- you read a statement. Is it that you
3 want that statement inserted in lieu of your responses on
4 Page 3 of your rebuttal and on Page 4 of your rebuttal?

5 THE WITNESS: Yes, ma'am.

6 COMMISSIONER JABER: All right. The prefiled
7 rebuttal testimony of Mr. Tillman shall be inserted into the
8 record as though read.

9 Mr. Menton, there is an exhibit to that.

10 MR. MENTON: Yes, Commissioner.

11 BY MR. MENTON:

12 Q Mr. Tillman, I understand as part of your testimony,
13 you are sponsoring one exhibit, which is JLT-1, which is your
14 resume; correct?

15 A That's correct.

16 Q Do you have any changes to that exhibit?

17 A None.

18 MR. MENTON: Commissioner, I would ask that JLT-1 be
19 marked as Composite Exhibit 6.

20 COMMISSIONER JABER: So marked.

21 (Exhibit 6 marked for identification.)

22 BY MR. MENTON:

23 Q Mr. Tillman, could you please summarize your prefiled
24 direct rebuttal and supplemental rebuttal testimony.

25 COMMISSIONER JABER: Let me go ahead and insert the

1 supplemental rebuttal testimony into the record as though read.
2 Go ahead, Mr. Tillman.

3 MS. BROWNLESS: Excuse me. May I just clarify the
4 record for my benefit here?

5 COMMISSIONER JABER: Yes.

6 MS. BROWNLESS: So on Page 3, Lines 12 through 22,
7 we're striking that response and inserting the oral response
8 Mr. Tillman gave today?

9 MR. MENTON: Correct.

10 COMMISSIONER JABER: That's why I asked that
11 question. I wanted to be clear what it was you were trying to
12 do.

13 THE WITNESS: That's correct.

14 COMMISSIONER JABER: And it's my understanding that
15 you intend the statement and the explanation to be inserted
16 into the record in lieu of what? Let's be clear for everyone's
17 benefit, Mr. Tillman.

18 THE WITNESS: Yes, ma'am, that's correct.

19 COMMISSIONER JABER: Look at your rebuttal testimony,
20 and refer us to the pages again and to the lines.

21 THE WITNESS: Yes, ma'am. My statement is correct.
22 I'd like Page 3, Lines 12 through 22 stricken and the Page 4,
23 Lines 3 through 18 also and what I read put in its place.

24 MS. BROWNLESS: Thank you.
25

1 Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?

2 A. My name is ^{John L. Tillman, Jr.}~~Charles L. Sweat~~ and my business address
3 is 1000 Color Place, Apopka, Florida 32703.

4 Q. DID YOU PREPARE, OR HAVE PREPARED AT YOUR DIRECTION
5 AND UNDER YOUR SUPERVISION, THE TESTIMONY YOU ARE
6 ABOUT TO GIVE IN THIS MATTER?

7 A. Yes

8 Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR POSITION?

9 A. ~~I am an officer of Florida Water Services Corporation (herein referred to as~~
10 ~~I am employed by Florida Water Services Corporation~~
11 ~~"Florida Water") and serve as Senior Vice President of Business Development,~~
12 ~~(hereinafter referred to as "Florida Water" or the~~
13 ~~I am also President and Chief Executive Officer of United States Maintenance and~~
14 ~~"Company") as Vice President of Developer~~
15 ~~Management Services Group ("USMMSG"). Both Florida Water and USMMSG are~~
16 ~~Relations.~~
17 ~~subsidiaries of ALLETE Water Services ("ALLETE").~~

18 Q. WHAT ARE YOUR JOB DUTIES AS VICE PRESIDENT OF
19 DEVELOPER RELATIONS?

20 A. I am responsible for business development,
21 including internal and external growth. In that
22 capacity, I develop new connections to Florida
Water's existing systems and work to expand
existing franchises to accommodate growth in a
larger geographic area. I supervise a staff which
determines available water and wastewater capacity,
performs water demand projections and determines

1 build-out meters and ERC's as necessary to evaluate
2 growth. My responsibilities include service
3 planning to new developments. I work closely with
4 developers, engineers and other applicants to
5 provide water and wastewater service for new
6 residential and commercial constructions, including
7 preparing developer agreements.

8 Q. HOW LONG HAVE YOU BEEN AN EMPLOYEE OF FLORIDA
9 WATER?

10 A. Approximately 36 years.

11 Q. HOW LONG HAVE YOU BEEN EMPLOYED AS AN OFFICER OF
12 FLORIDA WATER?

13 A. Approximately ³~~25~~ years.

14 Q. ~~WOULD YOU PROVIDE A BRIEF HISTORY OF YOUR TRAINING~~
15 ~~AND EXPERIENCE IN THE WATER AND WASTEWATER~~
16 ~~INDUSTRY?~~

17 A. ~~My training includes Seminole Community College,~~
18 ~~Rollins College, Management Institute of Virginia,~~
19 ~~courses offered by Michigan State University and~~
20 ~~participation in numerous seminars sponsored by the~~

1 American Water Works Association. I have also
2 attended various technical seminars and classes on
3 the subject of water and wastewater facility
4 operation and management.

5 Q. ARE YOU A MEMBER OF ANY TRADE AND/OR PROFESSIONAL
6 ORGANIZATIONS?

7 A. Yes. I am President of the Florida Water Works
8 Association. I am a member of the American Water
9 Works Association, National Association of Water
10 Companies and the Pollution Control Operators
11 Association. I also serve on the Executive
12 Committee for SunTrust, NA, Seminole County Office,
13 Orlando, Florida.

14 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE A REGULATORY
15 AGENCY?

16 A. Yes. I have testified before the Florida Public
17 Service Commission, the Polk County Utilities
18 Board, and the Sarasota County Hearing Examiners on
19 various occasions. I also have testified in

1 ~~proceedings involving the Florida Department of~~
2 ~~Environmental Protection (DEP).~~

3 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS
4 DOCKET?

5 A. To explain why Florida Water filed the territory
6 amendment application at issue in this proceeding
7 and to describe Florida Water's existing franchise
8 area and the area proposed to be added to that
9 franchise area through the amendment application.

10 Q. ARE YOU FAMILIAR WITH FLORIDA WATER'S CERTIFICATED
11 SERVICE AREA?

12 A. Yes. I am familiar with Florida Water's
13 certificated service area, including its
14 certificated service area in Lake County.

15 Q. PLEASE DESCRIBE FLORIDA WATER'S EXISTING
16 CERTIFICATED AREA IN LAKE COUNTY.

17 A. Florida Water currently provides potable water
18 service to a development in Lake County known as
19 the Palisades, which includes residential units,
20 commercial areas and a golf course. In order to

1 provide service to this area, Florida Water owns
2 and operates an existing water treatment plant
3 which includes two water supply wells at a rated
4 capacity of 800 gallons per minutes each. The
5 plant has been permitted to supply a maximum daily
6 demand of 1,152,000 gallons per day. ~~The most~~ ^{The most}
7 ~~recent figures indicate that the average daily flow of Florida~~
8 ~~recent figures available indicate that the average~~
9 ~~Water's existing plant which provides service to the neighboring~~
10 ~~daily flow for the plant is approximately 395,000~~
11 ~~Palisades development is approximately 319,000 gallons per day.~~
12 ~~gallons per day.~~

10 Q. CAN YOU IDENTIFY THE DOCUMENT LABELED EXHIBIT ()
11 CLS-1?

12 A. Yes. It is the application filed with the
13 Commission by Florida Water for an extension of
14 Florida Water's service area in Lake County (the
15 "Application").

16 Q. ARE YOU FAMILIAR WITH THE APPLICATION?

17 A. Yes. ~~The application was prepared under the supervision of~~
18 ~~I caused the Application to be prepared and~~
19 ~~Charles Sweet and was filed with the Commission,~~
20 ~~filed with the Commission. I assisted in providing~~
~~the information needed for the Application and had~~
~~the Application prepared under my supervision. I~~

1 would point out that the Application represents an
2 interdepartmental effort. For example, the maps
3 were prepared by the Engineering Department, the
4 legal descriptions and certain other documents were
5 prepared by the Legal Department, and so on. After
6 preparation of the Application, ^{The application} ~~I thoroughly~~
7 ~~was signed by my predecessor, Charles Sweat, on behalf of Florida~~
8 ~~reviewed it and signed it on behalf of Florida~~
9 ~~Water~~ ^{Water}. It should be noted that the territory and
10 system maps (Appendix M to the original
11 Application) and the tariff pages submitted with
12 the Application are not included in Exhibit (____)
13 CLS-1. However, two sets of those maps and the
14 tariff pages were filed with the original
15 Application as required by the Commission's rules.

15 Q. IS THE INFORMATION IN EXHIBIT (____) CLS-1 ACCURATE
16 AND CORRECT?

17 A. Yes, to the best of my knowledge it is. I would
18 note that, since the filing of the Application, we
19 have received more specific information regarding
20 the developer's plans and needs. The updated

1 information is included in the Water Service
2 Agreement discussed below. In addition, the
3 average flow from Florida Water's Palisades plant
4 has ~~increased~~ ^{decreased} since the filing of the Application,
5 ~~but~~ ^{and} there is ~~still adequate~~ ^{additional} capacity for the
6 additional territory requested.

7 Q. ARE YOU FAMILIAR WITH THE ADDITIONAL SERVICE AREA
8 SOUGHT BY FLORIDA WATER IN THIS DOCKET (THE
9 "REQUESTED AREA")?

10 A. Yes. The Requested Area is located in Lake County,
11 Florida.

12 Q. IS THE REQUESTED AREA LOCATED NEAR FLORIDA WATER'S
13 CURRENT CERTIFICATED AREA?

14 A. Yes. The Requested Area immediately adjoins
15 Florida Water's existing certificated service area
16 in Lake County. The northwest corner of the
17 existing certificated area lies at the southeast
18 corner of the Requested Area.

19 Q. IS THERE ANY CONNECTION OR AFFILIATION BETWEEN THE
20 PALISADES, WHICH IS INCLUDED IN FLORIDA WATER'S

1 EXISTING CERTIFICATE SERVICE AREA IN LAKE COUNTY,
2 AND THE REQUESTED AREA?

3 A. Yes. The Requested Area consists of approximately
4 680 acres immediately contiguous to the Palisades.
5 Substantially all of the Requested Area is owned
6 and will be developed by the developer of the
7 Palisades. The developer has requested Florida
8 Water to provide water service to this new
9 development in the Requested Area which will be
10 known as the "Summit." The Summit is a planned unit
11 development consisting of 135 single family homes
12 with a golf course and clubhouse facility.

13 Q. HAS FLORIDA WATER ENTERED INTO AN AGREEMENT WITH
14 THE DEVELOPER OF THE SUMMIT?

15 A. Yes. Exhibit (____) CLS-2 is a copy of the Water
16 Service Agreement entered into on February 25, 2000
17 by Florida Water with the developer of the Summit.
18 Pursuant to this Water Service Agreement, Florida
19 Water has agreed to provide potable water service
20 to the Summit.

1 Q. IS THERE A NEED FOR SERVICE IN THE REQUESTED AREA?

2 A. Yes. As reflected by Exhibit C to the Water
3 Service Agreement, Florida Water has received an
4 application from the developer of the Summit
5 indicating there is an immediate need for potable
6 water service to the Requested Area.

7 Q. DOES FLORIDA WATER HAVE THE CAPACITY TO SERVE THE
8 REQUESTED AREA?

9 A. Yes. The most recent figures available indicate
10 the average daily flow from the Palisades water
11 ~~treatment plant is currently flowing at approximately 319,000 gallons~~
12 ~~treatment plant is approximately 395,000 gallons~~
13 ~~per day.~~ The permitted capacity of the plant is
14 1,152,000 gallons per day. Under the Water Service
15 Agreement, Florida Water has reserved 38,400
16 gallons per day of water capacity for the Summit.
17 Thus, there is more than enough existing capacity
18 at the Palisades plant to provide service to the
19 Requested Area.

20 Q. CAN THE REQUESTED AREA BE EASILY CONNECTED TO THE
PALISADES TREATMENT PLANT?

1 A. Yes. Under the Water Service Agreement, the
2 developer will pay for the cost of running the
3 necessary water mains from the Palisades treatment
4 plant to the Requested Area. The developer has
5 investigated the options and plans to run
6 approximately 6,700 feet of 10 to 12 inch water
7 mains from the Palisades plant across its existing
8 development to the Requested Area.

9 **Q. WHY DID FLORIDA WATER FILE THE TERRITORY AMENDMENT**
10 **APPLICATION AT ISSUE IN THIS PROCEEDING?**

11 A. The developer requested water service for its new
12 project, the Summit, which is located next to the
13 existing Palisades development. As noted above,
14 Florida Water Service already provides water
15 service to the Palisades area. Extending service
16 to the Summit can be accomplished in a timely,
17 cost-effective manner consistent with the
18 development plans.

1 Q. DOES FLORIDA WATER HAVE THE FINANCIAL AND TECHNICAL
2 ABILITY TO PROVIDE WATER SERVICE TO THE REQUESTED
3 AREA?

4 A. Yes. Florida Water has the financial and technical
5 ability to provide service to the territory it has
6 requested. Florida Water is the largest and one of
7 the most experienced investor-owned water and
8 wastewater utilities in the state. Florida Water
9 has an excellent and long history of providing
10 quality service to its customers. As reflected in
11 its 1999 Audited Financial Statements, Florida
12 Water's total net utility assets exceed \$373
13 million, its total equity capital exceeds \$105
14 million, and its net utility operating income was
15 over \$19 million. Florida Water has a staff of
16 licensed operators, engineers, accountants, and
17 professionals qualified to provide the technical
18 expertise necessary to support safe, adequate and
19 reliable service to our customers. Expanding its
20 service area to include the Requested Area is a

1 prudent business move that will allow Florida Water
2 to more fully utilize existing facilities. Granting
3 Florida Water's Application to serve the Requested
4 Area will enable the Company to expand its customer
5 base, spread its costs, and continue to grow and
6 operate its utility system in a planned, orderly
7 manner consistent with its long term corporate
8 strategy. Expansion of Florida Water's existing
9 territory in Lake County, under the jurisdiction
10 and oversight of the Commission, will be an orderly
11 and efficient way to provide service to the
12 Requested Area, and will promote the continuing
13 improvement of Florida Water's economies of scale.
14 Florida Water has the qualifications, experience,
15 capabilities and resources to provide excellent and
16 reliable service to the Requested Area and is
17 willing to assume those responsibilities.

18 **Q. IS IT IN THE PUBLIC INTEREST FOR THE COMMISSION TO**
19 **GRANT FLORIDA WATER'S APPLICATION AS REQUESTED IN**
20 **EXHIBIT (____) CLS-1?**

1 A. Yes. Granting the Application will allow for
2 extension of water service to the Requested Area in
3 a timely, economical manner. Florida Water has the
4 plant capacity to serve the immediate need for
5 service in the Requested Area in accordance with
6 the developer's plans. There will be positive
7 effects on Florida Water's existing and future
8 customers and for the community as a whole.
9 Florida Water's provision of services will be in
10 compliance with environmental regulations and will
11 allow for the development of the property in a
12 cost-efficient, timely manner. Florida Water is a
13 good corporate citizen dedicated to serving the
14 community. Florida Water generates funds for
15 governmental entities through the payment of
16 regulatory fees and taxes. Granting the Requested
17 Area to Florida Water will eliminate the need for
18 the expenditure of public funds to service the
19 Requested Area. The owners and future customers in
20 the area will have available to them the protection

1 of the Commission. The Requested Area is not
2 located within the boundaries of a city. If the
3 Requested Area was served by a city utility
4 extending lines outside city boundaries, then the
5 owners and future customers in the Requested Area
6 will not have available to them the protections
7 provided by the Commission. In fact, because the
8 owners and future customers in the Requested Area
9 would not have a vote in city elections, they may
10 not have meaningful options to express disapproval
11 of the city's operation of the utility system or
12 the rates charged by the utility.

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

14 **A. Yes.**

15

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

2 A. My name is John L. Tillman, Jr. and my business address is 1000 Color
3 Place, Apopka, Florida 32703.

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

6 A. I am an officer of Florida Water Services Corporation (hereinafter referred
7 to as "Florida Water") and serve as Senior Vice President of Business
8 Development. I am also President and Chief Executive Officer of United
9 States Maintenance and Management Services Group ("USMMSG). Both
10 Florida Water and USMMSG are subsidiaries of ALLETE Water Services
11 ("ALLETE").

12 **Q. WHAT IS ALLETE WATER SERVICES?**

13 A. ALLETE, which was formerly known as Minnesota Power Water Resources
14 Group, is comprised of various subsidiaries which provide water and
15 wastewater services or services related to the water and wastewater industry.

16 **Q. WHAT ARE YOUR PRESENT DUTIES AS SENIOR VICE**
17 **PRESIDENT OF BUSINESS DEVELOPMENT FOR FLORIDA**
18 **WATER?**

19 A. My responsibilities include all business development related activities for
20 Florida Water including acquisitions, divestitures and development of new
21 systems. My responsibilities also include investigating new business
22 opportunities in the area of water, wastewater and reuse services and working
23 with developers to insure the facilitation of prompt and efficient water and
24 wastewater utility services in new and developing areas of Florida.

25

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

2 A. I am a 1971 graduate of the University of Southern Mississippi with a
3 Bachelor of Science Degree and major in marketing. I was selected to attend
4 and did in fact attend the Syracuse University Graduate School of Sales
5 Management and Marketing in 1981-1982. Subsequently, I obtained a
6 Masters in Business Administration, with a concentration in marketing, from
7 LaSalle University in the fall of 1987.

8 **Q. CAN YOU DESCRIBE YOUR WORK EXPERIENCE?**

9 A. My work history includes: Vice President of Worldwide Sales and General
10 Manager of the Dispenser Product Group for the Fueling Components
11 Division of Dover Corporation from 1995 through 1998; Sales Engineer,
12 Manager of Federal Government Operations and, subsequently, Manager of
13 Marketing for Stanley-Vidmar, Inc., a subsidiary of Stanley Works from
14 1979 to 1989; and a number of sales related positions with the Continental
15 Group and F.L. Schwarz, Inc. from 1974 through 1979.

16 **Q. CAN YOU IDENTIFY EXHIBIT __ (JLT-1)?**

17 A. Yes. It is a copy of my resume.

18 **Q. DID YOU SUBMIT PREFILED DIRECT TESTIMONY IN THIS**
19 **DOCKET?**

20 A. No, I did not. However, for purposes of the hearing in this matter, I am
21 adopting the prefiled direct testimony and exhibits of Charles L. Sweat.

22 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

23 A. The purpose of my rebuttal testimony is to respond to specific statements
24 made by Jason L. Yarborough and Joseph A. Mittauer, P.E., on behalf of the
25 City of Groveland ("City") regarding the comparative ability of Florida

1 Water and the City to provide water service to the Summit development and
 2 to respond to Mr. Yarborough's inaccurate conclusion that customers in the
 3 Summit development would have lower rates and connection charges if water
 4 service were provided by the City.

5 **Q. HAVE YOU REVIEWED THE TESTIMONY OF MESSRS.**
 6 **YARBOROUGH AND MITTAUER REGARDING THE CITY'S**
 7 **READINESS TO PROVIDE WATER SERVICE TO THE SUMMIT**
 8 **DEVELOPMENT?**

9 A. Yes, I have.

10 **Q. DO YOU HAVE ANY COMMENTS CONCERNING THE CITY'S**
 11 **READINESS TO SERVE?**

12 A. ~~Yes. At the time I prepared the rebuttal testimony, our investigation~~
 13 ~~Yes, I do. On page 4, line 17, through page 5, line 10, of his testimony, Mr.~~
 14 ~~revealed that the City had not begun any construction on the line extensions~~
 15 ~~Mittauer discusses the City's need to construct a 12-inch water line along~~
 16 ~~from then terminus of the system which was approximately five miles from~~
 17 ~~State Road 19 and Cherry Lake Road/CR 478 to provide water service to the~~
 18 ~~Summit. During the proceedings, it now appears that the City has~~
 19 ~~Summit. Mr. Mittauer states that the City is currently constructing this line.~~
 20 ~~begun construction to provide service to the Garden City subdivision which is~~
 21 ~~He then turns around and concedes that this water line project is currently in~~
 22 ~~approximately two and a half miles up State Route 19 and then along~~
 23 ~~the bid process and will be released for construction bids "as soon as the~~
 24 ~~Cherry Lake Road/County Road 478.~~
 25 ~~permitting is secure." Due to the conflicting nature of Mr. Mittauer's~~
 26 ~~testimony, Florida Water investigated the status of construction of the line~~
 27 ~~and determined that as of the date of the filing of this testimony, construction~~
 28 ~~had not yet begun on the first line extension of approximately 2.5 miles up~~
 29 ~~State Road 19 to Cherry Lake Road/CR 478.~~

30 **Q. DO YOU CONCUR WITH MR. MITTAUER'S REPRESENTATION**
 31 **IN HIS TESTIMONY THAT THE INITIAL CONSTRUCTION OF**

**THE 12-INCH LINE TO THE GARDEN CITY SUBDIVISION
SHOULD BE COMPLETE IN FEBRUARY, 2001?**

A. ~~I am not completely familiar with the construction undertaken by No, that would seem virtually impossible. In order for the City to provide the City, but it does appear that since the filing of my testimony, water service to the Summit development, it will need to run this 12-inch line there has been some construction of lines by the City out Cherry approximately two and a half miles from its existing tie-in (point of terminus) Lake Road to the Garden City subdivision and perhaps beyond. to the Garden City Subdivision and then a second extension of approximately two and a half miles to the Summit development for a total extension length of over 26,000 feet or approximately five miles. As I previously mentioned, Summit. It appears the City has not designed, permitted, or begun Florida Water's investigation reveals that construction on the initial two and a half mile phase of the line has not yet begun. Due to the terrain that will be traversed in the construction of the line and the fact that there will be aerial construction required to bring the line over a bridge, I would expect construction of this initial two and a half mile extension to take some five to six months. From there, Mr. Mittauer and Mr. Yarborough testify that the second two and a half mile extension would take another five to six months to complete. Again, since the City would have to design, permit, construct and clear these lines, I would estimate an additional year for completion of the second extension.~~

**Q. HOW FAR WILL FLORIDA WATER HAVE TO EXTEND
FACILITIES TO SERVE THE SUMMIT DEVELOPMENT?**

A. Florida Water's distribution lines are situated immediately adjacent to the Summit development in Florida Water's Florida Public Service Commission certificated territory that includes the existing Palisades Country Club ("Palisades") system. However, due to fire flow requirements, the developer has opted to build an extension back to Florida Water's Palisades water plant

1 which is approximately 1.25 miles. This extension is at no cost to Florida
2 Water. As I previously stated, if the City were to provide water service to the
3 Summit, it would need to build roughly five miles of line to reach the
4 Summit property.

5 **Q. CAN YOU COMMENT ON FLORIDA WATER'S AND THE CITY'S**
6 **INCREMENTAL COST TO PROVIDE WATER SERVICE TO THE**
7 **SUMMIT?**

8 A. Yes. As stated previously, the extension to the Summit development will be
9 at no additional cost to Florida Water since the developer is contributing it.
10 Because Florida Water's facilities are located immediately adjacent to the
11 Summit, our incremental cost to provide service would be de minimus. The
12 City, on the other hand, would incur substantial costs for the design,
13 permitting and construction of the line required to bring the City's water
14 service to the property. Mr. Mittauer states that the cost for the second two
15 and a half mile extension of the line to the Summit property will be
16 approximately \$275,000. While I do not have any information at this time
17 to dispute that number, I question how the cost could be estimated when Mr.
18 Mittauer has already stated that the construction bidding process has not yet
19 been completed. Florida Water intends to investigate that cost estimate prior
20 to the hearing as well as potential costs of additional water facilities which
21 would appear to be necessary to bring water service over this five mile line
22 extension with adequate water pressure. In that regard, Mr. Mittauer's
23 testimony also is unclear as to whether the \$275,000 estimate that he uses
24 includes only the cost of construction or all costs that would be incurred in
25 connection with the design, permitting and construction of the second

1 approximate two and a half mile extension from the Garden City Subdivision
2 to the Summit development. Finally, I would emphasize that neither Mr.
3 Mittauer nor Mr. Yarborough included a cost estimate for the initial two and
4 a half mile extension of the 12-inch line along Cherry Lake Road/CR 478
5 from the initial tie-in point to the Garden City Subdivision. The initial two
6 and a half mile extension is an incremental cost to serve that the City will
7 incur to provide service to the Summit. Indeed, if construction were to stop
8 after the initial two and a half mile extension, there is virtually no
9 development or request for service for which the 12-inch water line would be
10 utilized.

11 **Q. AT PAGE 5, LINES 13-15 OF MR. YARBOROUGH'S TESTIMONY,**
12 **HE STATES THAT "[U]NLIKE FLORIDA WATER, THE CITY**
13 **WOULD NOT HAVE TO PERMIT OTHER WELLS WITHIN THREE**
14 **YEARS TO MEET THE PROJECTED NEEDS OF THE SUMMIT**
15 **DEVELOPMENT." WILL FLORIDA WATER BE REQUIRED TO**
16 **PERMIT OTHER WELLS WITHIN THREE YEARS TO MEET THE**
17 **PROJECTED NEEDS OF THE SUMMIT DEVELOPMENT?**

18 **A.** No, we will not. Florida Water has more than sufficient capacity currently
19 available from the water supply and treatment facilities used to provide
20 service to the existing Palisades development to meet the projected needs of
21 the Summit development over the next three years. Florida Water may
22 decide to build an on-site well to provide redundant capacity for the Palisades
23 development, additional capacity for future development in surrounding
24 areas, and to replace the use of an existing pond for purposes of meeting fire
25 flow requirements for the anticipated country club. I would add that the

1 developer's plans for the planned unit development which were approved by
2 the county include the use of the existing on-site pond to meet fire flow
3 requirements for the anticipated county club.

4 **Q. HAVE YOU REVIEWED MR. YARBOROUGH'S TESTIMONY**
5 **COMPARING THE RATES AND CHARGES OF THE CITY AND**
6 **FLORIDA WATER?**

7 A. Yes, I have.

8 **Q. DO YOU AGREE WITH THE FIGURES THAT HE HAS USED ON**
9 **PAGE 8 OF HIS TESTIMONY AND HIS CONCLUSION THAT**
10 **CUSTOMERS OF THE SUMMIT WILL ENJOY LOWER RATES IF**
11 **WATER SERVICES WERE PROVIDED BY THE CITY?**

12 A. No, I do not. On pages 7 and 8 of Mr. Yarborough's testimony, he states that
13 a customer using 5,000 gallons of water per month through a 5/8 inch x 3/4
14 inch meter would have rates that are 15.8% lower if the customer were a
15 customer of the City rather than Florida Water. Mr. Yarborough goes on to
16 state on page 8 of his testimony that the City's current connection charges are
17 7.3% less than Florida Water's connection charges for a customer who will
18 take service in the Summit development. Finally, Mr. Yarborough adds that
19 the City expects to increase its service availability charges effective October
20 1, 2000, making the alleged difference between the City's connection charges
21 and Florida Water's connection charges approximately 3.4% lower than the
22 City.

23 **Q. HAS MR. YARBOROUGH USED ACCURATE RATES AND**
24 **CHARGES IN REACHING HIS CONCLUSIONS?**

1 A. No, he has not. Speaking first to water rates, the customers of the Summit
2 development would receive water service from Florida Water under the rates
3 applicable to Florida Water's Palisades' customers. Customers of the
4 Palisades system pay a base facility charge of \$9.42 and a gallonage charge
5 of \$2.04 per 1,000 gallons. At 10,000 gallons of consumption per month,
6 the monthly bill of a Palisades' customer is \$29.82. Using the City's rates
7 applicable to customers situated outside the corporate limits (as would be the
8 case with the Summit development) which would consist of a base facility
9 charge of \$13.13 and a gallonage charge of \$3.44 per 1,000 gallons, the
10 City's bill for 10,000 gallons of consumption would be \$33.77 - - \$3.95 or
11 13.25% higher than the Florida Water bill. The Commission should keep in
12 mind that the average monthly consumption for the Palisades customers is
13 22,660 gallons per month. Using the average monthly consumption of
14 22,660 gallons per month experienced by the Palisades customers, and
15 making the reasonably conservative assumption that similar consumption
16 would be experienced in the Summit development, Florida Water's rates
17 would save customers \$21.67 per month. In other words, applying the
18 average monthly consumption of the Palisades customers to the Summit, the
19 monthly water bill for a Florida Water customer would be nearly 40% less
20 than the monthly bill if the Summit customer were to receive water service
21 from the City. I would add that the savings with Florida Water are
22 conservative estimates as the 135 lots to be developed in the Summit are
23 larger than those in the Palisades development and I would expect that
24 average monthly consumption for the Summit would be higher than that

1 experienced for the Palisades system due to anticipated increased usage of
2 water for irrigation purposes.

3 **Q. CAN YOU ALSO ADDRESS MR. YOUNG'S STATEMENTS THAT**
4 **SERVICE AVAILABILITY AND CONNECTION CHARGES FOR**
5 **THE SUMMIT CUSTOMERS WOULD BE LOWER WITH THE**
6 **CITY?**

7 A. Again, I must disagree. Our review of the current water service availability
8 and connection charges for the City indicate that there would be a plant
9 capacity charge of \$695.00, a main extension charge of \$300.00, a meter
10 installation charge of \$500.00, a deposit of \$75.00 and a service installation
11 charge of \$10.00, for a total amount of \$1,580.00 for service availability and
12 connection charges. A Florida Water customer receiving water service in the
13 Summit development would pay a \$700.00 water plant charge, a \$90.00
14 meter installation charge, a \$15.00 service plant charge, and a \$41.00 deposit,
15 for a total amount of \$846.00. Please note that previous information
16 provided to the Commission was for a typical Palisades customer. The fact
17 that the Summit will not be charged the main extension, AFPI
18 transmission/distribution and service installation charges per Florida Water's
19 agreement with the developer was inadvertently overlooked in responding to
20 Staff Interrogatory No. 7. This reduction in service availability charges is
21 customary due to the fact that the developer is installing all lines back to the
22 plant and all service taps. Based on these applicable charges, Florida Water's
23 total service availability and connection charges for water service to the
24 Summit property are approximately \$734.00 less than those of the City.

25 **Q. DOES THAT CONCLUDE YOUR REBUTTAL TESTIMONY?**

1 A. Yes, it does.

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

2 A. My name is John L. Tillman, Jr. and my business address is 1000 Color
3 Place, Apopka, Florida 32703.

4 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN THIS**
5 **DOCKET?**

6 A. Yes. On November 30, 2000, I submitted rebuttal testimony in this docket
7 on behalf of Florida Water Service Corporation ("Florida Water"). In that
8 testimony, I adopted the prefiled direct testimony of Charles L. Sweat which
9 was previously submitted on behalf of Florida Water. I also presented
10 rebuttal testimony on certain of the issues raised in the prefiled direct
11 testimony filed on behalf of the Intervenor City of Groveland ("Intervenor").

12 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL REBUTTAL**
13 **TESTIMONY?**

14 A. As noted in Florida Water Service Corporation's Motion to Strike and
15 Motion for Extension of Time to File Rebuttal Testimony on Wastewater
16 Service filed on November 28, 2000, the application filed by Florida Water
17 in this docket is for an extension of its existing service area in Lake County
18 to provide water service to a planned unit development known as the Summit.
19 The prefiled direct testimony submitted by the Intervenor raised a number of
20 issues dealing with wastewater service to the area. Florida Water sought to
21 strike that testimony and limit the issues in this docket to matters related to
22 water service. By Order PSC-00-2464-PCO-WU, the request to strike the
23 Intervenor's testimony was denied, but Florida Water was granted an
24 opportunity to submit additional rebuttal testimony to address the wastewater
25 issues raised by Intervenor. In this supplemental rebuttal testimony, I intend
26 to address three issues not covered in my earlier testimony: (1) Florida Water

1 did not include wastewater service in its application because there is no need
2 for such service. The developer has not requested wastewater service from
3 Florida Water and plans have apparently already been approved authorizing
4 development of the requested territory to proceed using septic tanks; (2)
5 Florida Water is able to provide wastewater service to the requested territory
6 if the developer needs it and Florida Water could provide such service in a
7 cost effective manner; and (3) the Intervenor's estimate of its cost to provide
8 wastewater service to the requested territory appears to be dramatically
9 understated.

10 **Q. WHY DOES FLORIDA WATER'S APPLICATION IN THIS DOCKET**
11 **NOT INCLUDE A REQUEST FOR AUTHORIZATION TO PROVIDE**
12 **WASTEWATER SERVICE TO THE REQUESTED TERRITORY?**

13 A. Florida Water has no information indicating that there is a need for
14 wastewater service to the requested territory. Absent such a need, there was
15 no reason to seek or address wastewater service in the application. Florida
16 Water's existing service area in Lake County includes territory developed by
17 entities related or affiliated with the developer of the Summit. Florida Water
18 has been working closely with the developer of the Summit to meet the needs
19 of the development. Based upon our conversations with the developer, there
20 is no need for wastewater service to this requested territory. The Summit is
21 a very low density development with approximately one dwelling unit
22 planned per five acres. The Developer has received preliminary plat approval
23 from Lake County to proceed with development using septic tanks. The
24 developer has also obtained approval from the Department of Environmental
25 Protection for its utility plan, Permit #WD 35-008-0593-010. To our

1 knowledge, there is no government mandate prohibiting or limiting the
2 developer's planned use of septic tanks for the development. Florida Water's
3 application seeks authorization to provide the only service needed in the
4 requested area.

5 **Q. COULD FLORIDA WATER PROVIDE WASTEWATER SERVICE**
6 **TO THE REQUESTED TERRITORY?**

7 A. Yes. If the developer of the Summit requested Florida Water to provide
8 wastewater service, there are several possible options. Without a specific
9 request, it is speculative as to what the best method of providing wastewater
10 service would be. However, based upon the number of units and the
11 projected water flows, one feasible approach would be to install a package
12 plant capable of providing reuse quality water. Florida Water would be able
13 to install such a plant in close proximity to the existing Florida Water
14 facilities and could meet the projected wastewater needs of the Summit at a
15 cost of approximately \$500,000. By placing the facility close to the
16 development, we would significantly minimize the piping costs.

17 **Q. HAVE YOU REVIEWED THE CITY OF GROVELAND'S**
18 **ESTIMATED COST TO PROVIDE WASTEWATER SERVICE TO**
19 **THE SUMMIT?**

20 A. Yes. Mr. Mittauer, the Intervenor's engineer, states that the cost for the
21 Intervenor to provide wastewater service to the Summit would be
22 approximately \$500,000. This figure appears to be significantly understated.
23 From the testimony, it appears that the Intervenor would have to extend its
24 lines an additional 2.5 miles to provide wastewater service to the Summit.
25 The 2.5 mile route would include bridge crossings and other difficult and

1 costly placements. Even at a conservative cost of \$25 a square foot for
2 piping alone, Mr. Mittauer's estimate seems low. In addition to the piping
3 cost, there would likely be additional costs involved with respect to lift
4 stations as well as significant engineering and permitting costs. These figures
5 do not appear to be included in Mr. Mittauer's estimate.

6 **Q. WOULD FLORIDA WATER BE ABLE TO PROVIDE**
7 **WASTEWATER SERVICE TO THE SUMMIT AT A LOWER COST**
8 **THAN THE CITY OF GROVELAND?**

9 A. Yes. There is no feasible way for the City to provide comparable wastewater
10 service to the Summit with 2.5 mile extensions at a cost that would be lower
11 than what Florida Water could provide.

12 **Q. ARE THERE ANY OTHER ISSUES WITH RESPECT TO THE**
13 **CITY'S PROPOSED WASTEWATER SERVICE?**

14 A. Yes. From the information available to us, it does not appear that the City of
15 Groveland would be able to provide reuse capability to the Summit. By
16 contrast, if Florida Water were to provide wastewater service, we would be
17 able to implement a system that would be able to provide reuse water to the
18 development.

19 **Q. DOES THAT CONCLUDE YOUR SUPPLEMENTAL REBUTTAL**
20 **TESTIMONY?**

21 A. Yes.
22

1 COMMISSIONER JABER: Okay. Mr. Tillman, your
2 summary. We mean it this time.

3 A Good afternoon. My name is John Tillman. I'm senior
4 executive vice president of business development with Florida
5 Water. In that capacity, I'm responsible for business
6 development and to work with expanding and existing franchises
7 and developing new connections in the Florida Water existing
8 systems. Florida Water is the largest and one of the most
9 experienced investor-owned water and wastewater utilities in
10 the State. Florida Water has a staff of licensed operators,
11 engineers, accountants, and other professionals qualified to
12 provide the technical expertise necessary to support safe,
13 adequate, reliable service to our customers.

14 The territory amendment application that was
15 submitted in the docket seeks to add adjoining territory to
16 Florida Water's existing franchise area in Lake County.
17 Florida Water currently provides potable water to a development
18 in Lake County known as the Palisades. The requested area
19 consists of approximately 680 acres immediately adjacent and
20 contiguous to the Palisades. The requested territory is owned
21 by an affiliate of the developer of the Palisades. The owner
22 has requested Florida Water to provide water service to the new
23 development which will be known as the Summit.

24 The Summit is a planned unit development consisting
25 of 135 single family homes with a golf course and clubhouse

1 facilities. Florida Water received an application from the
2 developer of the Summit indicating there was an immediate need
3 for potable water service to the requested area. Florida Water
4 has agreed to provide potable water to the Summit and has
5 entered into an agreement with the developer dated February,
6 25th, 2000, which is attached to the prefiled testimony of
7 Charles Sweat as Exhibit CLS-2.

8 There is sufficient existing capacity at Florida
9 Water's Palisades plant to provide service to the required
10 area. Existing service to the Summit can be accomplished in a
11 timely, cost-efficient manner consistent with the developer's
12 plans. Expansion of Florida Water's existing territory under
13 the jurisdiction and oversight of the Commission will be an
14 orderly and efficient way to provide service to the requested
15 area and will promote the continuing improvement of Florida
16 Water's economies of scale. Granting the requested area to
17 Florida Water will eliminate the need for expenditure of public
18 funds to serve the area and will provide future customers in
19 the area with the protection afforded by the Commission's
20 regulation. That conclusion my summary.

21 COMMISSIONER JABER: Thank you, Mr. Tillman.

22 Q Mr. Tillman, I believe that was the summary of your
23 direct testimony. Could you also summarize your rebuttal and
24 supplemental rebuttal testimony?

25 A This is the summary of my rebuttal testimony. The

1 purpose of my rebuttal testimony is to respond to specific
2 statements made by the city manager, Jason Yarborough, and the
3 city engineer, Joseph Mittauer, regarding the competitive
4 ability -- comparative ability of Florida Water and the city to
5 provide service to the Summit. At the time Florida Water
6 submitted its application to this docket, the closest water
7 line the city had to the requested area was approximately five
8 miles away. It appears that the city has obtained a DEP grant
9 to extend water lines out of -- out to the Garden City
10 subdivision which is approximately two and a half miles away.
11 An additional extension of approximately two and a half miles
12 from the Garden City subdivision would be necessary for the
13 city to provide service to the Summit. This will require the
14 expenditure of additional public moneys.

15 Florida Water's distribution lines are situated
16 immediately adjacent to the Summit. The developer has opted to
17 build an extension back to Florida Water's Palisades water
18 plant, and this extension will be at no cost to Florida Water.
19 Thus, Florida Water's incremental cost to provide service to
20 the Summit would be minimal.

21 I would also like to correct the mistaken contention
22 in Mr. Yarborough's prefiled direct testimony that the
23 customers of the Summit would enjoy lower rates if the water
24 service were provided by the city. Customers of the Summit
25 would receive water service from Florida Water under the rates

1 applicable to Florida Water's Palisades customers. At
2 10,000 gallons of consumption per month, the city's bill would
3 be 13.25 percent higher than Florida Water's bill. The current
4 average monthly consumption for the Palisades customers is
5 22,660 gallons per month. Using the monthly consumption, the
6 monthly water bill for a Florida Water customer would be nearly
7 40 percent less than that if the Summit were to receive water
8 from the city. Mr. Yarborough also incorrectly described the
9 service availability and connection charges --

10 MS. BROWNLESS: We would object to this summary as
11 going beyond the scope of the testimony that's been provided in
12 Mr. Tillman's rebuttal testimony. Summaries are not supposed
13 to read verbatim from the testimony. We all have the
14 testimony.

15 I would note that the summary information he's just
16 given is contained on Page 8, and I would also note that he is
17 adding additional information that's not on Page 8. So, you
18 know, summaries are supposed to be five minutes or less; right?
19 We've all read the testimony.

20 MR. MENTON: Okay. There were two objections there.
21 One of them was that it went beyond the scope of his testimony,
22 and I believe it is taken directly from his testimony, so I
23 don't believe it goes beyond there. I'm not sure what
24 additional information she's talking about, but it is on Page
25 9, and I do believe that this is an abbreviated version of it.

1 He's about finished, and he can move to his supplemental
2 rebuttal if you'd like.

3 COMMISSIONER JABER: Yeah, I'm going to overrule your
4 objection, Ms. Brownless, because you said it's outside the
5 scope but at the same time recognized it's from Page 8 --

6 MS. BROWNLESS: Well, part of it is from pages, but
7 part of it is in an addition to --

8 COMMISSIONER JABER: I'm going to overrule your
9 objection. But I am going to do this.

10 Mr. Tillman, we have read your testimony. And
11 "summary" does mean summary. It is five minutes, but he is
12 summarizing three different pieces of testimony. But,
13 Mr. Tillman, we have read your testimony. So go ahead and wrap
14 it up.

15 THE WITNESS: Okay. Thank you. Let's see. Under
16 the city's current service availability charge, a customer
17 would be obliged to pay \$1,580. By contrast, customers
18 receiving water in the Summit would have a service connection
19 charge of \$864 or \$734 less. This concludes my rebuttal
20 testimony.

21 I additionally have supplemental rebuttal testimony.
22 The prefiled testimony submitted by the city suggested that the
23 service to the Summit would be left to the city because the
24 city could provide wastewater service to the area. Florida
25 Water sought to strike that testimony and limit the issue in

1 the docket to the matters related to water service since that
2 was all that was included in the application. That request was
3 denied, so my supplemental rebuttal testimony was submitted to
4 address the issue related to wastewater service.

5 Florida Water did not include wastewater service in
6 its application because there was no need for such service.
7 The developer has already received approval to proceed with the
8 development using septic tanks. Florida Water would be able to
9 provide wastewater service to the required territory if the
10 developer needed it. Florida Water Services could provide such
11 service in a cost-effective manner.

12 While the city has extended water lines from the
13 previous terminus out Route 19 to the Garden City subdivision
14 and perhaps beyond, no such extension exists for wastewater
15 lines. Thus, the city would have to retroactively go back and
16 install wastewater lines at a cost to provide water --
17 wastewater service would appear to be dramatically understated.
18 It is also clear that whether the city could provide -- is not
19 clear whether the city could provide the reuse caliber water.
20 That concludes my statement.

21 MR. MENTON: Thank you. We would tender Mr. Tillman
22 for cross.

23 COMMISSIONER JABER: Ms. Brownless.

24 MS. BROWNLESS: Thank you.

25 CROSS EXAMINATION

1 BY MS. BROWNLESS:

2 Q Good afternoon, Mr. Tillman.

3 A Good afternoon. How are you doing?

4 Q Fine, thanks. I want to start by asking you some
5 questions about your experience prior to being employed by
6 Florida Water. Prior to being employed by Florida Water, I
7 think you testified approximately three years ago; is that
8 correct?

9 A January '98.

10 Q Yes, sir. Have you ever held any position in a water
11 or sewer public or private utility?

12 A I have not.

13 Q Do you have an engineering degree?

14 A I do not.

15 Q Do you have any certification from the state of
16 Florida that would allow you to operate a water plant?

17 A I'm sorry, operate what?

18 Q A water plant.

19 A I do not.

20 Q Do you have any certification from the state of
21 Florida that would allow you to operate a sewer plant?

22 A I'm sorry, what kind of --

23 Q A sewer, a wastewater plant.

24 A No, I do not.

25 Q Are you a member of any professional organization

1 associated with the water or sewer utility industry?

2 A I am.

3 Q And which one is that?

4 A The American Water Works.

5 Q How long have you been a member of that Association?

6 A Since my joining Florida Water.

7 Q So since 1998?

8 A (Nodding head affirmatively.)

9 Q Do you hold any positions with the American Water
10 Works Association?

11 A I do not.

12 Q Have you received any certification from the American
13 Water Works Association?

14 A I have not.

15 Q Have you had any experience in water plant design?

16 A I have not -- well, other than the experience I've
17 had over the last four years.

18 Q Okay. I mean in actually designing water plants.

19 A What is "actually designing"?

20 Q Preparing the engineering drawings.

21 A I testified earlier I do not have an engineering
22 degree.

23 Q Do you have any hands-on experience in the operation
24 of a water plant?

25 A No, I do not.

1 Q Do you have any hands-on experience in the
2 construction of a water plant?

3 A From a supervisory level, yes, but not hands-on, not
4 turning the bolts.

5 Q Do you have any hands-on experience in the
6 maintenance of a water or sewer plant?

7 A I head up a company that is called USM&M. It's U.S.
8 Maintenance and Management Services. We specialize in the
9 maintenance of industrial facilities to include water and
10 wastewater facilities. I have a staff that does -- technicians
11 that do that type of work. Plus I have engineers on staff that
12 also contribute to that type of work.

13 Q Have you personally ever operated or maintained or
14 constructed a water or sewer wastewater facilities, not your
15 employees but you personally?

16 A No, I have not.

17 Q Okay. Have you ever testified before?

18 A No, I have not.

19 Q Have you ever been accepted as an expert witness
20 before in the area of utility construction?

21 A No, I have not.

22 Q Have you ever been accepted as a witness in the
23 utility -- in the area of utility operation, maintenance, or
24 design?

25 A No, I have not.

1 Q Okay. Did you prepare and actually calculate any of
2 the numbers that are either in the testimony that you've
3 adopted from Mr. Charles Sweat or in the application filed by
4 Florida Water in this proceeding?

5 A I did not personally, but my staff did.

6 Q Okay. But you did not do that. Okay. Do you
7 consider yourself to have the expertise to make the
8 calculations that are --

9 A I'm sorry, say again.

10 Q Do you consider yourself to have the expertise to
11 make the calculations that are contained in the testimony which
12 you've adopted? An example of which would be 319,000 gallon
13 per day average daily flow.

14 MR. MENTON: I would object to that question as being
15 compound and overbroad. There is a lot of numbers in here, and
16 I don't know that the 319 is a calculation. It's simply a
17 reported number as to what the flow is. So I would object as
18 being overly broad and compound.

19 COMMISSIONER JABER: Ms. Brownless, just restate your
20 question, please.

21 BY MS. BROWNLESS:

22 Q Okay. Did you personally determine the average daily
23 flow that's reflected on Line 8, Page 6 of the testimony?

24 A I did not.

25 Q Okay. Do you consider yourself qualified to

1 calculate the rated capacity of a water treatment plant?

2 A Given the formula for the calculation, I can do the
3 math.

4 Q Do you consider yourself competent to determine which
5 formula is appropriate to apply?

6 A No, I do not.

7 MS. BROWNLESS: Commissioners, based upon the
8 responses that Mr. Tillman has given in response to my voir
9 dire questions, I do not believe that Mr. Tillman is qualified
10 as an expert in water utility planning, design, construction
11 maintenance, or operation, nor do I believe that he is
12 qualified to render an opinion as to the permitted capacity of
13 the plant. Thus, I would object to the introduction of the
14 numbers in this testimony. And I would also object to any
15 similar calculations that are contained in the associated
16 application that's found in Exhibit Number 5 and also any
17 calculations that are found in the attached water service
18 agreement.

19 COMMISSIONER JABER: There's been an objection with
20 respect to whether Mr. Tillman can testify to parts of the
21 application, Mr. Menton. What's your response?

22 MR. MENTON: Well, Commissioner, first response is, I
23 believe we already have a stipulation as to the technical
24 ability to provide the service. My second response is that
25 Mr. Tillman is the senior vice president for this company so

1 that he oversees all of these departments. And people who
2 perform these services on a daily basis report to him, and
3 their jobs are dependent upon accurately and correctly
4 performing their duties. He is a senior executive of the
5 company responsible for the company's operations and the --
6 directly responsible for the developer relationships and
7 expanding new connections as he's already testified to.

8 This application, I believe, as set forth in his
9 testimony was assembled by several people at Florida Water that
10 were done under the supervision of his predecessor. He has
11 assumed the job responsibilities of Charles Sweat who was
12 directly responsible for overseeing it. And quite frankly, I'm
13 surprised that we get to hearing to first hear about some
14 questions regarding this when we already have a stipulation
15 regarding the technical ability to provide the service.

16 MS. BROWNLESS: May I address?

17 COMMISSIONER JABER: No. Actually, we're done. I
18 would note that the objection doesn't go to technical ability.
19 It's with respect to this witness's testimony on parts of the
20 application concerning the operation, design, and planning of
21 the facilities. But saying all of that, I'm going to overrule
22 your objection, Ms. Brownless, and allow all of the questioning
23 to take place. I would note that if the application is not
24 supported, the record will speak for itself. So go on with
25 your questioning.

1 MS. BROWNLESS: And for the record, Commissioner, I
2 would like to respond for purposes of appeal --

3 COMMISSIONER JABER: Go ahead.

4 MS. BROWNLESS: -- to Mr. Menton's statements.

5 COMMISSIONER JABER: Go ahead.

6 MS. BROWNLESS: First of all, as we made very clear
7 at the prehearing conference, we have never stipulated to the
8 ability of this particular plant to provide service. We
9 stipulated in a general way to the general expertise of Florida
10 Water. We have never stipulated to the expertise of
11 Mr. Tillman. This issue was raised not originally because we
12 have absolutely no question of the expertise of Mr. Sweat, who
13 was the original witness in this case. Mr. Sweat by virtue of
14 approximately 37 years in the utility business and his on-site
15 and hands-on operation of both water and sewer plants, his
16 experience, his training, his certifications was qualified.
17 Mr. Tillman does not stand in that stead.

18 It is our position that it is the burden of Florida
19 Water to put on a witness who is competent to support the
20 numbers in the application because otherwise the numbers are
21 simply uncorroborated hearsay. So we would object. We would
22 like the record to reflect that we do not think Mr. Tillman is
23 an expert witness, and as such, we do not think that he can
24 render opinions with regard to permitted capacity of the power
25 plant or how to calculate any engineering issues associated

1 with the exhibits.

2 Having said that, we would also like to put on the
3 record that based on our objection, we would strike or deem it
4 appropriate to strike his direct testimony to the extent that
5 it offers conclusions, expert conclusions, and that would be --
6 and I'm going to use the page numbers that were there
7 previously -- all the testimony on Page 6, Lines 4 through 8.

8 MR. MENTON: Which testimony are we talking about?

9 MS. BROWNLESS: I'm talking about the direct
10 testimony now. I'm starting with the direct testimony of
11 Mr. Sweat. Page 6, Lines 4 through 9; Page 7 -- wait a minute.
12 Well, I guess we'll say Page 7, Lines 17 through Page 8, Line
13 6.

14 COMMISSIONER JABER: Ms. Brownless, get right into
15 the microphone for me.

16 MS. BROWNLESS: I'm sorry.

17 COMMISSIONER JABER: It's all right. Okay. You said
18 Page 6, Lines 4 through 8?

19 MS. BROWNLESS: Yes, ma'am.

20 COMMISSIONER JABER: Page 7, Lines --

21 MS. BROWNLESS: I guess we have to start at Page 7,
22 Line 17 through Page 8, Line 6. Page 10, the response that I
23 believe has been inserted into the record with regard to, does
24 Florida Water have the capacity to serve the requested area.
25 So that would be --

1 COMMISSIONER JABER: So Page 10, Line 11?

2 MS. BROWNLESS: Ten, Lines 9 through 8, and also Page
3 10, Lines 19 through --

4 COMMISSIONER JABER: Suzanne, I didn't hear the last
5 two minutes of what you have been saying, so --

6 MS. BROWNLESS: I'm sorry.

7 COMMISSIONER JABER: -- let me make sure --

8 MS. BROWNLESS: Okay. Back up and we'll go.

9 COMMISSIONER JABER: -- let me make sure I've got the
10 page numbers.

11 MS. BROWNLESS: Yes, ma'am.

12 COMMISSIONER JABER: Page 6, Lines 4 through 8; Page
13 7, Line 17 through Page 8, Line 6.

14 MS. BROWNLESS: Yes, ma'am.

15 COMMISSIONER JABER: Page 10, Line 11 through --

16 MS. BROWNLESS: Actually, I think it would be Page
17 10, Lines 7 through 18, Line 18. Let's see. On Page 12, Line
18 19, where it starts, "expanding," through Page 13, Line 17.
19 Page 14, let's see, Line 1 through Line 12 after,
20 "cost-efficient, timely manner," we would stop there. And that
21 is what we would delete from the direct testimony.

22 COMMISSIONER JABER: Okay. So that's a motion to
23 strike portions of the direct testimony; right?

24 MS. BROWNLESS: Yes, ma'am. And we need to identify
25 other -- you know, he's got other testimony, so unfortunately,

1 we're going to have to go through that too.

2 COMMISSIONER JABER: All right. Go ahead.

3 MS. BROWNLESS: Now, we're on the rebuttal testimony.
4 Okay. And this gets a little tricky because this was reworked,
5 but the comments that Mr. Tillman would make in response to the
6 question, do you have any comments concerning the city's
7 readiness to serve. To the extent that those comments required
8 opinion on his part as to the city's ability to serve, we would
9 ask that that be stricken.

10 MR. MENTON: What page was that? I'm sorry.

11 MS. BROWNLESS: Your response to question, do you
12 have question concerning readiness to serve, and I believe
13 Mr. Tillman has already stricken a substantial portion of that
14 and substituted it.

15 COMMISSIONER JABER: This is rebuttal, Mr. Menton,
16 Page 3, Lines 12 through 22.

17 MS. BROWNLESS: Yes, ma'am. Page 5, we would request
18 that all of this be stricken, and that would be Page 5, Line
19 8 through Page 6, Line 10; Page 6, Line 18 through Page 7, Line
20 3.

21 MR. MENTON: Page 7, I'm sorry, what?

22 MS. BROWNLESS: Page 7, Line 3. Okay. Page 8, to
23 the extent that this page contains representations as to
24 average monthly consumption, we would ask that that be
25 stricken.

1 COMMISSIONER JABER: So from lines what to what,
2 Ms. Brownless? I want to be real clear on what your request
3 is.

4 MS. BROWNLESS: Yes, ma'am. Any calculation of
5 average monthly consumption, for example, on Lines 13 through
6 14. So I guess everything that follows -- let me think here.
7 Okay. Page 8, Line 11 where it starts, "the Commission should
8 keep in mind," okay, through the end of Page 8 through Line 24,
9 and it would include the first two lines of Page 9; the first
10 two lines would also be stricken.

11 And then I think we're down to the supplemental
12 rebuttal. On Page 3, Line 8 where the sentence starts,
13 "without a specific request," we would ask that from there to
14 Line 16 be stricken.

15 MR. MENTON: I'm sorry, what page?

16 MS. BROWNLESS: It is Page 3 of the supplemental
17 rebuttal, and it's Line 8, and the sentence starts, Steve,
18 "without a specific." Do you see that? This is the
19 supplemental rebuttal. I don't think you are on the right
20 stuff. This is the last testimony that he filed.

21 MR. MENTON: Okay. I got it.

22 MS. BROWNLESS: Okay. You got it. Okay. From there
23 through Line 16. And we would ask that from Line 17 on Page
24 3 through Line 5 on Page 4 be stricken. Line 6 through Page
25 11 on Page 4 would be stricken. Line 12 through --

1 MR. MENTON: Line 6 through what? I'm sorry.

2 MS. BROWNLESS: Line 6 through 11. In other words,
3 basically, on Page 4, we would strike everything down from Line
4 1 through Line 18.

5 COMMISSIONER JABER: Okay. That concludes your
6 motion to strike; right?

7 MS. BROWNLESS: Yes, ma'am.

8 COMMISSIONER JABER: Mr. Menton, what's your response
9 to Ms. Brownless's oral motion to strike?

10 MR. MENTON: Well, Commissioner, there is a lot in
11 the motion because it covers a lot of different areas. I think
12 the response is very -- simply that as Mr. Sweat indicated in
13 his original testimony that's now been adopted, the assembly of
14 the application is an interdepartmental effort. It required
15 input from several different areas of expertise within the
16 company. Mr. Tillman is the senior management person to whom
17 all of those people report. They previously reported to
18 Mr. Sweat. Mr. Sweat was responsible for overseeing it and for
19 putting the application together. Those same people now report
20 to Mr. Tillman. I don't believe that any one person prepares
21 the application.

22 Some of these things that she's suggesting: You have
23 to be an expert to know what average daily consumption is. You
24 have to be an expert to be able to report what the average
25 daily flows are. I've never heard of that. I think it's

1 entirely appropriate for a senior management person of a major
2 corporation to be able to testify as to what the people who
3 report to him record as part of the measurements on a daily
4 basis. The average daily flows are things that go in the DEP
5 reports. The DEP reports are calculated and submitted monthly.
6 The people that prepare those reports and submit them report to
7 Mr. Tillman on a regular basis. His testimony simply
8 accumulates the information of the people who report to him.
9 He's been in that position for three and a half years now. And
10 I just find this whole notion that somehow you have to be an
11 expert to determine average daily flow to be just a red
12 herring, quite frankly.

13 COMMISSIONER JABER: Here's what I'd like to do.
14 Your previous objection, Ms. Brownless, is noted, and it was
15 overruled. For purposes of the motion to strike, though, I'd
16 like the benefit of the testimony, so I'm going to reserve
17 ruling on your motion to strike.

18 MS. BROWNLESS: Thank you.

19 COMMISSIONER JABER: I would ask Staff to prepare a
20 recommendation on the motion to strike prior to the final
21 recommendation on this. And we can talk about how that needs
22 to be done, whether it needs to be a recommendation that goes
23 to agenda or that comes back to the Prehearing Officer. I
24 think it's probably more appropriate for an agenda, but I'd
25 like to reserve ruling on that because I think the testimony

1 will assist in that decision.

2 MS. BROWNLESS: And I would just finally say that the
3 reason that opinion testimony is different than lay testimony
4 is, an expert is entitled to offer an opinion that's based on
5 data that is not contained in the record because of his special
6 skill, knowledge, or expertise. There are opinions in here
7 that the average layman cannot -- has no knowledge of. For
8 example, how to calculate the permit capacity of a water
9 treatment plant that are at issue in this case that are
10 included in the testimony which Mr. Tillman wishes to sponsor.
11 And that's why the objection is made.

12 MS. GERVASI: Commissioner --

13 MS. BROWNLESS: And Mr. Tillman has admitted that
14 he's not qualified to do such calculation.

15 MR. MENTON: Commissioner --

16 COMMISSIONER JABER: Staff.

17 MR. MENTON: I'm sorry.

18 COMMISSIONER JABER: Hang on one second.

19 Ms. Gervasi.

20 MS. BROWNLESS: And finally, just the fact that an
21 individual supervises someone with expertise does not grant the
22 person who is testifying expertise.

23 COMMISSIONER JABER: Ms. Gervasi, you have something
24 to say?

25 MS. GERVASI: Yes, Commissioners, if I may. This is

1 Rosanne Gervasi, appearing on behalf of Staff. We'd be happy,
2 of course, to provide the memorandum. As a suggestion, perhaps
3 Mr. Tillman could be tendered as an expert in utility systems
4 management. I agree that you've got to be an expert in order
5 to provide opinion testimony. I don't think there's any
6 question that he's an expert. There's question as to whether
7 he is an expert in engineering matters. I think he supervises
8 engineers, and to that extent, as a manager, he is an expert in
9 maybe a broad utility systems management capacity and, as such,
10 should be able to provide opinion testimony. And the
11 engineering testimony could be given the weight that it
12 deserves -- that you deem that it deserves.

13 COMMISSIONER JABER: Yeah, I want to go forward. I
14 want Mr. Tillman to testify. But, Ms. Brownless, I'm also
15 listening for your questions because you raise very good points
16 with respect to whether he can testify on matters related to
17 utility engineering, and the benefit of the testimony, if you
18 are correct, should establish your point. So my preference is
19 to go forward and reserve ruling on the motion for a later
20 time. Commissioners, and I don't mean to leave you out, do you
21 have any comments within that regard?

22 COMMISSIONER PALECKI: I think that's an appropriate
23 way to proceed. And I also would like to hear the benefit of
24 the testimony and move forward because we are kind of getting
25 bogged down.

1 COMMISSIONER JABER: Mr. Menton.

2 MR. MENTON: Commissioner, the only point that I was
3 going to make in addition to this -- and I agree, it is time to
4 move on but -- is that this application doesn't require or
5 doesn't call for a new water plant, a new wastewater plant,
6 et cetera. And that's -- you know, I think what he's reporting
7 is that as the manager of the company, they have made an
8 assessment as to what the daily flows are at their existing
9 plant, what the needs are for -- to provide service to this new
10 area, and he's reporting from a management standpoint as to how
11 the company would proceed in providing such service.

12 COMMISSIONER JABER: And you'll attempt to address
13 that in redirect; right? Okay. Let's move on.

14 MS. BROWNLESS: Thank you.

15 BY MS. BROWNLESS:

16 Q Now, I'm looking at Page 6 of your testimony. This
17 is the direct testimony, Mr. Tillman, your initial testimony
18 filed by Mr. Sweat or prepared by Mr. Sweat. And I want to
19 establish the permitted supply capacity of the water treatment
20 facility of the Palisades plant according to this testimony is
21 1.152 million gallons per day; is that correct?

22 A I'm sorry, is that on Page 6?

23 Q I'm on Page 6, Line 6. The plant has been --

24 MR. MENTON: This is Charles Sweat's testimony?

25 MS. BROWNLESS: This is the original direct

1 testimony, I'm sorry.

2 A That's correct.

3 Q Okay. Can you tell me how this number has been
4 calculated?

5 A I'm sorry, say again.

6 Q Does it help if I look at you?

7 A What we're doing, we're getting the echoes off this
8 thing, and everything sounds reverberated coming back across
9 here.

10 Q Is it better if I do it this way?

11 A Yeah, probably.

12 Q Okay. Can you tell me how this 1.152 gallon per day
13 permitted capacity for the water treatment plant was
14 calculated?

15 A That was taken directly from the consumptive use
16 permit.

17 Q Okay. I want to turn to -- if I can find it -- the
18 application that you filed, and I think this is what's been
19 identified as CLS-1. Can you find that, please. And I want
20 particularly to look at Exhibit E. And I think it's on -- the
21 Bates number down at the bottom of the application is 000013.

22 A 13?

23 Q Yes, sir. It is identified as Exhibit E-1. Do you
24 have that before you?

25 A Yes, I do.

1 Q Okay. Now, can you find on this -- is this, first of
2 all -- and I'm looking now at that very first page -- the
3 consumptive use permit associated with the Palisades plant?

4 A At the top, obviously, it states that it is a
5 consumptive use permit, and the location it says, "Lake County,
6 Palisades."

7 Q Okay. And you provided this in response to the
8 question on Exhibit E, Page 11, if you go back in the Bates
9 numbers. Can you turn backwards? And I'm going to read the
10 question here. "The numbers and dates of any construction or
11 operating permits issued by the Department of Environmental
12 Protection for the system proposed to be expanded;" is that
13 correct? So in response to that question, you provided the
14 consumptive use permit on Page 13; right?

15 A That was enclosed in the application as a response to
16 that.

17 Q Okay. Now, is this the only consumptive use permit
18 associated with the Palisades water plant?

19 A Yes, I believe so.

20 Q And I believe that this permit was issued in 1997; is
21 that correct?

22 A Yes.

23 Q It's at the top of the page. Okay. And this permit
24 is good for ten years; is that right?

25 A Yes.

1 Q I want to turn now to the data that's contained on
2 Page 17 of that permit. Okay. And if you look at Paragraph
3 16 -- are you on that page?

4 A Yes.

5 Q -- it indicates that the maximum annual groundwater
6 withdrawals from Wells A and D will not exceed
7 127.75 million gallons; is that true?

8 A That is true.

9 Q Okay. And 17, right below it, indicates that the
10 maximum daily groundwater withdrawals from Wells A and D must
11 not exceed 0.674 million gallons per day; is that right?

12 A That's correct.

13 Q And that would be 647,000 gallons per day, correct,
14 if you convert it from millions to thousands? You just move
15 the decimal over three places.

16 A That's correct.

17 Q Okay. Can you show me on this permit where the
18 number in your testimony, the 1.152, is stated?

19 A No, I cannot.

20 Q Okay. Would you agree with me that this -- that the
21 permitted capacity of a water plant is --

22 A I'm sorry, I can't hear you.

23 Q Would you agree with me that the permitted capacity
24 of this water plant is a calculated number? It's not in the
25 permit.

1 MR. MENTON: Object to -- I'm not sure what she means
2 by that, "calculated number."

3 Q Okay. Would you agree that an engineer would
4 calculate the permitted capacity of this plant based upon a
5 formula?

6 MR. MENTON: I'm going to object to that question
7 too. I'm not sure what --

8 MS. BROWNLESS: Okay. We'll withdraw that and say
9 this.

10 BY MS. BROWNLESS:

11 Q How many wells are at your water treatment plant?

12 A There's two wells there.

13 Q What is the gallon per minute capacity of those
14 wells? Do you know?

15 A If I recall correctly, approximately 800 gallons per
16 minute per well.

17 Q Okay. If one were to take -- if one were to remove
18 one of those wells that's an 800 gallon per minute well and
19 multiply that times 1,440 minutes per day, is the figure that
20 would be arrived at the 1.152 MGD?

21 A I don't have a calculator in front of me.

22 COMMISSIONER JABER: You mean you can't do that in
23 your head either?

24 THE WITNESS: No.

25 A That's 1.125.

1 Q Okay. 125?

2 A I'm sorry, 152. My dyslexia --

3 Q Okay. And that would be the number that you are
4 showing on Line 6 of your testimony; correct?

5 A That's correct.

6 Q Does the Palisades plant have an elevated storage
7 tank?

8 A It does not.

9 Q Does it have a high service capacity pump?

10 A No.

11 Q Okay. Does it have a hydropneumatic tank?

12 A Yes.

13 Q What is the size of that tank?

14 A I do not know.

15 Q Under the circumstances you've just described, would
16 it be appropriate to divide the 1.152 MGD number that you've
17 calculated by 2 to get a permitted capacity of 576,000 gallons
18 per day?

19 A That's the standard by which, I believe, DEP applies
20 to capacity.

21 Q I'm sorry, I don't understand your response.

22 A There's a redundancy requirement in supplying water.
23 And the redundancy requirement, if you were going to take the
24 total capacity of both wells and divide by two, you would come
25 up with that number; correct?

1 Q Would you come up with the 576,000 gallons per day?
2 Is that your response? Would you like me to restate my
3 question?

4 A Yes, probably. Thank you.

5 Q Sure. Okay. You've calculated -- you've taken the
6 800 gallons per minute, you've multiplied it by 1,440 minutes
7 per day, and come up with the 1.152 gallons per day that's
8 reflected on Line 6 of your direct testimony; correct?

9 A That's correct.

10 Q Okay. Now, because the --

11 A That's for one well.

12 Q Yes.

13 A Okay.

14 Q Okay. Now, you have -- you testified you have no
15 elevated storage tank.

16 A That's correct.

17 Q You've testified you have no high service water
18 capacity pumps.

19 A Correct.

20 Q You have a hydropneumatic tank, but you don't know
21 what size; correct?

22 A Correct.

23 Q Would it be appropriate under those circumstances to
24 divide the 1.152 gallons per day by 2 in order to reach a
25 permitted capacity of 576,000 gallons per day?

1 MR. MENTON: I'm going to object to the question.
2 Appropriate for what? I mean, I'm not sure what -- I object to
3 the form of the question.

4 Q That would be the maximum -- the formula to apply to
5 reach the maximum plant capacity for this water treatment
6 plant?

7 COMMISSIONER JABER: So the objection was as to the
8 form of the question. You are rewording it? What's your
9 response? Are you responding by rewording the question?

10 MS. BROWNLESS: I'm sorry, I didn't get his
11 objection.

12 MR. MENTON: That's what my objection was, to the
13 form of the question.

14 MS. BROWNLESS: It is now; right, Steve?

15 MR. MENTON: It is now, that's right. I'm adopting
16 it.

17 BY MS. BROWNLESS:

18 Q Okay. Due to the fact -- we've established that you
19 have no storage tank. We've established that you have no high
20 capacity service pump. We've established that you have no
21 hydropneumatic tank -- you have a hydropneumatic tank, but you
22 don't know how big it is; right? Given those facts, is the
23 appropriate formula, the standard and accepted engineering
24 formula, to compute capacity, maximum plant capacity, for this
25 plant to divide the 1.152 by 2 to reach 576,000 gallons per

1 day?

2 A You're still just talking about one well. There are
3 two wells on location.

4 Q Can you answer the question yes or no, and then
5 explain?

6 A Ask the question again, please.

7 Q Okay. Do you want me to start from the top?

8 COMMISSIONER JABER: Is it that you don't understand?

9 THE WITNESS: I'm not sure what the question is.

10 COMMISSIONER JABER: All right.

11 THE WITNESS: If you take the number and divide it by
12 two, yes.

13 BY MS. BROWNLESS:

14 Q The question is: Should you take this
15 1.152 million gallons a day that you have calculated and divide
16 it by 2 to reflect the appropriate maximum permitted capacity
17 of this plant because you do not have an elevated storage tank,
18 you do not have a high service capacity water pump, and you
19 have a pneumatic, but you don't know the amount of capacity?
20 Yes or no?

21 MR. MENTON: Commissioner Jaber, I would object at
22 this point. Mr. Tillman is not an engineer, and he hasn't been
23 offered to present engineering testimony. He's been offered as
24 a senior executive of the company who is here to testify that
25 the engineers who work for the company have advised him that

1 they have such and such permitted capacity which is adequate to
2 provide service. In terms of what -- how you go about doing
3 specific engineering calculations, he's not an engineer. I
4 don't think it's fair to ask him that question.

5 COMMISSIONER JABER: So is your objection that these
6 lines of questioning go beyond the scope of his testimony?

7 MR. MENTON: Yes.

8 COMMISSIONER JABER: Okay. Ms. Brownless, what's
9 your response to that?

10 MS. BROWNLESS: My response to that is, I believe
11 that Mr. Tillman, or whoever Florida Water is going to put on
12 the stand, should be able to substantiate the numbers that
13 they're testifying to.

14 COMMISSIONER JABER: Okay. Ms. --

15 MS. BROWNLESS: And my question is, given those
16 factors, should that number be divided by two?

17 COMMISSIONER JABER: Yeah. It is a fair question,
18 and I'm going to allow it.

19 But, Mr. Tillman, if you don't know the answer, just
20 say so, and if you don't understand the question, just say so,
21 and we'll ask Ms. Brownless to restate it.

22 Now, Ms. Brownless, I think you've asked that
23 question several times, so if he doesn't know it --

24 MS. BROWNLESS: Well, then may he respond on the
25 record whether he knows it or not?

1 COMMISSIONER JABER: Commissioner Palecki.

2 COMMISSIONER PALECKI: I'd like to ask just to try to
3 clarify the question in my own mind.

4 MS. BROWNLESS: Yes, sir.

5 COMMISSIONER PALECKI: It's my understanding that
6 there are two wells.

7 MS. BROWNLESS: Yes, sir.

8 COMMISSIONER PALECKI: Is it your question that with
9 the limited equipment that they have that because there are two
10 wells, is it necessary to take the number and divide it by 2?
11 Is that the gist of the question?

12 MS. BROWNLESS: The gist of the question is, given
13 the fact that there's no elevated storage tank, no high service
14 water capacity pumps, and a hydropneumatic tank of who knows
15 what size, is it good engineering practice, is it the standard
16 in the industry, to take the 1.152 gallon per day number that
17 he's reported here and divide it in half in order to get the
18 maximum permitted capacity of the plant? And Mr. Tillman can
19 say it is, it isn't, or he doesn't know.

20 COMMISSIONER JABER: Mr. Tillman, what is the answer
21 to that question?

22 THE WITNESS: I do not know.

23 BY MS. BROWNLESS:

24 Q Mr. Tillman, I want to hand you --

25 MS. BROWNLESS: We'd like the record to reflect that

1 these are monthly operation reports for the Palisades Number
2 579 water plant that were provided to us in -- as a late-filed
3 deposition exhibit associated with Mr. Tillman's deposition.

4 Q Can you look through those documents and verify that
5 those are the documents that were provided?

6 A I'm sorry, what was the source of these documents?

7 Q These are documents that were provided in response to
8 your late-filed deposition exhibit. They are monthly operating
9 reports for the Palisades plants for the months of May 2001,
10 January 2001, and February 2001.

11 MR. MENTON: So you have three, January and --

12 MS. BROWNLESS: These are what you gave me, Steve.

13 MR. MENTON: I don't remember. February and May?

14 MS. BROWNLESS: I have January, February, and May.

15 In addition to these, you provided worksheets for March and
16 April, which I can also produce if you want me to, Steve.

17 COMMISSIONER JABER: Mr. Menton, what is your
18 question? Are you --

19 MR. MENTON: Well, I'm just trying to --

20 Commissioner Jaber, just -- I was trying to understand because
21 there were additional documents that were produced. And just
22 so the record is clear, what happened is, during Mr. Tillman's
23 deposition, she asked for the most recent operating reports,
24 and I obtained those through the engineering department. I'm
25 not sure Mr. Tillman even saw them. They did not come directly

1 from him. I provided them to counsel as a late-filed exhibit
2 to his deposition, but I did not think that this was the
3 complete set, and that was what I was trying to verify.

4 COMMISSIONER JABER: All right.

5 MS. BROWNLESS: And we're going to pass out now the
6 worksheets. These are not monthly operating reports. These
7 are worksheets, and I want to note for the record, Steve, that
8 the calculations at the bottom in handwriting were not on the
9 original documents. What was on the original documents was
10 simply the typed portion, and that it's these two combinations
11 of documents, the MORs we've just identified plus these two
12 worksheets, which were provided in response to the deposition
13 exhibit. And I'll pass them out.

14 BY MS. BROWNLESS:

15 Q Have you had an opportunity to examine --

16 A I'm sorry, say again.

17 Q I'm sorry. Have you had an opportunity to examine
18 these monthly operating reports?

19 A I have looked through them. There seems to be three
20 reports here.

21 Q I want to direct your attention to the line that
22 says, "Permitted maximum day capacity of plant." Do you see
23 that line, Mr. Tillman?

24 A Yes, I do.

25 Q Can you read into the record what that states?

1 A "576,000 gallons per day."

2 Q And can you verify that that is the number written
3 here for the maximum day capacity of the plant for each month
4 here: January, February, and May of 2001?

5 A On the three reports that you gave me that reflects
6 those dates, yes.

7 Q And this monthly operating report is for the
8 Palisades plant; correct?

9 A That's correct.

10 Q Okay. And it is -- the maximum day capacity of the
11 plant was calculated by an employee of Florida Water, is that
12 correct, in this case for January of 2001, Mr. Will Fontaine?

13 A I'm sorry, was it calculated --

14 Q In other words --

15 A That is the permitted capacity.

16 Q Will Fontaine filled this form out, didn't he?

17 A The only reason I hesitate to answer is because
18 there's no signature on it.

19 Q Well, do you have any reason to believe that
20 Mr. Fontaine, whose name is at the bottom of the page, did not
21 fill out this form?

22 A I have no reason to believe that.

23 Q Okay. Is this the form that you provided to the
24 Department of Environmental Protection, to your best knowledge
25 and belief?

1 A To the best of my knowledge, this is the form that is
2 provided to EPA on the monthly operating reports.

3 Q Okay. Do you have any reason to believe that the
4 report for February 2001 and the report for May 2001 were also
5 not completed by an employee of Florida Water?

6 A I do not.

7 Q Okay. And do you have any reason to believe that
8 they were also not provided to DEP in the regular course of
9 events?

10 A I have no reason to believe they were not provided.

11 Q Mr. Tillman, I want to hand you another package. And
12 this package on the front page says, "Department of
13 Environmental Protection, Monthly Operation Report for Public
14 Water Systems," and it's dated December 2000; is that correct?

15 A That is correct.

16 Q And it also indicates that this is with regard to the
17 Palisades 579 plant; is that right?

18 A That is correct.

19 Q If I look at the permitted maximum day capacity of
20 plant on this report --

21 MR. MENTON: Commissioner Jaber, if I could, just a
22 second. I'm not sure where these documents came from because I
23 don't believe that these are ones I produced to Ms. Brownless.

24 MS. BROWNLESS: We're going to get to that. Will you
25 give me a minute here, please.

1 MR. MENTON: Okay. Well, they're not --

2 COMMISSIONER JABER: Ms. Brownless, he's entitled to
3 raise objections or questions.

4 MS. BROWNLESS: Yes, ma'am.

5 COMMISSIONER JABER: So I think his question is --

6 MS. BROWNLESS: Well, let me ask a question, then --

7 COMMISSIONER JABER: Why don't you just answer his
8 questions and then go on, which is, where did this document
9 come from?

10 MS. BROWNLESS: This came from the Department of
11 Environmental Protection from the central district drinking
12 water section. Across the top of the page, the fax is on here.

13 COMMISSIONER JABER: Okay. Mr. Menton, I think she
14 was about to lay the foundation. I think the questions were
15 getting there, and you can renew objections as we go forward.
16 Go ahead, Ms. Brownless.

17 MS. BROWNLESS: Thank you.

18 BY MS. BROWNLESS:

19 Q These were also signed by -- or the name at the
20 bottom of the page is Will Fontaine; is that correct?

21 A That is correct.

22 Q And that's the same operator who was on the monthly
23 operating reports we just discussed; correct?

24 MR. MENTON: Commissioner, if I might interject my
25 objection, please.

1 MS. BROWNLESS: Yes, sir.

2 MR. MENTON: The problem that I have is that these
3 are not documents that were produced during discovery, and
4 they're not documents that were presented to me to determine
5 whether they are authentic or not. They are being put out here
6 for the first time today. I don't know where these came from
7 or if they are authentic, so I've got a problem presenting them
8 and asking him to verify that Mr. Fontaine saw these or did
9 those. We don't even know where they came from. You know, the
10 surprise of this -- they may be DEP documents, I don't know.
11 We didn't produce them to her, I know, because she didn't ask
12 for them. If she had asked us in advance, we could have pulled
13 the appropriate ones and confirmed, you know, whether or not
14 these were correct. But to pull them out at the hearing when
15 they haven't previously been produced, I think, is unfair.

16 COMMISSIONER JABER: Here's the thing, though,
17 Mr. Menton. It's cross examination, and she's entitled to find
18 documents that she wants, and you, for that matter, when you
19 cross examine her witnesses, documents that are intended to
20 impeach a witness during cross examination. Now, if the
21 witness is unfamiliar with the document, he or she can say
22 that. And if a witness cannot answer the questions, he or she
23 should say that.

24 And if you need time to review the document yourself,
25 we can give you time to review the document, but it has not

1 been -- I don't think Ms. Brownless has yet established, at
2 least from my ears, she hasn't established or tried to the
3 authenticity of this document or his familiarity with it, so --

4 MR. MENTON: And that's correct, Commissioner. And I
5 think that's an astute observation. I think what my objection
6 really is, is that she hasn't laid a predicate yet. And before
7 she starts asking questions, the fair thing to do is, are you
8 familiar with these documents, and then we can go from there,
9 and then we get the predicate out first.

10 COMMISSIONER JABER: That's a good point, Mr. Menton.

11 MS. BROWNLESS: I'll certainly do that.

12 COMMISSIONER JABER: Thank you, Ms. Brownless.

13 BY MS. BROWNLESS:

14 Q Have you had an opportunity to look at the first page
15 of this document, Mr. Tillman?

16 A I have looked at the first page in that it's got our
17 name on it and that's it.

18 Q Are you familiar with this document?

19 A No.

20 Q Do you have any reason, other than the fact you have
21 not checked your records, to believe that this document is not
22 the December 2000 copy -- we're entitled to ask that, Steve --
23 of your monthly operating report?

24 A You've got to say it again, please. Your sidebar
25 comment interrupted my train of thought.

1 Q Do you have any reason, as we sit here today, to
2 question the authenticity of this document?

3 MR. MENTON: I would object as being an improper
4 predicate question. That's not the way to lay a predicate for
5 a particular document. He hasn't been able to identify it.

6 COMMISSIONER JABER: Ms. Brownless.

7 MS. BROWNLESS: We're entitled to ask the witness
8 whether he's reviewed the document. He says he has. Do you
9 recognize this document? I don't know even know -- we've
10 quibbled about this -- whether he's answered that question or
11 not.

12 BY MS. BROWNLESS:

13 Q Do you recognize it, Mr. Tillman?

14 A No, I do not.

15 Q Okay. Cool. Skipping the first page for a second,
16 Mr. Tillman, have you had an opportunity to examine this
17 document? Can you examine the document that I just handed you?

18 A I've examined it.

19 Q Have you had a chance to examine this document?

20 A Yes, I have turned through the pages of it.

21 Q This document is labeled, "Florida Water Service
22 Corporation's Notice of Service of Responses to Staff's
23 First Request for Production of Documents." Are these the
24 documents that you've produced to -- a true and correct copy of
25 the documents that you produced to the Florida Public Service

1 Commission Staff?

2 MR. MENTON: Commissioner, I would have to object at
3 this point. The document production request itself indicates
4 who from Florida Water responded to it. It was Ying Lee and
5 Eric Teittinen. This witness -- you know, I think it's unfair.
6 This is done during the discovery process leading up to the
7 hearing. And we've specifically identified the employees who
8 prepared and assembled these documents. If Ms. Brownless
9 wanted to depose these people to ask questions about it, she
10 had plenty of opportunity to do so. These documents were
11 produced in July of 2000. And if she wants to ask who Ying Lee
12 and Eric Teittinen are and whether to the best of his knowledge
13 they produced documents in response to discovery requests, then
14 that's appropriate, but to ask him whether these are the
15 documents of two witnesses who aren't here produced is unfair.

16 COMMISSIONER JABER: Ms. Brownless.

17 MS. BROWNLESS: At Commission proceedings, it has
18 been common practice for the utility witness -- now, we've only
19 had two utility witnesses here, Mr. Perry and Mr. Tillman, to
20 verify documents produced to the PSC. These are documents
21 signed by Mr. Menton. These are documents produced. I don't
22 think it is my responsibility to depose Mr. Ying Lee or
23 Mr. Tei-- I don't even know how to say this man's name --

24 MR. MENTON: Teittinen.

25 MS. BROWNLESS: How do I say it?

1 MR. MENTON: Teittinen, I think.

2 MS. BROWNLESS: -- for the purpose of identifying
3 materials produced pursuant to discovery. I would be happy to
4 ask --

5 COMMISSIONER JABER: Ms. Brownless, let me ask you
6 all a question, and then I'll let you finish.

7 MS. BROWNLESS: Yes, ma'am.

8 COMMISSIONER JABER: I don't want to open up any new
9 doors, but is it possible that the monthly operating reports
10 can become a stipulated exhibit?

11 MS. BROWNLESS: I would love to stipulate them in as
12 an exhibit. They were produced in response to a Staff
13 interrogatory. They are what they are.

14 COMMISSIONER PALECKI: Mr. Menton, you acknowledged
15 that this is your signature, and this is the document that you
16 produced?

17 MR. MENTON: It looks like my signature. I have not
18 a chance to go back and look, but I assume -- I would give
19 Ms. Brownless --

20 COMMISSIONER PALECKI: I don't understand why
21 Ms. Brownless just can't ask her questions instead of trying to
22 find out all about the document. Get to the point.

23 BY MS. BROWNLESS:

24 Q Okay. All I want to say is, these are monthly
25 operating reports produced by Florida Water; correct?

1 MR. MENTON: Commissioner, could we rephrase the
2 question to say that Florida Water produced monthly operating
3 reports during discovery as part of this proceeding? And then
4 I'll work with her, and we'll figure out what they are, and I
5 will stipulate them as an exhibit if you want.

6 COMMISSIONER JABER: All right. But let me go back
7 to my original question. If we identify the monthly operating
8 reports as a stipulated exhibit, would that take care of some
9 of your questions?

10 MS. BROWNLESS: Yes. I want them in as an exhibit,
11 and I have one question to ask, and it's a very simple one.

12 COMMISSIONER JABER: That's what we're going to do.
13 So let me be clear on what monthly operating reports need to
14 become a composite exhibit, and that's the way we will handle
15 it. So which should they be, Ms. Brownless and Mr. Menton?

16 MS. BROWNLESS: We were going to go back and
17 authenticate the ones that we originally passed out and make
18 this as a composite exhibit. And we're happy to do that at
19 that time if you wish.

20 COMMISSIONER JABER: Well, Mr. Menton --

21 MS. BROWNLESS: Can you also stipulate to the
22 composite --

23 MR. MENTON: I will stipulate when I have a chance to
24 sit down and review them that we produced documents in response
25 to the request at the deposition. And I'll go through them

1 with her and figure out what they are, and we'll stipulate them
2 in.

3 MS. CHRISTENSEN: I have --

4 COMMISSIONER JABER: We'll do it this way. Go ahead.

5 MS. CHRISTENSEN: I was going to have a suggestion.

6 COMMISSIONER JABER: Yes.

7 MS. CHRISTENSEN: Because we know there were certain
8 reports that were produced pursuant to the production of
9 document requests, there are certain additional reports that
10 were produced pursuant to the deposition, we would ask that all
11 of those monthly reports become a composite exhibit.

12 COMMISSIONER JABER: That's what I was going to do,
13 actually.

14 MS. BROWNLESS: Yes, ma'am, and that would be
15 Exhibit 7.

16 COMMISSIONER JABER: Exhibit 7 will be a composite
17 exhibit of all of the monthly operating reports that were
18 produced as a late-filed exhibit to whose --

19 MS. BROWNLESS: Mr. Tillman's deposition.

20 COMMISSIONER JABER: -- Mr. Tillman's deposition.

21 That's Composite Exhibit Number 7. Now, let me be clear,
22 Ms. Brownless. Are the monthly operating reports produced as a
23 response to POD it looks like Number 1 from Staff? Are those
24 different?

25 MS. BROWNLESS: Yes, ma'am.

1 COMMISSIONER JABER: Okay. Then that will be
2 Composite Exhibit 8, and those are the monthly operating
3 reports produced to Staff's First Request for POD Number 1.
4 Commissioners and I want to be clear on the two documents that
5 you handed out, Ms. Brownless. We have taken care of those by
6 saying whatever the late-filed --

7 MS. BROWNLESS: This is Exhibit Number 7, and it
8 includes the two long sheets.

9 COMMISSIONER JABER: Great.

10 MS. BROWNLESS: This is Exhibit Number 8.

11 COMMISSIONER JABER: Ms. Brownless is representing to
12 us that the two documents she handed out today in cross
13 examination are part of the monthly operating reports that were
14 produced as a late-filed exhibit to Mr. Tillman's deposition.

15 COMMISSIONER BAEZ: So that includes the ones that
16 were not produced either as a response to what --

17 MS. BROWNLESS: No, we're not identifying those.

18 MR. MENTON: No, I think she tossed those.

19 COMMISSIONER BAEZ: Okay.

20 MS. BROWNLESS: I mean, I would like to get those in
21 the record if -- what I would really like to do is get all of
22 these MORs in the record because that would give us a complete
23 MOR record for the last two years.

24 COMMISSIONER JABER: That's what I was talking about.

25 MR. MENTON: And, Commissioner, I think the problem

1 is, what happened is, the POD response was sent out in July,
2 and we had produced the 12 most recent months, which is
3 Exhibit Number 8, and then during Mr. Tillman's deposition in
4 June of this year, she asked for the most recent six months,
5 and we gave her the most recent six months. And apparently,
6 the other documents that you have would be the July to whatever
7 six-month period, and --

8 COMMISSIONER JABER: You guys please -- we have so
9 much trouble hearing you already, and when you talk over each
10 other, it's so difficult. Here's what we're going to do. We
11 are going to take a 15-minute break for the court reporter.
12 When we get back, I want you all to list for me the monthly
13 operating reports by month you want identified in Exhibit 7 and
14 what you want identified for Exhibit 8. When we get back, we
15 will clear up the record. And let's not interrupt each other
16 anymore. It's so frustrating for me. I can't imagine what the
17 court reporter is going through. We're going to take a
18 15-minute break.

19 (Brief recess.)

20 COMMISSIONER JABER: Let's go ahead and get started.
21 Ms. Brownless, you and Mr. Menton were going to agree on what
22 Exhibit 7 and 8 should be related to the MORs.

23 MS. BROWNLESS: Yes, ma'am. Exhibit Number 7 will
24 consist of the monthly operating report for January 2001,
25 February 2001, May 2001 spreadsheets produced by Florida Water

1 for March of 2001 and April of 2001, all of which were produced
2 as a deposition exhibit to Mr. Tillman's -- a deposition
3 exhibit to Mr. Tillman's deposition.

4 Exhibit 8 shall consist of the entire response to
5 Staff's request for production of documents -- first request
6 for production of documents. And that contains the monthly
7 operating reports for the Palisades system from July of
8 1999 through June of 2000. It also contains the one-page
9 response to the request for productions of documents number
10 2 just because it's easier, you know, to put it all in as one
11 group.

12 COMMISSIONER JABER: Okay. Those exhibits are so
13 marked.

14 (Exhibits 7 and 8 marked for identification.)

15 MS. BROWNLESS: Thank you.

16 COMMISSIONER JABER: Continue with your cross
17 examination.

18 MS. BROWNLESS: Thank you, sir.

19 BY MS. BROWNLESS:

20 Q With regard to the documents that have been
21 identified as Exhibit Number 7, do you have those, Mr. Tillman,
22 the ones we just talked about that look like this? And do you
23 have the long sheets that go with them? Okay. Are these
24 documents -- are these true and correct copies of the monthly
25 operating reports, to the best of your knowledge and belief?

1 A They are, to the best of my knowledge.

2 MS. BROWNLESS: And we're going to stipulate them in
3 as exhibits.

4 COMMISSIONER JABER: That's what I did because I
5 thought we would avoid some cross examination this way.

6 MS. BROWNLESS: Thank you. I'm delighted.

7 COMMISSIONER JABER: I'm sure you didn't mean to do
8 that. Exhibits 7 and 8 address the monthly operating reports.

9 MS. BROWNLESS: Cool.

10 BY MS. BROWNLESS:

11 Q All right. Have you had -- will you look at what's
12 been moved into evidence and admitted as Exhibit Number 7?
13 Okay. With regard to the MORs for January 2001, February 2001,
14 and May 2001, do each of these MORs reflect a permitted maximum
15 day capacity for the Palisades plant of 576,000 gallons per
16 day?

17 A 576,000 gallons per day is listed on the front of the
18 report.

19 Q With regard to Exhibit Number 8, and that's the
20 response to production of documents, can you verify that the
21 monthly operating reports for the period July 1999 through June
22 of 2000 also indicate a permitted maximum daily capacity of the
23 Palisades plant of 576,000 gallons per day?

24 MR. MENTON: The documents speak for themselves. I
25 thought the whole idea of trying to go through this exercise

1 was to speed this up.

2 COMMISSIONER JABER: Ms. Brownless.

3 MS. BROWNLESS: Thank you. The documents do speak
4 for themselves, but we would like Mr. Tillman to answer the
5 question. Is that true?

6 COMMISSIONER JABER: I thought he did answer it
7 actually, but --

8 MS. BROWNLESS: The acoustics are so bad, I can't
9 hear.

10 COMMISSIONER JABER: Your question was with respect
11 to having him confirm that the permitted maximum day capacity
12 of the plant is 576 MGD; right?

13 MS. BROWNLESS: Yes, ma'am.

14 MR. MENTON: And just to correct what you just said,
15 the documents have that listed on there. I don't think he's
16 agreeing that that's what the maximum permitted capacity of the
17 plant is, just to clarify.

18 MS. BROWNLESS: The question was, do each and every
19 one of these documents and MOR that were produced in response
20 to Exhibit Number 8 have that number stated on them.

21 COMMISSIONER JABER: I think that's a fair question,
22 Mr. Menton, and I'll allow it.

23 THE WITNESS: That number is printed on each of the
24 documents.

25 BY MS. BROWNLESS:

1 Q Okay. To the best of your knowledge and belief, were
2 each of these MORs completed by employees of Florida Water?

3 A To the best of my knowledge, yes.

4 Q Do you have any reason to believe that the employees
5 of Florida Water would misrepresent the maximum permitted day
6 capacity of this plant?

7 A I have no reason to believe that they would
8 intentionally misrepresent anything.

9 Q Do you know which of these numbers is correct, the
10 576,000 gallons per day or the 1,152,000 gallons per day in
11 your testimony of your own knowledge?

12 A Of my own knowledge?

13 Q Yep.

14 A I do not.

15 Q Okay. Do you know how the 576,000 gallons per day
16 reflected on the MORs was calculated?

17 A With all due respect, you know, we've been through
18 the calculation questions a number of times. I have staff that
19 reports these numbers to me. Okay. I'm trying to answer your
20 question; however, it's very difficult to try to answer your
21 question and not be able to give you an affirmative answer.
22 Okay. That's the problem that I have. I have staff that
23 reports this to me. I manage a department that is responsible
24 for that, and they report those numbers to me. I am not
25 personally responsible for calculating them.

1 Q Okay. So the answer to my question is that you do
2 not know how that 576,000 gallon per day figure, which appears
3 on the MORs, was calculated? You do not know, yes or no?

4 A If you take 800,000, say, times 1,440 and divide that
5 by 2, you get that number, do you not?

6 MS. BROWNLESS: Commissioners, I would ask --

7 COMMISSIONER JABER: Mr. Tillman, start your
8 responses with a yes or no, and then I'll allow you to
9 elaborate. And she doesn't get to testify. You're under oath,
10 and you get to testify, and we want to hear from you.

11 THE WITNESS: Excuse me.

12 COMMISSIONER JABER: It's all right. But I do ask
13 for the sake of clarity that you being your answers with yes or
14 no, and then I'll allow you elaborate.

15 THE WITNESS: Okay. Thank you.

16 BY MS. BROWNLESS:

17 Q Okay. We're going to go one more time here.

18 COMMISSIONER JABER: Go ahead.

19 COMMISSIONER PALECKI: Well, before we go one more
20 time, let me ask you a question, Mr. Tillman. We are trying to
21 get to the truth here because we want to make the best decision
22 we can for the people of the state of Florida and the people
23 that will be living in this development.

24 THE WITNESS: Sure.

25 COMMISSIONER PALECKI: Do you have any knowledge

1 whatsoever as to whether the correct maximum daily capacity is
2 the 576,000 number or the 1,152,000 number? And if you don't,
3 just say, no, I don't, and then we will move on to some other
4 topic.

5 THE WITNESS: I do not know which number is correct.

6 COMMISSIONER PALECKI: Thank you.

7 MS. BROWNLESS: Thank you.

8 MR. MENTON: Commissioner, if I could address that.
9 I think in all fairness, and I don't want to be testifying
10 here, but he put in his direct testimony what he's been advised
11 as to what the capacity is. This matter has come up on cross
12 examination. We'll get to the bottom of it. I think it's one
13 well over the other.

14 COMMISSIONER PALECKI: We would like to get to the
15 bottom of it. I mean, the purpose of our proceeding is not to
16 test Mr. Tillman, it's to find out what the truth is.

17 MR. MENTON: Right. And I think we know what the
18 reason is, and we can clarify it. We've got some people trying
19 to track it down right now, and I don't think it's that big a
20 deal, quite frankly, but we will get that straightened out.

21 COMMISSIONER PALECKI: Thank you.

22 MS. BROWNLESS: Thank you.

23 BY MS. BROWNLESS:

24 Q Now, you have just today changed your testimony on
25 Line 8 to indicate that the average daily flow of the Palisades

1 plant -- and I guess this is the most current calculation -- is
2 319,000 gallons per day; is that correct?

3 A Yes, ma'am.

4 Q Okay. Do you know how that figure was calculated?

5 A I requested of my staff yesterday what the average
6 daily flow was. That was the number that was reported to me.

7 Q Do you know where your staff got the 395,000 gallons
8 per day which was shown on this testimony previously?

9 A I would assume that the number came from the most
10 recent 12 months at that time.

11 Q Okay. And that would be the most recent 12 months
12 prior to the date the testimony was filed in August of 2000?

13 A I'm not sure about the exact date that the MOR was
14 completed versus the date of calculation, so there could be a
15 month swing in either direction.

16 Q Okay. But it would have to be some date -- some
17 period of time prior to August when you filed the testimony?

18 A Correct.

19 Q Mr. Tillman, I've just handed you a paper that's
20 labeled, "Department of Environmental Protection, Application
21 for a Public Drinking Water Facility Construction Permit." Do
22 you see that, Mr. Tillman?

23 A Yes, I do.

24 Q And the project name on this permit is listed on the
25 first page as the Summit a planned unit development?

1 A That is correct.

2 Q This is a document that has been previously taken
3 judicial notice of, so the authenticity is not in question.
4 Let me ask you this. Have you ever seen this document before?
5 Can you take a minute to look at it?

6 A The answer to your question is, no, I have not seen
7 this document before.

8 Q On Page 2 of this document under "Statement By Public
9 Water System Supplying Water For The Project," do you see that
10 statement, Mr. Tillman?

11 A Yes, ma'am.

12 Q There is a typed name here, Ying C. Lee, vice
13 president engineering services of Florida Water Services. Do
14 you see that?

15 A I do.

16 Q Is Mr. Lee the vice president of engineering services
17 for Florida Water?

18 A He is.

19 Q And there's a signature to the left of that. And I'm
20 not sure how to say this name C. Arcand.

21 A Right.

22 Q Dated 8/16/2000, do you see that?

23 A That's correct.

24 Q Is Mr. or Ms. C. Arcand an employee of Florida Water?

25 A She is.

1 Q At the top of Page 3, there's also a statement by the
2 owner/operator, and it indicates that that's Florida Water
3 Services; is that correct?

4 A I'm sorry, say again.

5 Q Okay. It indicates that that's Florida Water
6 Services, that statement by owner/operator Paragraph 4.

7 A Right, correct.

8 Q Also, Mr. Lee is listed here as the president of
9 engineering services; is that correct?

10 A He's listed as the vice president --

11 Q Oh, I'm sorry, vice president.

12 A Vice president of engineering services; correct.

13 Q And Ms. Arcand also signed this; is that correct?

14 A That's correct.

15 Q And these are the same employees that executed, the
16 known three, to the best of your knowledge and belief? They
17 look to be the same?

18 A Yes, they do.

19 Q Okay. Is it fair to say that this document was
20 provided to Florida Water?

21 MR. MENTON: Commissioner, I think he's already
22 indicated he hasn't seen the document before. If she wants to
23 ask if Chris Arcand worked for Florida Water, yes; Ying Lee,
24 yes; and do they have the authority to sign these types of
25 documents, yes; but --

1 COMMISSIONER PALECKI: Mr. Menton, do you dispute the
2 authenticity of this document?

3 MR. MENTON: No.

4 COMMISSIONER PALECKI: Ms. Brownless, could you get
5 right to the question you want to ask him?

6 MS. BROWNLESS: Absolutely.

7 BY MS. BROWNLESS:

8 Q Does this document make representations with regard
9 to the Palisades plant?

10 MR. MENTON: Commissioner, the problem I have,
11 though, is he doesn't know this document. He hasn't seen the
12 document. We stipulated it in. It could come in; she can make
13 her arguments; but I think we're wasting time to try to ask him
14 to speculate about. If there's a specific issue --

15 COMMISSIONER PALECKI: Could you refer him to the
16 place in the document?

17 MS. BROWNLESS: Sure. It's on Page 2, Paragraph 3.

18 COMMISSIONER JABER: Ms. Brownless, I wanted to note
19 for you that we have taken official recognition of this
20 document, and perhaps you could ask the question generally and
21 see if he can answer it, and then try to refer him to the
22 document. You may not need to impeach is my point. He may be
23 able to answer a general question if you ask --

24 MS. BROWNLESS: I ask -- I'm trying to ask this
25 question.

1 BY MS. BROWNLESS:

2 Q If you look on Page 2 of 10 at Paragraph 3, you will
3 see that there's a statement, the maximum daily flow at the
4 plant as recorded on the monthly operating reports during the
5 past 12 months is 395 MGD; is that correct?

6 A That is correct.

7 Q Okay. Could that be where the number in your
8 testimony came from?

9 A It could be.

10 Q So to the extent you reported that is the average
11 daily flow of 395,000 gallons per day, it might be the maximum
12 daily flow at the plant; is that correct?

13 A I don't know.

14 COMMISSIONER JABER: Mr. Tillman, do you know if
15 there's a difference between average daily and maximum daily
16 flow?

17 THE WITNESS: I do.

18 COMMISSIONER JABER: You understand that there's a
19 difference.

20 THE WITNESS: I do.

21 COMMISSIONER JABER: Could it be that there's a
22 mistake in your testimony on Page 6?

23 THE WITNESS: I can't answer that for certain, okay,
24 because I know that the current flow is 319. I know that we
25 have been in a drought situation, and average daily flow could

1 have very well easily been 395 during the past 12 months. So
2 that's the hesitancy in the comparing of the two numbers.

3 COMMISSIONER JABER: It's your testimony that the
4 flows are 319 gallons per day. Do you know if that is an
5 average daily flow?

6 THE WITNESS: That was the average daily flow as of
7 yesterday when I inquired.

8 BY MS. BROWNLESS:

9 Q And computed from what months, Mr. Tillman?

10 A I asked for the most recent 12 months, and there
11 could be a variation depending on the reporting date of a month
12 on each side.

13 COMMISSIONER JABER: Okay. So you took someone's
14 word on that number?

15 THE WITNESS: Yes, ma'am.

16 COMMISSIONER JABER: Who was that?

17 THE WITNESS: Chris Arcand.

18 COMMISSIONER JABER: And you on your own have not
19 verified that number?

20 THE WITNESS: No, I haven't.

21 COMMISSIONER JABER: Nor do you have the technical
22 ability to verify that number -- technical expertise to verify
23 that number?

24 THE WITNESS: It hurts my ego to say it, but no, I do
25 not.

1 BY MS. BROWNLESS:

2 Q Okay. If the 395,000 gallons per day is a maximum
3 daily flow rather than an average daily flow, would your
4 statement that the average usage at the Palisades plant has
5 been reduced since the filing of your original testimony be
6 accurate?

7 MR. MENTON: I'm going to object. I'm not sure I
8 understood the question, first of all, but I think it's causing
9 him to speculate as to what went into the numbers that he has
10 changed today. Basically, what he did is, he updated the
11 testimony based upon the average daily flow based upon the
12 information that he had. In terms of where the prior numbers
13 came from, he hadn't adopted that, and I don't know that
14 he's --

15 COMMISSIONER JABER: Well, see, here's my problem,
16 Mr. Menton. Normally I would agree with you, but your witness
17 showed up today and offered up a new number. And I think
18 Ms. Brownless can have the flexibility to determine where that
19 new number that was offered up today came from. That's the
20 difficulty I'm having, and that's why I'm allowing the
21 flexibility here. So, you know, he changed his testimony.

22 MR. MENTON: But I think her most recent question
23 went back to how the earlier one was calculated, and what I
24 think --

25 COMMISSIONER JABER: And I think that's because she's

1 trying to establish, was the number correct when you prefiled
2 your testimony, or is the number correct today.

3 MR. MENTON: Okay.

4 BY MS. BROWNLESS:

5 Q And my suggestion to you is that on page -- we have
6 established that on Page 2 of 10 of the application executed,
7 we believe, by a member of your organization, they represented
8 the 395,000 gallons per day as a maximum daily flow. And my
9 question is, if that is, in fact, true and you have now
10 calculated 319,000 gallons per day, would there be a reduction
11 in average daily flow since August of 2000 when you filed your
12 testimony?

13 A Given both sets of numbers, yes. You said that it
14 was -- you reported that it was 395, it's reduced to 319. If
15 the original testimony was correct, then the average daily flow
16 has been reduced from 395 to 319.

17 Q And if the original testimony was incorrect and that
18 number was 395,000 maximum daily flow, a reduction would not
19 have occurred necessarily; isn't that correct?

20 A That is correct.

21 Q Thank you. Mr. Tillman, how many connections do you
22 currently have on the Palisades system?

23 A If I recall correctly, there's about 255 or so.

24 Q I'm going to look back on Exhibit Number 7, and I
25 want to look at the MOR that's dated May of 2001. Do you see

1 the number of service connections at the end of May reported
2 there?

3 A Yes, I do.

4 Q Okay. And what is that number?

5 A 219.

6 Q Okay. Is that number also reflected in January and
7 February of the 2001 MORs provided in Exhibit 7?

8 A Yes, they are.

9 Q Okay. Which number is correct, the 219 reflected on
10 these MORs or the 255?

11 A I would say that the 219 is because I was working
12 from recall totally, and this seems to be the documented
13 number.

14 Q So to the best of your knowledge and belief, there is
15 219 connections in the Palisades as we speak?

16 A As we speak.

17 Q Okay. Now, I want to turn to Page 4 of the permit
18 application, and I want you to look at Paragraph 11, "Present
19 annual average day water demand." Do you see that column, sir?

20 A Item Number 11, yes, I do.

21 Q Yes, sir. Okay. Am I correct that that number is
22 218,000 gallons per day?

23 A That is correct.

24 Q Okay. If that number is correct, then the
25 consumption at the Palisades plant would have increased between

1 March 31st of 2000, the date reported there, and the number
2 that you've given us in your testimony today; is that correct?

3 A Yes, there would have been an increase.

4 Q Okay. You have reported that -- and again, I want to
5 reference Paragraph 13. The maximum day water demand there is
6 reported as 395,000 MGD; is that correct?

7 A That is what is reported there; correct.

8 Q Okay. Could you look at the MOR that you provided
9 for March of 2000?

10 A I have it.

11 Q Okay. And could you look at March 8th? Okay?

12 A (Nodding head affirmatively.)

13 Q All right. On this report, is the 395,000 gallons
14 reported for March 8th the maximum daily gallonage pumped for
15 the month of March?

16 A Are you asking me if the number in -- directly to the
17 right of the 8 is 295 -- or --

18 Q No, 395.

19 A -- 395, excuse me, 395?

20 Q Yes.

21 A Yes, it is.

22 Q Okay. And when you go down to the bottom of the page
23 where it says, "maximum," it says, "395," down at the bottom
24 too?

25 A Yes, also.

1 Q Would this be the number that's reported in the
2 permit application as the maximum daily demand?

3 MR. MENTON: Commissioner, I'm going to object that
4 it calls for speculation. She's asking him to speculate about
5 a document that he couldn't even identify as to where the
6 numbers came from.

7 COMMISSIONER JABER: Ms. Brownless.

8 MS. BROWNLESS: Well, let me ask this question. I'll
9 withdraw that.

10 BY MS. BROWNLESS:

11 Q Would the maximum demand reported on the March 2000
12 MOR be consistent with the maximum demand reported on Line 13
13 of Page 4?

14 MR. MENTON: I'm sorry, I'm not sure I followed that
15 question. On Page 13, Line 4 of what?

16 MS. BROWNLESS: Of the permit application, which is
17 what we have been discussing.

18 MR. MENTON: Okay. Well, then I would have the same
19 objection because she's asking him to speculate as to the
20 origin of a number on a document that he can't even identify.

21 COMMISSIONER JABER: Ms. Brownless, to the degree
22 anything calls for speculation, you don't want that. Perhaps
23 you could ask him if he would expect that the two numbers
24 correspond.

25 BY MS. BROWNLESS:

1 Q Well, given the fact that it indicates on Page 4,
2 Line 10 that the maximum day demand for the period ending
3 March 31st of 2000 is 395, would that be consistent with your
4 MOR? And isn't that the date written next to the number on
5 Page 2 supplied by Mr. Lee?

6 A I guess I don't believe what you just said. Okay.
7 If I look at the numbers that are in March of 2000, there are
8 numbers there that are greater than 395. So if 395 is on this
9 document, I don't see how that just ties directly to this other
10 document. That's a random number.

11 Q Let me direct you to Page 2, Line 10.

12 A Page 2 of the application?

13 Q The application. Okay. Now, see where it says,
14 "Maximum day flow at plant as recorded on monthly operating
15 reports during the past 12 months"?

16 A I do.

17 Q Okay. And that information was filled out by
18 Mr. Lee, correct, to the best of your knowledge and belief?
19 Appears.

20 A Well, I assume it was filled out by Chris Arcand for
21 Mr. Lee.

22 Q Okay. Employees of your company; right?

23 A Correct.

24 Q And it indicates that the maximum day flow was
25 395,000 as of March 8th of the year 2000; correct?

1 A Correct.

2 Q Okay. On March 8th on the MOR, is that the figure
3 that's shown there?

4 A That is correct.

5 Q Thank you.

6 MR. MENTON: Commissioner, I have to object again.
7 She said is that the figure that's shown there as if the two
8 can be connected, and he doesn't have the ability to draw that
9 connection. That's what I've been objecting to for the last 30
10 minutes here.

11 MS. BROWNLESS: Well, Commissioner, my frustration
12 is, who has the ability to draw that connection?

13 MR. MENTON: The people who responded to the POD
14 request who were identified over a year ago.

15 COMMISSIONER JABER: Mr. Menton, Ms. Brownless, the
16 question was not for -- she wasn't asking him to establish the
17 nexus. She was asking him to recognize that the two numbers
18 are the same, so I will allow the question. And he did, in
19 fact, answer it, so let's move on.

20 MS. BROWNLESS: Thank you.

21 BY MS. BROWNLESS:

22 Q Okay. Will you look at Paragraph 9 under --

23 A Well, I was interrupted when I said yes. I still
24 don't understand what the point is in that two days prior to
25 that the number exceeds 295 -- or 395, excuse me.

1 COMMISSIONER JABER: Okay. Ms. Brownless --

2 MS. BROWNLESS: Fine, that's his answer. Moving on.

3 COMMISSIONER JABER: -- continue with your cross
4 examination.

5 MS. BROWNLESS: Yes, ma'am.

6 BY MS. BROWNLESS:

7 Q On Page 4 of 10 of the permit application, Paragraph
8 12, do you see that line?

9 A Yes, I do.

10 Q Oh, I'm sorry, forgive me. Strike that. On Page
11 4 of 10, Paragraph 9, "Present population served directly" --

12 A Yes.

13 Q -- the number there is 503, is it not?

14 A That is correct.

15 Q Was that number correct in March of 2000, to the best
16 of your knowledge and belief?

17 MR. MENTON: Commissioner, I'm going to object. She
18 hasn't established the proper predicate to ask him that
19 question.

20 COMMISSIONER JABER: Ms. Brownless, go ahead,
21 respond.

22 MS. BROWNLESS: What we're trying to do here -- he's
23 indicated that the current population is 219. This permit
24 application indicates that the present population served as of
25 the date of the application was 503.

1 COMMISSIONER JABER: Mr. Tillman, can you explain --

2 BY MS. BROWNLESS:

3 Q Can you rectify the difference between the 219
4 connections you believe are there now and --

5 COMMISSIONER JABER: Ms. Brownless, please don't
6 interrupt me again.

7 MS. BROWNLESS: Excuse me.

8 COMMISSIONER JABER: Mr. Tillman, can you explain the
9 differences in the reported population amounts between your
10 testimony and this document?

11 THE WITNESS: The 503 is a population number. There
12 is more than one person in each connection, so that's an
13 estimated population to serve in that community of 503 people,
14 not -- which it relates to 219 connections.

15 COMMISSIONER JABER: Continue with your cross,
16 Ms. Brownless.

17 MS. BROWNLESS: Thank you.

18 BY MS. BROWNLESS:

19 Q Based upon the 22,000 -- your testimony is that
20 there's 22,660 gallons per day on average served by the
21 population in the Palisades; is that correct?

22 A When I asked for that number during my testimony,
23 that was the number that staff provided me.

24 Q Your staff?

25 A Yes.

1 Q And is it your testimony today that -- well, let me
2 ask you this question. Are there any commercial customers in
3 the Palisades?

4 A None.

5 Q It's entirely residential?

6 A Yes.

7 Q Do you know -- let me ask you this question. If we
8 were to take the 219 residential customers and multiply it
9 times the 22,660 gallon per day -- gallon per month that's
10 reported in your testimony, that would create a demand per
11 month of about 4.96 million gallons per day, wouldn't it?

12 MR. MENTON: Wait, wait. A demand per month, per
13 day?

14 MS. BROWNLESS: No.

15 BY MS. BROWNLESS:

16 Q Your calculation is that there's 22,660 gallons per
17 month used per your average residential connection; correct?

18 A Yes, that's what I testified to.

19 Q And you've testified today that there's 219
20 connections in the current Palisades system; correct?

21 A I testified that it was -- that is what is reported
22 on the MOR.

23 Q Okay. The 22,660 is that -- how did you determine
24 that number? Is it based on number of bills rendered?

25 A I requested the information from the engineering

1 staff, and that's the number that I was given.

2 Q Is it based on bills rendered, is it -- versus based
3 on bills rendered? In other words, is it 22,660 per connection
4 in the Palisades per billing connection?

5 A The number that I reported was an average per
6 customer, which is -- the connection is the way in which I
7 interpreted that.

8 Q Okay. So there would be 219 bills, 219 connections.
9 So would it be fair to multiply that number, 219, times the
10 average per month figure you've given, the 22,660, to come up
11 with an average per month consumption?

12 A Yes, the math is there.

13 Q And would that be approximately 4.96 million gallons
14 a day?

15 A I don't have a calculator.

16 MR. MENTON: Per month, not per day.

17 MS. BROWNLESS: Per month, I'm sorry.

18 BY MS. BROWNLESS:

19 Q Per month.

20 A You've got the calculator now, so I can't do the math
21 on it. But if you just did the math on it and 22,660 times 219
22 equals the number that you just gave me, I'll accept your word
23 for it.

24 Q Okay. Thank you. I asked you some questions at your
25 deposition about the service availability contract that you

1 entered into with the developer. And that's been -- that is
2 CSL-2 to this -- to your testimony; correct? Is that correct,
3 the developer agreement is -- the water service agreement is
4 the second exhibit to your testimony?

5 A That's correct.

6 Q Do you have that agreement?

7 A Yes.

8 Q Okay. Now, pursuant to this agreement, certain steps
9 are required to be completed by the developer; is that correct?

10 A That is correct.

11 Q Okay. Now, I want to go through the things that have
12 been required of the developer. Section 3.2 requires that
13 Florida Water approve plans and specifications for all on-site
14 facilities; is that correct?

15 A That is correct.

16 Q Have you been provided with such plans?

17 A My staff has been provided.

18 Q Okay. Were those plans provided or a copy of those
19 plans shown to me pursuant to your -- as a late-filed exhibit
20 to your deposition?

21 A I don't know that for certain.

22 MR. MENTON: I do.

23 COMMISSIONER JABER: You don't get to testify either.

24 BY MS. BROWNLESS:

25 Q Were you requested for those plans as a late-filed

1 exhibit to your deposition?

2 A Yes.

3 Q Did you provide those plans for inspection?

4 A Yes.

5 Q Are these the plans you provided?

6 A Yes, they are.

7 Q Your water service agreement also requires they
8 provide a plat map for the subdivision; is that correct?

9 A Correct.

10 Q And Sheet 4 of 40 is such a plat map, is it not?

11 A That is correct.

12 Q Sheet 5 of 40 is a further elucidation of that plat
13 map; correct?

14 A A further what?

15 Q Elucidation.

16 A Yes.

17 Q On this Sheet 5 of 40, does it indicate that the
18 water would be provided by a central water service?

19 A It does, and the provider is Florida Water.

20 Q Does it indicate that there would be fire protection?

21 A It indicates fire protection, central water, fire
22 protection provided by Florida Water.

23 Q And that sheet is as of September 8th, 2000; is that
24 correct?

25 A Correct.

1 Q Now, if I turn back here to Sheets 34 --

2 MR. MENTON: I'm sorry, Suzanne. What was that
3 sheet, the last one you just showed?

4 MS. BROWNLESS: Sheet 5 of 40, dated -- the stamp on
5 there is September 8th.

6 BY MS. BROWNLESS:

7 Q Now, this is labeled "off-site utilities;" right?

8 A Yes, it is.

9 Q Is this a schematic of the extension the developer
10 would have to install from the water plant to the Summit?

11 MR. MENTON: Commissioner, I'm going to have to
12 object. I don't think she laid the predicate that he was the
13 one that would have been reviewing those plans as part of his
14 job responsibilities at Florida Water in terms of determining,
15 you know, what the schematics are, what need to be met in that
16 regard.

17 COMMISSIONER JABER: Ms. Brownless.

18 MS. BROWNLESS: I can lay the predicate.

19 BY MS. BROWNLESS:

20 Q In your testimony, you indicate that the developer
21 would have -- in your testimony, you indicate that the
22 developer would have to install a 6,700 feet line from the
23 water plant to his development; is that correct?

24 A I indicated -- yes.

25 Q Okay.

1 MR. MENTON: And could you cite him or show him the
2 specific page in his testimony just so he has it in front of
3 him?

4 MS. BROWNLESS: Sure.

5 COMMISSIONER JABER: Of his testimony?

6 MS. BROWNLESS: Yep.

7 MR. MENTON: Yeah, that's what she's talking about.

8 COMMISSIONER JABER: He answered the question that he
9 testified to that.

10 MS. BROWNLESS: He put that in his summary, I think.

11 MR. MENTON: Okay. The only reason I said that is,
12 it's getting late, but I couldn't remember the length. The
13 length seemed -- I don't remember the length being in there,
14 which was what she put in the question.

15 COMMISSIONER JABER: Redirect.

16 MR. MENTON: Okay.

17 COMMISSIONER JABER: You were en route to your
18 microphone when he said yes. Go ahead, Ms. Brownless.

19 MR. MENTON: I'm not leaving anymore.

20 COMMISSIONER PALECKI: Ms. Brownless, could I ask
21 that you hold the microphone when you ask your question, and
22 then hand it to the witness when it's his turn to answer?

23 MS. BROWNLESS: Is that better, Commissioner? Okay.

24 BY MS. BROWNLESS:

25 Q The developer was required to provide Florida Water

1 with a schematic of his line pursuant to the agreement;
2 correct?

3 A Correct.

4 Q Okay. Is this it?

5 A Yes, it is.

6 Q And that continues on Page 34, 35 of the plans here;
7 right?

8 A That's correct.

9 Q Okay. On Page 36 of the plans is a detail of the
10 fire hydrant system; is that correct?

11 A What I see is a detail of the cutaways of the fire
12 hydrants. I do not see a system displayed here.

13 Q Details concerning the fire hydrants then, would that
14 be a correct statement?

15 A That is correct.

16 Q And these details are continued on Page 37; is that
17 correct?

18 A Those details do not all necessarily relate to the
19 fire hydrants.

20 Q But there are some details concerning the fire
21 hydrants, are there not?

22 A I do not see.

23 Q Have you been provided with any other plans other
24 than these?

25 A My staff, to the best of my knowledge, has not.

1 Q So based on these plans, it would be the position of
2 Florida Water that you are providing fire flow protection to
3 the Summit?

4 A That is correct.

5 Q Section 3.-- I can't read my own handwriting --
6 7 requires that Florida Water be provided assurance of title to
7 the property. Has that been done?

8 A I'm sorry, be provided what?

9 Q Assurance of title to the property --

10 A Yes, we have.

11 Q -- ownership of the property.

12 Okay. That section requires that it be done within
13 45 days of the execution of the permit?

14 A That's what's in the contract.

15 Q Okay. Was that done?

16 A At the time that it was provided, it was after the 45
17 days; however, that was after the protest had been lodged by
18 the city. And there was no immediate need since everything
19 basically went on hold for us to expedite that -- getting that
20 document to us.

21 COMMISSIONER JABER: Ms. Brownless, you don't mean
22 Section 3.7 of the contract, do you? Can you clarify for the
23 record. I'm looking through the agreement --

24 MS. BROWNLESS: I can't read my own handwriting here.

25 COMMISSIONER JABER: -- and is 3.9 that you just

1 asked him about?

2 MS. BROWNLESS: Yes, ma'am. Thank you.

3 BY MS. BROWNLESS:

4 Q I believe you've provided me with a copy of the
5 warranty deed. Is this what was provided as an assurance of
6 title?

7 A Yes, it was.

8 Q Okay. And this was recorded in March of the year
9 2000, wasn't it?

10 A Yes, it was.

11 Q So it would have been provided within 45 days; is
12 that correct?

13 MR. MENTON: You asked recording versus provided.

14 Q Well, it was recorded in the books and records within
15 45 days of the date of the execution of the service
16 availability agreement; correct? You executed the service
17 availability agreement on February 25th.

18 A The 25th. This document was recorded in Orange
19 County within that 45 days.

20 Q And it was provided to you subsequent to that?

21 A Yes, it was.

22 Q The engineering -- Section 6.3 requires that
23 engineering and inspection fees be paid of \$750. Have those
24 been paid?

25 A We have received payments totaling \$1,200 from the

1 developer.

2 Q Okay. Have you received payments of \$1,200 or
3 \$1,250?

4 A It's my understanding it was \$1,200.

5 Q Okay. I would refer you to Section 6.5 which talks
6 about legal and administrative costs of \$500.

7 A 6.5?

8 Q Yes, sir. Have those fees been paid?

9 A Yes, they have. They were part of the 12 --

10 Q Okay. Is it possible that the 750 and 500 were paid
11 in one lump as at 1,250 --

12 A There was a total payment, as I said earlier, the
13 developer made for the required fees of \$1,200 and maybe
14 \$1,200, \$1,250.

15 Q These were supposed to be paid upon execution of the
16 agreement, were they not, the 750 plus the 500?

17 A Yes, they were.

18 Q When were they actually paid?

19 A It's my understanding from my staff that it was on
20 the execution of the agreement.

21 Q In response to your deposition, I think Mr. Menton
22 produced a receipt. Are you aware of that?

23 A No, I'm not.

24 Q Okay. Have you ever seen that receipt?

25 A No, I have not.

1 Q Okay. Subject to check, could that receipt be dated
2 September of the year 2000?

3 MR. MENTON: Commissioner, if I might. There was a
4 request again during his deposition for documentation regarding
5 that, and I provided it to Ms. Brownless. I think it was
6 actually October. October of 2000 is when the 1,200 -- and I
7 don't remember if it's 1,200 or 1,250, but Mr. Tillman was not
8 involved in that loop. It's 1,250, actually, and we provided
9 the documentation to her, and it was received by Florida Water
10 on October 2nd, 2000.

11 BY MS. BROWNLESS:

12 Q So it was not paid immediately upon the execution of
13 the contract?

14 A Yes, that's what I'm hearing.

15 Q Was the water service agreement contract recorded?

16 A Yes, it was.

17 Q Okay. And when was that recording done?

18 COMMISSIONER JABER: Ms. Brownless, do you have a
19 copy?

20 MR. MENTON: We will stipulate this in.

21 A On 3/16/2000.

22 Q So that was recorded within 30 days of the execution
23 of the agreement; correct?

24 A Correct.

25 Q Okay. Section 8.3 requires that the developer

1 provide within ten business days of the receipt any building
2 permits for the construction or for all or a portion of the
3 improvement. Do you see that, Mr. Tillman?

4 A I do.

5 Q Have you been provided with a copy of those permits?

6 A We have the DEP permit, but I'll go back to my
7 earlier statement. Once this process went under protest, we
8 did not put the pressure on any of the developer or any of his
9 engineers to provide the documentation to us immediately.

10 Q Well, I mean, my question is not the DEP permit.
11 This says, "Building permits for construction," does it not?

12 A It says, "Building permits for construction."

13 Q Have you received a copy of the building permits for
14 construction from the developer?

15 A Not to the best of my knowledge.

16 Q Section 22 indicates that the developer will provide
17 a certificate of good standing or a certificated resolution of
18 corporate entity. Do you see that?

19 A Yes, I do.

20 Q Has that been provided?

21 A I do not know. It would have been provided to my
22 staff, and I don't go over every piece of paper there.

23 MR. MENTON: I'm sorry, which one did you just name?

24 MS. BROWNLESS: Section 22.

25 BY MS. BROWNLESS:

1 Q Now, Exhibit E to this agreement on Page 37 sets
2 forth the charges to the developer, does it not?

3 A It does.

4 Q Has the developer paid the plant capacity charge
5 indicated here?

6 A No, he has not.

7 Q Okay. Has he paid the certificate amendment filing
8 fee? Oh, I'm sorry, there isn't one, is there?

9 Okay. We've established that he's paid the
10 engineering review and inspection fee, he's paid the legal and
11 administrative fee, and he's recorded the agreement; correct?

12 A Correct.

13 Q But he has not paid the plant capacity charge;
14 correct?

15 A He has not.

16 Q Okay. Does the developer have any right to reserve
17 capacity at the Palisades plant until he actually pays that
18 capacity charge?

19 A Once again, once the protest by the city was lodged,
20 we did not press the developer for immediate payment on that.
21 Additionally, if you look at the asterisk besides the capacity
22 charges, it says the capacity fees and meter fees will be paid
23 at the time of meter installation, reference E-1.

24 Q So is your testimony -- I want to make sure I
25 understand your testimony. First of all, have any of those

1 charges been paid? Yes or no?

2 A The plant capacity charges?

3 Q Yes, sir.

4 A No, they have not.

5 Q Okay. And prior to payment of those fees, does this
6 contract obligate you to reserve any capacity?

7 A The process is, once that we have an active contract
8 and it is, in fact, moving forward, then those capacities are
9 reserved in that plant. And that's, you know --

10 Q I'm trying to get an answer to a very specific
11 question.

12 MR. MENTON: Well, if you're trying to ask him for a
13 legal opinion --

14 MS. BROWNLESS: No. I'm trying to ask him --

15 MR. MENTON: -- in terms of a contract, then I'm
16 going to object.

17 MS. BROWNLESS: Let me ask this question.

18 BY MS. BROWNLESS:

19 Q Mr. Tillman, did you -- was this contract prepared
20 under your supervision and control?

21 A It says so on the front of the document.

22 Q Did you sign this document?

23 A I did.

24 Q What did you believe was -- what was your -- let me
25 think how to do this. I assume because you signed it, you read

1 it; is that correct?

2 A That's correct.

3 Q Now, if I look at Section 6 of this agreement, it
4 indicates the rates, fees, and charges to be paid, does it not?

5 A Yes, it does.

6 Q Okay. And if I look at Section 7.1 --

7 COMMISSIONER JABER: Ms. Brownless, what was your
8 original question? What is that very direct question you
9 thought you were asking?

10 MS. BROWNLESS: It really has to do with Section 7.1.

11 COMMISSIONER JABER: But what was it?

12 MS. BROWNLESS: It's very simple. Until the
13 developer pays the connection fee, does Florida Water reserve
14 capacity at the Palisades plant?

15 COMMISSIONER JABER: Mr. Tillman, answer that
16 question.

17 THE WITNESS: The capacity is reserved pending the
18 approval of the developer agreement and being authorized to
19 serve the territory to which it is, you know, it's allocated
20 to. If the approval never occurs in the document, then
21 obviously, we're not going to commit capacity out of that plant
22 to something that doesn't exist. So in this situation, what
23 happens is, is that once the city protested this situation,
24 then we pressed -- did not press the developer for payment or
25 anything in relationship filling this document pending the

1 outcome of this hearing.

2 COMMISSIONER JABER: Okay. So the answer to her
3 question is, no, you don't have to reserve capacity under the
4 terms of the agreement, but you, in fact, do account for that
5 project?

6 THE WITNESS: Yes, we do. Thank you.

7 COMMISSIONER JABER: Is that the answer to your
8 question? Is that the answer?

9 THE WITNESS: That is, and that's correct.

10 BY MS. BROWNLESS:

11 Q Okay. If I look at Section 7.2, under this contract,
12 do you have any contractual obligation, as you understand it,
13 as you understand it, we're not asking for a legal opinion
14 here, we're asking for your opinion as the person who signed
15 this contract, to provide capacity until the developer pays
16 applicable rates, fees, and charges and the physical connection
17 to your system?

18 MR. MENTON: I would object as already asked and
19 answered quite ably by Commissioner Jaber and verified by the
20 witness already.

21 COMMISSIONER JABER: Well, I don't get to testify
22 either, so let's make sure for the record. And then,
23 Ms. Brownless, I would expect that you'll be moving on.

24 MS. BROWNLESS: I'm moving on.

25 COMMISSIONER JABER: Answer her question,

1 Mr. Tillman.

2 A Would you repeat the question, please.

3 Q Sure. Pursuant to Section 7.2 on Page 17, is it your
4 understanding that Florida Water is not required to actually
5 provide capacity until the developer has paid applicable rates,
6 fees, and charges and has physically interconnected with your
7 system?

8 A Yes.

9 Q Thank you. On Exhibit E-1, you indicate that the
10 meter installation charge to be paid by a resident will be
11 \$140; is that correct?

12 A I'm sorry, what document?

13 Q I'm on the same document, Exhibit E-1, Page 38.

14 A Yes, \$140.

15 Q Okay.

16 MR. MENTON: I'm sorry, where are you again?

17 MS. BROWNLESS: I'm on Page 38 --

18 MR. MENTON: Of?

19 MS. BROWNLESS: -- of the service availability
20 contract.

21 COMMISSIONER JABER: CLS-2, Page 38.

22 MR. MENTON: Okay. I'm with you.

23 BY MS. BROWNLESS:

24 Q Okay. It indicates that the meter installation
25 charge is \$140; is that correct?

1 A That is correct.

2 Q And that's a one-inch meter; right?

3 A That is correct.

4 Q Have you testified that you would believe the Summit
5 system would have the same average daily consumption as the
6 Palisades system, roughly the same?

7 A Considering the geographic location, the size of the
8 lots, and the lots in the Summit are somewhat larger than the
9 lots in the Palisades, it's my understanding that I would
10 assume that the average daily consumption on an irrigation
11 basis would exceed that of the Palisades.

12 Q It would be a minimum, though, of the 22,660; is that
13 correct?

14 A I hesitate to ask that because we have taken a lot of
15 measures in the last year to reduce water consumption on an
16 irrigation basis. We have lowered the pressures on all of our
17 systems in accordance with the Water Management District's
18 direction to try to minimize irrigation. So in general, if it
19 was a normal condition, I would agree with your statement, but
20 that is the qualifier.

21 Q In the ballpark; is that correct? Is that your
22 testimony, that the consumption at the Summit would be in the
23 ballpark of the consumption at the Palisades?

24 A My testimony was that I do not know what the
25 consumption in the Summit is going to be. If it was a normal

1 irrigation system based on the size lots that are in the
2 Summit, yes.

3 Q Okay. I want to refer you to Page 8 of your rebuttal
4 testimony, and could you review Lines 21 through 24 on that
5 page up through Page 9, Lines 1 and 2?

6 MR. MENTON: Lines what? I'm sorry.

7 MS. BROWNLESS: Okay. Start on Line 21, and read
8 that little section.

9 A I'm sorry, Lines 21 through what? I was reading --

10 Q Yeah, just 21 to the end of Page 8 and the first two
11 lines at the top of Page 9.

12 A Well, line 21 starts off "from the city, period."

13 Q You don't have to read it out loud, Mr. Tillman. If
14 you could just --

15 A I'm sorry, I thought that's what you were asking
16 me to read --

17 Q No, sir. If you could, just review that a minute.

18 A Yes.

19 Q So in this testimony, aren't you indicating that you
20 would expect it to be at least the 22,660, if not slightly
21 more?

22 A I indicated that a conservative estimate would be
23 that.

24 Q Okay. Do you know the size of the water lines to the
25 Palisades? Is it one inch?

1 A I do not know.

2 Q Okay. When you calculated the \$846 amount of money
3 that a residential customer would have to pay on Line 15 of
4 Page 9, do you see that?

5 A Yes, I see it.

6 Q You indicate that that is \$846; correct?

7 A That is correct.

8 Q Is the difference between the number that's shown on
9 Page 38, the 896, and the number that's shown on 846 the
10 difference in the size of the meter?

11 A I'm not sure, and I don't have a document in front of
12 me to be able to answer that. I don't have the tariff in front
13 of me.

14 Q On Page 38, doesn't it indicate that the meter
15 installation for a one-inch meter is 140 bucks?

16 A Yes, it does.

17 Q On Page 9, Line 13, doesn't it indicate that there's
18 a \$90 meter installation charge?

19 A Yes, it does.

20 Q So there's about a 50 buck difference; right?

21 A There is about \$50 difference.

22 Q Is the meter installation charge of \$90 associated
23 with a three-fourth-inch meter?

24 A I do not know that for certain. Do you have a copy
25 of the tariff we provided you?

1 Q I do. Well, let me turn you to Page 37 down at the
2 bottom of the page there. It gives a list of meter
3 installation fees, does it not?

4 A Yes, it does.

5 Q The five-eighths is \$90, isn't it?

6 A The five-eighths by three-quarters is \$90; correct.

7 Q And the one inch is 140?

8 A And the one inch is 140, yes.

9 Q Okay. Do you have any reason to believe that -- I
10 mean, I guess what I'm trying to say is, why did you use \$896
11 in the exhibit attached to the water services agreement and
12 \$846? I mean, why is there a difference? Why is it a one-inch
13 meter in the services agreement and a three-fourths-inch meter
14 in your testimony?

15 A When I usually ask for documentation from our rate
16 department on rates, I'm automatically given five-eighths by
17 three-quarters-inch meter because that is the most common.

18 Q Well, do you know the basis for including the meter
19 installation of one inch in the developer agreement?

20 A I do not.

21 Q Okay. Do you know whether a three-fourth-inch meter
22 is capable of delivering 22,660 gallons per month?

23 A It's capable of delivering that amount of water.

24 MS. BROWNLESS: Commissioner, could we stop here and
25 put Mr. Mittauer on so he can get off today?

1 COMMISSIONER JABER: Now, remind me why Mr. Mittauer
2 has to be taken up today.

3 MS. BROWNLESS: Because Mr. Mittauer is unavailable
4 tomorrow.

5 COMMISSIONER JABER: But remind me why he cannot be
6 taken up after Mr. Tillman's testimony.

7 MS. BROWNLESS: Oh, he can be. It depends on how
8 late you want to go. It's just that I have several more
9 questions of --

10 COMMISSIONER JABER: How much more time do you need,
11 Ms. Brownless?

12 MS. BROWNLESS: Well, I thought you told me you were
13 going to stop at 6:45.

14 COMMISSIONER JABER: I may do that, Ms. Brownless,
15 but --

16 MS. BROWNLESS: Oh, I'm sorry. Yes, ma'am. I think
17 it will probably be about another hour.

18 COMMISSIONER JABER: Okay. Well, another hour --
19 it's 5:20 now, if I see that clock correctly. Another hour
20 without stopping would be 6:20.

21 MS. BROWNLESS: Yes, ma'am.

22 COMMISSIONER JABER: So I would like to keep going
23 with Mr. Tillman and finish him, and then we'll revisit --
24 before we conclude for the evening, we'll revisit Mr. Mittauer.
25 Interrupting a witness is not the ideal situation, so let's

1 keep going.

2 MS. GERVASI: And, Commissioner, if I may. There, I
3 think, is at least one citizen who wants to speak at
4 six o'clock.

5 COMMISSIONER JABER: Right.

6 MS. BROWNLESS: Yes, ma'am.

7 COMMISSIONER JABER: What does my stopping at 6:45
8 have anything to do with the present? I think I'm not
9 understanding you.

10 MS. BROWNLESS: I mean, I can stop with Mr. Tillman,
11 and that's fine. My understanding is that Mr. Menton and the
12 Staff have more than an hour's worth of cross examination for
13 Mr. Mittauer.

14 COMMISSIONER JABER: Well, it might make more of a --
15 let's keep going. This is not the ideal place to stop, so I'd
16 rather keep going.

17 MS. BROWNLESS: Yes, ma'am.

18 BY MS. BROWNLESS:

19 Q Mr. Tillman, in response to your deposition -- a
20 late-filed deposition exhibit, did your counsel provide the DEP
21 permit for constructing a water system that was issued to the
22 Summit?

23 A Yes.

24 Q Can you identify this document that's been handed out
25 as that exhibit, Mr. Tillman?

1 MR. MENTON: Commissioner, again, Mr. Tillman was not
2 involved in the production of this document. I provided it to
3 counsel after the deposition was over. I'm not sure
4 Mr. Tillman has ever seen it directly, but I will stipulate
5 that it is the document that I provided to Ms. Brownless during
6 the discovery process.

7 MS. BROWNLESS: Thank you. And I think we have
8 already authenticated this document via judicial notice, have
9 we not?

10 COMMISSIONER JABER: Ms. Brownless, why don't you
11 tell me what this is?

12 MS. BROWNLESS: Okay. This document is the permit
13 WD-0080593-010 (sic) to construct a water distribution system
14 associated with the Summit a planned unit development.

15 BY MS. BROWNLESS:

16 Q Mr. Tillman, has this document -- was this document
17 referenced in your testimony on Page 2?

18 MR. MENTON: Of which one?

19 MS. BROWNLESS: Of your supplemental rebuttal.

20 A I don't have a copy of that. Are we talking about
21 the permit number on Line 25?

22 Q Yes, sir. Is that the same permit number as this
23 document?

24 A Yes, it is.

25 Q Okay. Can you turn to Page 1 of 17 of this document?

1 It is the third page in. Are you on that page, Mr. Tillman?

2 A Yes, I am.

3 Q Am I correct that the estimated average day water
4 demand for the Summit as calculated in this document is
5 78,750 gallons per day?

6 A That's what's stated in the last sentence of
7 Paragraph 2.

8 COMMISSIONER JABER: Ms. Brownless, let me interrupt
9 you for just a minute. We're trying to evaluate the time.
10 Mr. Menton, how much time do you think you need with
11 Mr. Mittauer?

12 MR. MENTON: Commissioner, I would say probably an
13 hour, maybe a little less, but that would be my best
14 guesstimate.

15 COMMISSIONER JABER: Ms. Brownless, we are not going
16 to take Mr. Mittauer up until you are done with your cross, and
17 then we'll take up Mr. Mittauer. And all parties be aware that
18 I am going to stop just a few minutes before 6:00 so that we
19 can get ready for customer testimony.

20 MS. BROWNLESS: Thank you.

21 BY MS. BROWNLESS:

22 Q Now, is it true that -- I want you to turn to Page 34
23 of the water services agreement, Exhibit 2 to the original
24 testimony.

25 MR. MENTON: Page what? I'm sorry.

1 MS. BROWNLESS: It's Exhibit 2, you know, CLS-2.

2 MR. MENTON: But what page?

3 MS. BROWNLESS: It's 34.

4 BY MS. BROWNLESS:

5 Q Are you on Page 34, Mr. Tillman?

6 A Yes, I am.

7 Q The number in handwriting there is 38,400, isn't it?

8 A Yes, it is.

9 Q Okay. Which is the average daily flows; is that
10 correct?

11 A The average daily flows for -- where did you get the
12 average daily flow?

13 Q It says, "Engineer's estimate of average daily
14 flows."

15 A Okay. Yes, it's under that heading.

16 Q The 38,400, that number is also reflected on Section
17 7.1, correct, the allocation of capacity to the developer, on
18 Page 17?

19 A Yes, it is.

20 Q Okay. And that's the number, the amount of capacity
21 that you would require the developer to reserve, isn't that
22 correct, pursuant to this agreement?

23 A Initially in this document, yes.

24 Q Have you made any changes to this number subsequent?

25 A No, we have not made any changes to it, but however,

1 during the process, this number very often changes from time to
2 time as the shape of the development changes over the approval
3 process.

4 Q Can you explain the disparity between the 38,400
5 figure that is found on Page 34 and the 78,750 GPD figure found
6 on the DEP permit?

7 A It's my understanding that the Public Service
8 Commission in their documentation uses one standard for average
9 daily consumption and DEP uses another.

10 Q Okay. The 38,400 is which, is the PSC standard, the
11 DEP standard?

12 A I would assume that the DEP document has the DEP
13 standard on it.

14 Q Okay. So it's your testimony that the 38,400 is the
15 PSC standard?

16 A Correct.

17 Q Did you calculate this number?

18 A No, I did not.

19 Q Do you know who drew the line through these numbers?

20 A I have not a clue.

21 Q Okay. So can you explain the disparity between the
22 200,000 GPD that's typed in and the 38,400 that's handwritten?

23 A As I said earlier, with the -- not just this project
24 but any project, through the course of the development of the
25 subdivision, these numbers move back and forth continuously,

1 and we have to amend the documents to reflect that.

2 Ultimately, what Florida Water will do is to build a plant to
3 meet those capacities that are necessary in order to serve the
4 customer.

5 Q Does Florida Water intend to add any additional
6 improvements to this water plant in order to serve the Summit
7 at this time?

8 A At this time, there are no needs for additional
9 improvements to serve this community to the plant.

10 Q Okay. Do you know why the fire flow number of 2,500
11 GPM is crossed out?

12 A I have no idea.

13 Q The 38,400 includes fire flow, is that correct,
14 includes the capacity necessary to provide fire flow?

15 A I do not know.

16 Q Do you have any other service availability contract
17 with the developer other than this one?

18 A We initially had one when the developer or his
19 affiliate developed the Palisades.

20 Q No, for the Summit development. Is this the only
21 service availability contract with regard to the Summit
22 development at issue here?

23 A It is.

24 Q To the best of your knowledge and belief, is this the
25 only permit that's been issued with regard to the Summit

1 development by DEP for the construction of a water system?

2 A It is.

3 Q To the best of your knowledge and belief, do the
4 construction plans which you have been provided by the
5 developer, are they consistent with the permit?

6 MR. MENTON: I'm sorry, I'm not sure I understood the
7 question.

8 MS. BROWNLESS: Yeah, it's not a very good question.
9 Hold on. Let me ask it again.

10 BY MS. BROWNLESS:

11 Q We previously discussed the application to DEP for a
12 permit. Okay?

13 A Yes.

14 Q And let me ask the question this way. The
15 construction plans that you've been provided by the developer
16 that we discussed earlier, are they the construction plans, to
17 the best of your knowledge and belief, that accompanied the
18 application to DEP?

19 A To the best of my knowledge they are, but as I've
20 told you, as the process works, these things change over time.
21 They may submit a plan change to the DEP before they do us,
22 then they bring it to us, and we approve it and move forward.

23 Q Do you know if there's any subsequent permit that's
24 been issued by DEP to the Summit?

25 A I do not know.

1 Q Do you know if the Summit has requested any change in
2 this permit?

3 A I do not.

4 MS. BROWNLESS: If you could give me a minute, I
5 might be done.

6 Q Mr. Tillman, as a late-filed exhibit to your
7 deposition, did you provide applicable rate schedules for
8 Florida Water?

9 A I did.

10 Q Okay. And that was in response to some questions I
11 had regarding why different charges appeared during
12 different -- on different documents; is that correct?

13 A That is correct.

14 Q I want to show you these rates, and ask you if they
15 are what was provided pursuant to the document --

16 A Yes, they are.

17 Q And the rate that's indicated here for September 20th
18 of 2000, is that the current rate?

19 A Yes, that is.

20 Q Mr. Tillman, have your engineers calculated the
21 ability of the Palisades plant to provide service to the Summit
22 if the 78,750 GPD number on the DEP permit is correct?

23 A I do not know.

24 Q Do you have any opinion as to whether it will work or
25 not?

1 MR. MENTON: I'm going to object to the question. I
2 think in terms of --

3 MS. BROWNLESS: We'll strike the question.

4 BY MS. BROWNLESS:

5 Q You don't know whether they have calculated it or
6 not?

7 A I do not know if they have calculated that or not.

8 Q Based on a demand of 78,750 GPD, do you personally
9 have an opinion as to whether the water plant can serve that
10 capacity?

11 A With the two wells that are there, I personally
12 believe it will.

13 Q Thank you. Can the developer construct the off-site
14 facilities identified in his set of construction plans prior to
15 approval by the county of those plans --

16 MR. MENTON: I'm going to object.

17 Q -- if you know?

18 MR. MENTON: It requires him to speculate as to what
19 the developer can do from a legal standpoint.

20 COMMISSIONER JABER: Rephrase the question,
21 Ms. Brownless.

22 MS. BROWNLESS: We'll pass on the question.

23 COMMISSIONER JABER: Let me ask it. That's something
24 I've been interested in. Mr. Tillman, throughout your
25 testimony, there was an acknowledgment, I thought, that the

1 developer had not gone through the county permit process yet.

2 THE WITNESS: We have not received any documentation
3 from the county indicating that, you're correct.

4 MR. MENTON: I don't want to testify.

5 MS. BROWNLESS: Thank you.

6 MR. MENTON: Yes, I do, actually.

7 MS. BROWNLESS: If you can give me five minutes, I
8 believe we may be finished. I just want to make sure I get my
9 exhibits together.

10 (Brief recess.)

11 COMMISSIONER JABER: Okay. Let's get back on the
12 record. Ms. Brownless.

13 MS. BROWNLESS: I'm sorry, I do have one other set of
14 questions.

15 BY MS. BROWNLESS:

16 Q Can you turn to Exhibit D of the application, which
17 is Mr. Sweat's first exhibit? It's on Page 10. That's a
18 little Bates number at the bottom.

19 A I'm there.

20 Q Okay. It indicates there that the estimated average
21 water demand for the proposed development is approximately
22 135,000 gallons per day; is that correct?

23 A Yes, it does.

24 Q Okay. And the estimated maximum daily demand is
25 270,000 gallons per day; is that correct?

1 A That's correct. That's what's printed here.

2 Q Thank you. If the rated capacity of the plant is
3 576,000 gallons per day, okay, and the maximum daily demand at
4 least on one day was 395,000 gallons per day, would your plant
5 have the capacity to meet the demands indicated on this page --

6 A Yes.

7 Q -- at 576,000 GPD, if that was the rated capacity?

8 MR. MENTON: Commissioner, I'm going to --

9 MS. BROWNLESS: And this is subject to being tied up
10 with the testimony of Mr. Mittauer.

11 MR. MENTON: Well --

12 MS. BROWNLESS: The factual --

13 COMMISSIONER JABER: Mr. Menton, what's your
14 objection?

15 MR. MENTON: The objection is, I think, that -- first
16 of all, I'm not sure I understood the question. I think it was
17 a compound question that had a couple of different things in
18 there, so my objection is, I'm confused. And then I also
19 believe that it's asking him directly as to engineering
20 testimony, asking him to make assumptions and draw some
21 engineering conclusions, and we've stipulated he's not an
22 engineer.

23 COMMISSIONER JABER: Ms. Brownless, I didn't
24 understand your question either, so restate it.

25 MS. BROWNLESS: Okay. It's very simple.

1 COMMISSIONER JABER: Well, two people didn't
2 understand it. I don't think it was simple.

3 MS. BROWNLESS: Granted. I'll restate it.

4 BY MS. BROWNLESS:

5 Q We established that at least on one day you had a
6 demand of 395,000 GPD, is that correct, according to your own
7 MORs?

8 A At least on one day there was a demand of
9 395,000 gallons on one MOR.

10 Q If I add the maximum daily demand on Sheet 10 of
11 270,000 gallons per day for the Summit subdivision together,
12 won't that exceed -- that's 665,000 gallons per day, okay? Is
13 that correct?

14 A Yes, but the capacity of that system is 1.5 -- or
15 1.125 (sic).

16 Q And here's the question. If the capacity of the
17 system is really 576,000 GPD as indicated on your MORs, won't
18 that exceed the existing demand, given that assumption?

19 A If the 576 were correct, your assumption would be
20 right. It is my belief that the 576 is incorrect, that it's a
21 typographical error in the MOR. And the true capacity there is
22 1.125.

23 Q Okay. Do you still -- is it still the testimony of
24 Florida Water that additional wells will be needed within three
25 years? Down at the bottom of that page.

1 A Yes, it is.

2 Q But it's your testimony that no additional capacity
3 is needed -- I mean, no additional improvements to the plant is
4 needed now?

5 A We may elect to -- we upgrade facilities continuously
6 depending on the requirements of DEP and water quality, so I
7 can't say that absolutely we will not. Under normal
8 circumstance, we would probably move away from a hydrotank
9 system growth and go to high service tanks or high service
10 pumps.

11 Q Do you intend to put any more facilities at the
12 Palisades water treatment plant upon connection of the Summit
13 right then at that point in time?

14 A No, we do not.

15 Q Thank you. If you turn to Bates Number 17, which is
16 the consumptive use permit.

17 A I'm sorry, which document?

18 Q It's the consumptive use permit we discussed earlier,
19 the one associated with a water treatment plant.

20 A Yes.

21 Q That indicates that the --

22 A I'm sorry, that's not right.

23 Q -- maximum daily water withdrawal can exceed 674,000
24 gallons per day; isn't that correct?

25 A I'm sorry, I'm still looking for the document.

1 COMMISSIONER JABER: Do you have your CLS-1,
2 Mr. Tillman, the first exhibit to your testimony? It's the
3 application.

4 THE WITNESS: I've got it. It's Page 13.

5 COMMISSIONER JABER: Page 17, I think she said.

6 THE WITNESS: Well, she said 17, and I looked at
7 17 --

8 COMMISSIONER PALECKI: Bates number 17.

9 MS. BROWNLESS: It's the Bates numbers on the bottom.

10 A It's Page 5 of 9?

11 Q Yes, sir.

12 A Okay.

13 Q Okay. Can you look at your May of 2001 MOR?

14 A Yes.

15 Q Okay. And you already have a max withdrawal of
16 567,000 GPD, is that correct, as reflected on that MOR?

17 A Are you referring to the number at the bottom of the
18 sheet?

19 Q Yes, sir.

20 A Yes, that's correct.

21 Q Okay. So that would be a difference of about 9,000?

22 MR. MENTON: A difference from, I'm sorry, from what?

23 MS. BROWNLESS: The daily groundwater withdrawal
24 limit of 674,000 GPD.

25 MR. MENTON: Commissioner, I'm not sure where we're

1 going here, but we're comparing apples and oranges. We're
2 taking consumptive use permits which are allocations to
3 withdraw a certain amount of water based upon identified users
4 and trying to compare that with DEP permits for water treatment
5 plant capacity. I don't think that's --

6 MS. BROWNLESS: No, we're not. We are comparing the
7 withdrawal permits --

8 COMMISSIONER JABER: Ms. Brownless, can he finish his
9 sentence?

10 MS. BROWNLESS: Excuse me.

11 MR. MENTON: I think it's unfair to try to take an
12 apples and oranges comparison. She's taken the consumptive use
13 permits and asking him to draw analogies to what the DEP
14 operating permits are. They are two different animals.

15 COMMISSIONER JABER: Okay. Ms. Brownless.

16 MS. BROWNLESS: I disagree. The consumptive use
17 permits indicates how much water can be withdrawn from the
18 wells at the Palisades plant on any given day, and that permit
19 indicates it's 674 -- .674 MGD. It is an appropriate
20 comparison since his own MOR indicates that at least on one day
21 in May of 2001, he is already withdrawing .567 MGD from that
22 facility.

23 COMMISSIONER JABER: Ms. Brownless, restate the
24 question to determine if the witness agrees that that's an
25 appropriate comparison and whether he agrees with your number,

1 subject to check.

2 MS. BROWNLESS: Okay.

3 BY MS. BROWNLESS:

4 Q Would you agree that your May 2001 MOR indicates that
5 the 567,000 gallons were withdrawn on May 24th?

6 A Yes, I would. That's what's on the MOR.

7 Q Would you agree that the consumptive use permit on
8 Paragraph 17 indicates that you cannot exceed withdrawals on
9 any day of 674,000 GPD?

10 A Paragraph 17 says that. However, on a continuing
11 operating basis you reach your maximum withdrawal as compared
12 to the permit, and then you simply go in and you ask for
13 additional capacity withdrawal. It's something we do every day
14 in 100-and-something systems across the State.

15 MS. BROWNLESS: With all due respect, Commissioner,
16 that's nonresponsive to the question.

17 Q Do you think it is an appropriate comparison?

18 A No, I do not.

19 Q Why not?

20 A Because one is a specific period of time where a
21 certain range of consumption was reached within the
22 development. The capacity is developed as a control so the DEP
23 understands what you are pulling out of the aquifer. They need
24 that control there. So they limit the withdrawal from the
25 aquifer on an incremental basis so that they can monitor those

1 on a continuing basis so that they have control of what you are
2 withdrawing so that you are not out there continuously
3 overpumping.

4 Q Let me cut to the chase here. Is it your testimony
5 here today that you can exceed withdrawal of 674,000 gallons
6 per day from these wells and not violate your consumptive use
7 permit?

8 A No. My testimony is, when we get to that limit, we
9 go for increasing the capacity, and that's an administrative
10 function that is normally approved in short order.

11 Q But you have not sought to increase the capacity,
12 have you, as of this date?

13 A We have not exceeded the 674.

14 Q But you would then agree that that is, in fact, an
15 appropriate comparison, would you not?

16 A I would not.

17 Q Let me ask this question. If you add the maximum day
18 flow of 567,000 MGD with 135,000 that's shown on 10 here, on
19 Bates Number 10 that we discussed previously, wouldn't you
20 exceed the maximum withdrawal of 674,000 GPD?

21 A When the Summit is put on-line for consumption, the
22 permit will be revised accordingly.

23 Q That's not the answer -- that's not responsive to the
24 question. Would you exceed 674,000 GPD or not?

25 A You are asking me a question in the future about

1 adding two numbers together, one present and one projected, and
2 comparing it to a present number. I can't answer that
3 question. I can tell you that the two numbers, if you add them
4 up, if it exceeds that number or not, but it's apples and
5 oranges.

6 Q Well, let me ask the question, does it exceed the
7 number --

8 COMMISSIONER JABER: We're going to go ahead and
9 recess for the customer service portion. Ms. Brownless, when I
10 asked you at the start if you had any questions, you said no.
11 I hold people to their word, and I understand maybe you forgot
12 a round of questions. So take an opportunity --

13 MS. BROWNLESS: That's it. We're done.

14 COMMISSIONER JABER: -- in the next few minutes --
15 we'll recess and start the customer service portion in about
16 one minute.

17 (Hearing recessed at 6:04 p.m.)

18 (Transcript continues in sequence with Volume 3.)

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER


3 COUNTY OF LEON)

4
5 I, TRICIA DeMARTE, Official Commission Reporter, do hereby
6 certify that the foregoing proceeding was heard at the time and
7 place herein stated.

8 IT IS FURTHER CERTIFIED that I stenographically
9 reported the said proceedings; that the same has been
10 transcribed under my direct supervision; and that this
11 transcript constitutes a true transcription of my notes of said
12 proceedings.

13 I FURTHER CERTIFY that I am not a relative, employee,
14 attorney or counsel of any of the parties, nor am I a relative
15 or employee of any of the parties' attorneys or counsel
16 connected with the action, nor am I financially interested in
17 the action.

18 DATED THIS 26TH DAY OF JULY, 2001.

19 

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24
25