

**STATE OF FLORIDA
PUBLIC SERVICE COMMISSION**

IN RE:

Application of Farnton Water Resources
LLC for original Water Certificate in Volusia
LLC and Brevard Counties, Florida

DOCKET NO.: 021256-WU

COUNTY OF VOLUSIA'S PREHEARING STATEMENT

COUNTY OF VOLUSIA, pursuant to the Order Establishing Procedure dated March 18, 2003 and as subsequently amended, hereby submits its Prehearing Statement:

(a) The name of all known witnesses that may be called by the party, and the subject matter of their testimony.

1. Gloria Marwick

Ms. Marwick is the County's Director of Water Resources and Utilities. The subject matter which she will testify to has been specified within the Prefiled Testimony, previously provided to the Commission. In accordance with that prefiled testimony, she will be asked to testify regarding issues concerning Volusia County's ability and willingness to provide the subject area with water service, when and if such is ever required. She will discuss how the present Farnton Application will adversely affect the County of Volusia, including its populace, municipalities and other water providers already therein.

2. John Thomson

Mr. Thompson is a Planner employed by the County of Volusia. He has already provided Prefiled Testimony, and his testimony before the Commission will be consistent therewith. This testimony will concern the inconsistency of Farnton's Application with the County's Comprehensive Plan, as well as the lack of need for a new utility system at the present time in this portion of the County. He will address the adverse impact that such a system, if approved at this time and in this manner, would have upon the County's natural resources, land use patterns, and land development plans and goals.

3. Additional Witnesses

County may call those witnesses listed by the other parties to this proceeding, to

DOCUMENT NUMBER-DATE

05409 MAY 10 3

FPSC-COMMISSION CLERK

testify consistent with their Prefiled Testimony. Additionally, the transcribed testimony of those witnesses who have been deposed in this case may also be presented.

(b) A description of all known exhibits that may be used by the part, whether they may be identified on a composite basis, and the witness sponsoring each.

1. All exhibits listed by the other parties to these proceedings.
2. Deposition transcripts of each witness deposed in this matter.
3. Exhibits attached to each of the depositions taken in this matter, through the deponent.
4. Future Land Use Maps for Volusia County, for the entire County as well as the Farmton/Miami Corp. and surrounding areas, through John Thompson.
5. County of Volusia Comprehensive Plan and amendments, through John Thompson.
6. All documents produced by Farmton in response Requests to Produce.
7. All documents produced by County of Volusia in response to Requests to Produce.
8. Volusian Water Alliance Water Supply Plan, through Gloria Marwick.
9. District Water Supply Plan from St. John's River Water Management District, through Gloria Marwick.
10. Interlocal Agreement Creating the Water Authority of Volusia (WAV), through Gloria Marwick.
11. County's Answers to Interrogatories from Farmton, through Ms. Marwick or Mr. Thompson, as appropriate or necessary.
12. All documents attached to Prefiled Testimony from any witness, through that witness.
13. Existing Consumptive Use Permit, through Gloria Marwick.
14. Pending Consumptive Use Permit application, through Gloria Marwick.
15. Petitions and Court Orders naming County as Receiver for Privately-held Utility Systems

16. Letters from DCA and the Water Management District providing opinions on the Application.

(c) A statement of basic positions in the proceeding.

County of Volusia objects the Farnton Water Resources Application for Original Water Certificate. The reasons for the County's objection include an inconsistency between the Application and the County's Comprehensive Plan; the significant risk that approval of this Application will encourage urban sprawl; the disastrous effect this previously unplanned, unanticipated and unmodeled water system would have upon the County's overall provision of water to its residents; the undesirability of having a major private water utility within the County which is not eligible to become a member of the County's Water Alliance group and therefore cannot participate in long-range planning decisions concerning a vital natural resource; and the total lack of need for water service in this undeveloped, rural, forested and uninhabited wilderness area. County also adopts and incorporates the positions of Brevard County and City of Titusville, as to all other arguments and positions taken by them.

(d),(e),(f) A statement of each question of fact the party considers at issue, the part's position on each such issue, and which of the party's witnesses will address the issue; a statement of each question of law the party considers at issue and the party's position on each such issue; and a statement of each policy question the part considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue.

1. *To what extent may local governments regulate the establishment of water services?*

County of Volusia has, by ordinance and through its Comprehensive Planning process, made a legislative decision that all new water utility providers within the County shall be government owned and controlled. The reasons for this decision have to do with the scarcity of water, necessitating the careful and deliberate management of this valuable but limited natural resource, through planning and computer modeling processes, performed by a governmental coalition known as WAV, to which only sovereign entities may belong.

Additionally, it has been the experience of the County that private utilities frequently end up abandoned, necessitating the expenditure of County taxpayers' money to take over these systems and invest the monetary resources necessary to run them properly, after they have been neglected by their prior, non-governmental owners.

Furthermore, the County's Comprehensive Plan, required by the Florida Legislature, inherently permits (requires) the County to become involved in

control of growth and development, thus entangling the County in decisions regarding provision of water services.

The testimony concerning these issues shall be presented by John Thompson and Gloria Marwick.

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

Provision of bulk water services are exempt, and Farmton's remaining proposed services do not create the need for certification.

3. *Has Farmton Met the filing an notice requirements of Section 25-30.033 FAC?*

County of Volusia adopts the position and arguments of the City of Titusville.

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

Absolutely not. This area is a sparsely populated wilderness without need for such services at this time, or into the near future.

John Thompson and Gloria Marwick will testify regarding these facts, together with the witnesses from Brevard County and City of Titusville.

5. *Is Farmton's application inconsistent with Brevard County or Volusia County's Comprehensive Plans?*

Definitely. Testimony from John Thompson will demonstrate that the County of Volusia's Future Land Map designates the entire service area contained within County of Volusia for low-density uses, and such areas are intended to be maintained for uses inconsistent with the creation of a water service.

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

Yes. Gloria Marwick will testify that County of Volusia has the financial and technical ability to provide water service to this area if or when the need ever arises, and that the area is within unincorporated Volusia County, thus overlapping into an area which the County intends to service if the need ever arises. Therefore, Farmton's proposed Application will duplicate the County's intended services.

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

No. County of Volusia adopts the position and arguments put forth by City of Titusville.

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

No. County of Volusia adopts the position and arguments put forth by City of Titusville.

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

No. County adopts the position and arguments put forth by City of Titusville and Brevard County.

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

County takes no position on this issue at this time.

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

No. Please see answer to issue number 1 for explanation. John Thompson and Gloria Marwick will testify regarding this issue.

12. *What is the appropriate return on equity for Farmton?*

County takes no position at this time.

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

County has no position at this time.

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

County has no position at this time.

15. *What is the appropriate AFUDC rate for Farmton?*

County has no position at this time.

(g) Issues stipulated to between the parties.

None have been stipulated to at this time.

(h) Pending motions or other matters.

None.

(i) Pending requests or claims for confidentiality.

None.

(j) Requirements that cannot be complied with.

None.

(k) Objections to expert witnesses.

None at this time; however, if certain witnesses are proffered for expertise beyond that previously stated in prefiled testimony, County reserves the right to object at such time.

**COUNTY OF VOLUSIA
Legal Department**

By: _____

WILLIAM J. BOSCH

Assistant County Attorney
123 West Indiana Avenue
DeLand, Florida 32720-4613
wbosch@co.volusia.fl.us
Telephone: (386)736-5950
Florida Bar No. 456470

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Pretrial Statement was served on all parties and interested individuals listed below, this 7th day of May, 2004, U.S. Mail.

**COUNTY OF VOLUSIA
Legal Department**

By: _____

WILLIAM J. BOSCH

Assistant County Attorney
123 West Indiana Avenue
DeLand, Florida 32720-4613
wbosch@co.volusia.fl.us
Telephone: (386)736-5950
Florida Bar No. 456470

**STATE OF FLORIDA
PUBLIC SERVICE COMMISSION**

IN RE:

Application of Farmton Water Resources
LLC for original Water Certificate in Volusia
LLC and Brevard Counties, Florida

DOCKET NO.: 021256-WU

COUNTY OF VOLUSIA'S PREHEARING STATEMENT

COUNTY OF VOLUSIA, pursuant to the Order Establishing Procedure dated March 18, 2003 and as subsequently amended, hereby submits its Prehearing Statement:

(a) The name of all known witnesses that may be called by the party, and the subject matter of their testimony.

1. Gloria Marwick

Ms. Marwick is the County's Director of Water Resources and Utilities. The subject matter which she will testify to has been specified within the Prefiled Testimony, previously provided to the Commission. In accordance with that prefiled testimony, she will be asked to testify regarding issues concerning Volusia County's ability and willingness to provide the subject area with water service, when and if such is ever required. She will discuss how the present Farmton Application will adversely affect the County of Volusia, including its populace, municipalities and other water providers already therein.

2. John Thomson

Mr. Thompson is a Planner employed by the County of Volusia. He has already provided Prefiled Testimony, and his testimony before the Commission will be consistent therewith. This testimony will concern the inconsistency of Farmton's Application with the County's Comprehensive Plan, as well as the lack of need for a new utility system at the present time in this portion of the County. He will address the adverse impact that such a system, if approved at this time and in this manner, would have upon the County's natural resources, land use patterns, and land development plans and goals.

3. Additional Witnesses

County may call those witnesses listed by the other parties to this proceeding, to

testify consistent with their Prefiled Testimony. Additionally, the transcribed testimony of those witnesses who have been deposed in this case may also be presented.

(b) A description of all known exhibits that may be used by the part, whether they may be identified on a composite basis, and the witness sponsoring each.

1. All exhibits listed by the other parties to these proceedings.
2. Deposition transcripts of each witness deposed in this matter.
3. Exhibits attached to each of the depositions taken in this matter, through the deponent.
4. Future Land Use Maps for Volusia County, for the entire County as well as the Farmton/Miami Corp. and surrounding areas, through John Thompson.
5. County of Volusia Comprehensive Plan and amendments, through John Thompson.
6. All documents produced by Farmton in response Requests to Produce.
7. All documents produced by County of Volusia in response to Requests to Produce.
8. Volusian Water Alliance Water Supply Plan, through Gloria Marwick.
9. District Water Supply Plan from St. John's River Water Management District, through Gloria Marwick.
10. Interlocal Agreement Creating the Water Authority of Volusia (WAV), through Gloria Marwick.
11. County's Answers to Interrogatories from Farmton, through Ms. Marwick or Mr. Thompson, as appropriate or necessary.
12. All documents attached to Prefiled Testimony from any witness, through that witness.
13. Existing Consumptive Use Permit, through Gloria Marwick.
14. Pending Consumptive Use Permit application, through Gloria Marwick.
15. Petitions and Court Orders naming County as Receiver for Privately-held Utility Systems

16. Letters from DCA and the Water Management District providing opinions on the Application.

(c) A statement of basic positions in the proceeding.

County of Volusia objects the Farmton Water Resources Application for Original Water Certificate. The reasons for the County's objection include an inconsistency between the Application and the County's Comprehensive Plan; the significant risk that approval of this Application will encourage urban sprawl; the disastrous effect this previously unplanned, unanticipated and unmodeled water system would have upon the County's overall provision of water to its residents; the undesirability of having a major private water utility within the County which is not eligible to become a member of the County's Water Alliance group and therefore cannot participate in long-range planning decisions concerning a vital natural resource; and the total lack of need for water service in this undeveloped, rural, forested and uninhabited wilderness area. County also adopts and incorporates the positions of Brevard County and City of Titusville, as to all other arguments and positions taken by them.

(d),(e),(f) A statement of each question of fact the party considers at issue, the part's position on each such issue, and which of the party's witnesses will address the issue; a statement of each question of law the party considers at issue and the party's position on each such issue; and a statement of each policy question the part considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue.

1. *To what extent may local governments regulate the establishment of water services?*

County of Volusia has, by ordinance and through its Comprehensive Planning process, made a legislative decision that all new water utility providers within the County shall be government owned and controlled. The reasons for this decision have to do with the scarcity of water, necessitating the careful and deliberate management of this valuable but limited natural resource, through planning and computer modeling processes, performed by a governmental coalition known as WAV, to which only sovereign entities may belong.

Additionally, it has been the experience of the County that private utilities frequently end up abandoned, necessitating the expenditure of County taxpayers' money to take over these systems and invest the monetary resources necessary to run them properly, after they have been neglected by their prior, non-governmental owners.

Furthermore, the County's Comprehensive Plan, required by the Florida Legislature, inherently permits (requires) the County to become involved in

control of growth and development, thus entangling the County in decisions regarding provision of water services.

The testimony concerning these issues shall be presented by John Thompson and Gloria Marwick.

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

Provision of bulk water services are exempt, and Farmton's remaining proposed services do not create the need for certification.

3. *Has Farmton Met the filing an notice requirements of Section 25-30.033 FAC?*

County of Volusia adopts the position and arguments of the City of Titusville.

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

Absolutely not. This area is a sparsely populated wilderness without need for such services at this time, or into the near future.

John Thompson and Gloria Marwick will testify regarding these facts, together with the witnesses from Brevard County and City of Titusville.

5. *Is Farmton's application inconsistent with Brevard County or Volusia County's Comprehensive Plans?*

Definitely. Testimony from John Thompson will demonstrate that the County of Volusia's Future Land Map designates the entire service area contained within County of Volusia for low-density uses, and such areas are intended to be maintained for uses inconsistent with the creation of a water service.

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

Yes. Gloria Marwick will testify that County of Volusia has the financial and technical ability to provide water service to this area if or when the need ever arises, and that the area is within unincorporated Volusia County, thus overlapping into an area which the County intends to service if the need ever arises. Therefore, Farmton's proposed Application will duplicate the County's intended services.

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

No. County of Volusia adopts the position and arguments put forth by City of Titusville.

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

No. County of Volusia adopts the position and arguments put forth by City of Titusville.

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

No. County adopts the position and arguments put forth by City of Titusville and Brevard County.

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

County takes no position on this issue at this time.

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

No. Please see answer to issue number 1 for explanation. John Thompson and Gloria Marwick will testify regarding this issue.

12. *What is the appropriate return on equity for Farmton?*

County takes no position at this time.

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

County has no position at this time.

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

County has no position at this time.

15. *What is the appropriate AFUDC rate for Farmton?*

County has no position at this time.

(g) Issues stipulated to between the parties.

None have been stipulated to at this time.

(h) Pending motions or other matters.

None.

(i) Pending requests or claims for confidentiality.

None.

(j) Requirements that cannot be complied with.

None.

(k) Objections to expert witnesses.

None at this time; however, if certain witnesses are proffered for expertise beyond that previously stated in prefiled testimony, County reserves the right to object at such time.

**COUNTY OF VOLUSIA
Legal Department**

By: _____
WILLIAM J. BOSCH
Assistant County Attorney
123 West Indiana Avenue
DeLand, Florida 32720-4613
wbosch@co.volusia.fl.us
Telephone: (386)736-5950
Florida Bar No. 456470

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Pretrial Statement was served on all parties and interested individuals listed below, this 7th day of May, 2004, U.S. Mail.

**COUNTY OF VOLUSIA
Legal Department**

By: s/William J. Bosch

WILLIAM J. BOSCH

Assistant County Attorney
123 West Indiana Avenue
DeLand, Florida 32720-4613
wbosch@co.volusia.fl.us
Telephone: (386)736-5950
Florida Bar No. 456470

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Pretrial Statement was served on all parties and interested individuals listed below, this 7th day of May, 2004, U.S. Mail.

**COUNTY OF VOLUSIA
Legal Department**

By: s/William J. Bosch
WILLIAM J. BOSCH
Assistant County Attorney
123 West Indiana Avenue
DeLand, Florida 32720-4613
wbosch@co.volusia.fl.us
Telephone: (386)736-5950
Florida Bar No. 456470