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May 18, 2012

VIA HAND DELIVERY

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12 MAY 18 PM 1:39  
COMMISSION  
CLERK

Ann Cole, Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: **PSC Docket No. 110298-SU; Farmton Water Resources LLC  
Application for Original Wastewater Certificate in Brevard County**

Dear Ms. Cole,

As attorney for Farmton Water Resources LLC in the above-referenced matter, I recently received a copy of the "Protest of Final Order Granting Certificate No. 564-S" filed by Edgewater Citizens Alliance for Responsible Development ("ECARD") and Volusia-Flagler's Sierra Club. This document was received by me by U.S. Mail on May 9, 2012 and was received by the Commission Clerk's office on May 10, 2012.

It is my understanding that the Florida Public Service Commission Staff considers this "protest" to be untimely and as such a nullity and is issuing a letter to the "protestant" to that effect. We are in complete agreement that the "protest" is untimely and as such should be considered a nullity. In addition, Farmton Water Resources LLC considers the "protest" to be subject to a motion to strike or dismiss based upon other factors that we will not go into here.

Based upon the above facts, Farmton Water Resources LLC had considered filing a Motion to Strike this "protest" and to seek sanctions against the protestant under Section 57.105, Florida Statutes. Given the Public Service Commission's staff position that the "protest" is formally a nullity and will only be included in the correspondence side of the docket file, we have chosen not to pursue those options.

There are, however, numerous factual allegations within the "protest" that cannot be left unaddressed and as such Farmton Water Resource LLC is filing this letter in order to briefly respond to several of the allegations contained therein. Outlined below by reference to the paragraph numbers in the "protest" are the allegations that we believe require a response, even if the protesting document and this responses are only included in the correspondence side of the docket file in this proceeding.

COM \_\_\_\_\_  
APA \_\_\_\_\_  
ECR 13  
GCL 2  
RAD \_\_\_\_\_  
ERC \_\_\_\_\_  
ADM \_\_\_\_\_  
OPC \_\_\_\_\_  
CLK \_\_\_\_\_

DOCUMENT NUMBER-DATE

03173 MAY 18 2012

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FPSC-COMMISSION CLERK

**Section 3 of the "protest"**. In this section, the protestant provides information concerning the mitigation banks. The protestant's note their active opposition to the Farmton local plan on lands owned by Miami Corporation in Volusia and Brevard Counties and provides "facts" relative to the operation of the Farmton Mitigation Bank ("FMB"). Among these, they state that since 2000, over 24,000 acres of the Farmton tract have been operated as FMB.

Farmton response: The amount of acreage contained within the FMB is substantially overstated by the protestant. The approval of the Farmton local plan amendment specifically calls for, and, in fact, encourages development within the area proposed for wastewater service by Farmton Water Resources, LLC.

**Section 6 of the "protest"**. The protestant claims that the designation of a wastewater territory within the FMB is contrary to the public interest and that such authorization was granted on the basis of incomplete and erroneous information. Protestant also alleges that the FMB enabling instrument precludes sewage activities and/or activities from the FMB territory.

Farmton response: The granting of the certificate which covers in part the Farmton Mitigation Bank is not contrary to the public interest and the Commission has in fact found the opposite. There are no "sewage activities" contemplated within the FMB and the FMB will never have such activities on them. The sewer activities proposed by FWR are specifically outlined in the application submitted by the utility and none of those activities are proposed to occur within the FMB.

**Section 7 of the "protest"**. The protestant alleges that the U.S. Environmental Protection Agency, the U.S. Army Corp of Engineers, the U.S. Fish and Wildlife Service, and the National Marine Fishery Services were not provided notice of the application by FWR and that those agencies are parties which are part of the Farmton Mitigation Banking interagency review team. The protestant further alleges that the omission of notice to those entities resulted in a certification process that failed to provide the Public Service Commission with adequate information regarding the service territory and the unlawful incompatibility of a wastewater utility on a federal/state mitigation bank.

Farmton response: There is no impact to the FMB whatsoever from the granting of this wastewater certificate, and all terms of the FMB permit are being and will continue to be complied with by the landowner.

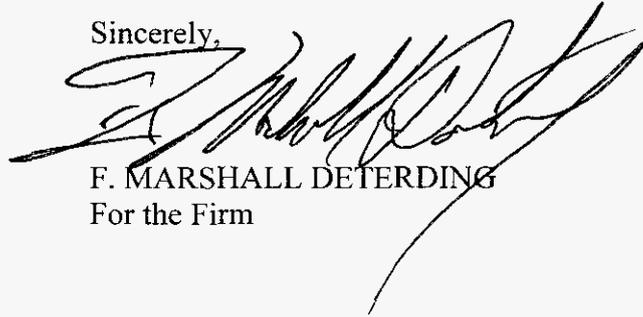
**Section 8 of the "protest"**. In this section, the protestant alleges that several credits have been sold within the FMB and that lands within the FMB are encumbered with recorded conservation easements. Finally, the protest alleges that the provisions of the enabling instrument prohibit certain uses within the conservation easements.

Ms. Ann Cole  
May 18, 2012  
Page | 3

Farmton response: The facts as outlined in this paragraph are wholly irrelevant and outside the jurisdiction of the Florida Public Service Commission. In addition, there are no "incompatible uses" proposed within the FMB or within the areas covered by conservation easements as those terms are defined under the conservation easements.

Should you have any questions regarding this response, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Marshall Deterding", written over a white background.

F. MARSHALL DETERDING  
For the Firm

FMD/bsr