

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

RECEIVED PSC
AUG 26 AM 11:54
RECORDS AND REPORTING

DATE: AUGUST 26, 1999
TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)
FROM: DIVISION OF WATER AND WASTEWATER (REDEMANN, MESSER) *ppr*
DIVISION OF LEGAL SERVICES (VACCARO) *BBM*
RE: DOCKET NO. 980467-WS - APPLICATION FOR AMENDMENT OF
CERTIFICATES NOS. 373-W AND 322-S TO ADD TERRITORY IN
MARION COUNTY BY FLORIDA WATER SERVICES CORPORATION.
COUNTY: MARION
AGENDA: SEPTEMBER 7, 1999 - REGULAR AGENDA - INTERESTED PERSONS
MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\WAW\WP\980467.RCM

CASE BACKGROUND

Florida Water Services Corporation (Florida Water or utility) provides water service to approximately 3,187 water customers, and 1,337 wastewater customers in the Marion Oaks development. Wastewater service is provided by septic tanks in part of the development. Florida Water provides service in about 24 counties regulated by the Commission. This amendment application is for the Marion Oaks area. The utility's 1998 annual report shows a total annual operating revenue of \$47,407,245 and a net operating income of \$8,306,392. The utility is a Class A utility company under Commission jurisdiction.

Pursuant to Section 367.045, Florida Statutes, on April 1, 1998, Florida Water applied for an amendment of Certificates Nos. 373-W and 322-S to add territory in Marion County (County). The utility proposes to provide service to the area surrounding the Marion Oaks development in Marion County. This amendment will add

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about 32 square miles of additional water service area and 44 square miles of additional wastewater service area to the utility's certificated area.

Pursuant to Rule 25-30.030, Florida Administrative Code, the utility provided actual notice of its application, and notice by publication. Rule 25-30.030(6), Florida Administrative Code, requires that notice be given "to each customer, of the system to be certificated, transferred, acquired or deleted." However, in this case there were no customers or system in the territory to be added which would require notice. Nevertheless, from April 27, 1998 through May 20, 1998 (the expiration date for objections to the application), 118 Marion County residents filed letters which indicated that they did not wish to be served by Florida Water. By letter, the Marion County Board of County Commissioners (County) informed these residents of Florida Water's application. The County indicated in its letter that the residents should inform the Commission if they did not wish to be included in Florida Water's service area. The letter also suggested that the County's rates would be lower than the rates charged by Florida Water. The residents were provided a form letter to sign and send to the Commission. The residents indicated that they were obtaining service from wells and septic tanks, and did not wish to have a designated water and wastewater supplier.

On May 1, 1998, the County objected to Florida Water's application and requested a hearing on its objection. Accordingly, a hearing was scheduled for January 26, 1999. On May 6, 1998, the Commission's Division of Legal Services mailed letters to all residents who had filed letters just prior to May 6. Legal staff explained that Marion County had filed an objection and requested a hearing in this matter. Legal staff requested that by June 10, 1998, the residents clarify by letter if they intended to pursue their objections at hearing or if they wished their letters to be treated as comment letters. Five residents filed letters indicating that they wished to pursue their objections in this matter. Of the original 118 letters filed, 23 residents did not receive legal staff's May 6 letter.

On September 14, 1998, the County, on behalf of itself and Florida Water, filed a Stipulated Agreement and Notice of Withdrawal of the County's objection. In December of 1998, at the request of the Prehearing Officer, the Chairman's office canceled the hearing scheduled for January 26, 1999. Following the cancellation of the hearing, the County indicated to legal staff that it would contact the 23 residents discussed above to determine if they wished to pursue objections in this matter. On June 14,

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1999, the County mailed letters to these residents, indicating that the County and Florida Water had reached a settlement in this matter. The County further indicated that in light of the settlement, there may no longer be a need for the residents to incur the costs and expenses of objecting in the proceeding. The County asked these residents to send a letter to the Commission's Division of Records and Reporting if they desired to pursue this matter. No letters were filed; thus, there are no pending objections in this matter.

Pursuant to the Memorandum of Understanding (MOU) between the Commission and the Department of Community Affairs (DCA), which was entered on June 5, 1998, the Commission provided the DCA a copy of the amendment application for review and comment. The DCA's response was received June 30, 1998, and was forwarded to the utility for its review. Florida Water responded on September 25, 1998. The substance of the DCA's and utility's responses are addressed in Issue 2.

Staff has authority to administratively approve applications for amendment when no objections have been filed and the application is without controversy. This case is being brought to the attention of the Commission for approval of the stipulated agreement between Florida Water and Marion County, which is addressed in Issue 1.

However, staff notes that Florida Water and the County agreed to acquisition of additional water and wastewater territory not addressed in the original application (Attachment D). Issues 2 and 3 address and resolve this discrepancy.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve Florida Water Services Corporation's and Marion County's Stipulated Agreement and acknowledge Marion County's Notice of Withdrawal of its objection to Florida Water Service Corporation's amendment application?

RECOMMENDATION: Yes. The Commission should accept the parties' Stipulated Agreement and acknowledge Marion County's Notice of Withdrawal of its objection to Florida Water Service Corporation's amendment application. (VACCARO)

STAFF ANALYSIS As discussed in the case background, the County, on behalf of itself and Florida Water, filed a stipulated agreement on September 14, 1999. Based on the stipulated agreement, the County filed a notice of withdrawal of its objection to Florida Water's amendment application. The stipulated agreement and notice of withdrawal are attached to this recommendation as Attachment A. The parties' stipulated agreement provides, in pertinent part, the following:

1) Florida Water agrees to modify its amendment application to remove lands which the parties agree that the County should serve. Florida Water's requested amendment territory is revised as set forth in Exhibits 1 and 2 of the stipulated agreement;

2) In exchange for Florida Water's revised amendment application, the County agrees to withdraw its objection to Florida Water's amendment application in this docket;

3) The parties agree not to contest the other party's right to provide service in the areas described in Exhibits 1 and 2 of the stipulated agreement. The County's agreement not to contest is limited to the actual amendment territory certificated in this docket. The County agrees to take no action to disenfranchise Florida Water from the right to provide service in the amended area set forth in Exhibits 1 and 2 of the stipulated agreement. Likewise, Florida Water agrees to take no action to provide service beyond the amended area set forth in Exhibits 1 and 2, unless by acquisition;

4) The parties agree to enter into a bulk wholesale wastewater service agreement which will be submitted for PSC approval;

5) The stipulated agreement will be specifically enforceable by filing with the Fifth Judicial Circuit Court in and for Marion County. All provisions of the agreement will survive any action by the Commission to approve or modify Florida Water's pending amendment application;

6) Florida Water agrees not to transfer water in bulk beyond the County's boundaries, nor sell will it sell water to a wholesaler of water for distribution beyond County boundaries;

7) In new service areas, Florida Water Services agrees to extend water and wastewater service simultaneously if consistent with economic feasibility and the Marion County Comprehensive Plan.

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The parties have filed this stipulated agreement to avoid the time and expense of further litigation. Staff believes that the Commission should accept the parties' stipulated agreement as a reasonable resolution of this matter. This settlement offer resolves all issues in this docket. However, to the extent that provision five of the agreement purports to bind the Commission's authority to act in this docket, staff notes that it is unenforceable against the Commission. The Commission has approved similar agreements in the past where it has determined that the parties could not bind the Commission's authority. By Order No. PSC-99-0635-FOF-WU, issued on April 5, 1999 in Docket No. 960444-WU, In Re: Application for Rate Increase and Increase in Service Availability Charges in Lake County by Lake Utility Services, Inc., the Commission approved a settlement agreement between the utility and the Office of Public Counsel which purported to bind the Commission from instituting future proceedings to change the utility's rates and charges set forth in the settlement. In approving the parties' settlement, the Commission noted at page six that "the specific provisions were . . . 'not fatal flaws; they are simply unenforceable against the Commission and are void ab initio. The parties cannot give away or obtain that for which they have no authority.' Order No. PSC-94-0172-FOF-TL at page six." Likewise, staff believes that, to the extent that Florida Water's and the County's stipulated agreement may contain unenforceable language, it is still appropriate to approve the agreement.

Based on the foregoing, staff recommends that Florida Water Services' and the County's stipulated agreement is reasonable and should be approved. Staff notes, however, that part of Florida Water's requested territory, as revised by the parties settlement was not contemplated in the original amendment application. This additional territory is addressed in Issue 2.

ISSUE 2: Should Florida Water Services Corporation's application for amendment of Water Certificate No. 373-W and Wastewater Certificate No. 322-S be approved?

RECOMMENDATION: Yes. The Commission should grant Florida Water Services Corporation's application for the additional territory described in Attachment B, minus the area stricken. Attachment C is the composite territory description that includes all previously granted territory and the additional water and wastewater service area. Attachment D is the stipulated territory for which Florida Water did not originally apply. The utility should notice the area in Attachment D, and provide proof of noticing. Staff recommends that it process the remaining portion of the application administratively, unless an objection is filed or the Department of Community Affairs (DCA) submits comments that must be addressed. In the event of an objection to the territory in Attachment D or comments from the DCA, this matter will be returned to the Commission for final determination. Florida Water should charge the customers in the territory added herein (Attachment B) the rates and charges until authorized to change by this Commission in a subsequent proceeding. (REDEMANN, MESSER, VACCARO)

STAFF ANALYSIS: As stated earlier, on April 1, 1998, the utility filed an application for amendment of Certificates Nos. 373-W and 322-S to add territory in Marion County, pursuant to Rule 25-30.036(3), Florida Administrative Code. The application is in compliance with the governing statute Section 367.045, Florida Statutes and other pertinent statutes and administrative rules concerning an application for amendment of certificate. The application contains a check in the amount of \$4,500, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The utility has provided a copies of warranty deeds which provides for the continued use of the land as required by Rule 25-30.036(3)(d), Florida Administrative Code.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.036(3)(e), (f) and (i), Florida Administrative Code. A description of the water and wastewater territory stipulated by the utility and Marion County is appended to this recommendation as Attachment B. The area stricken includes an area Florida Water did not notice even though Marion County does not object to service by Florida Water. Attachment D is the description for area that was approved in the stipulation, but not noticed by Florida Water. The utility must properly notice this area in the newspaper and the entities in the Marion and Citrus Counties lists provided by the Commission, and

provide proof of noticing before the Commission can grant this area. There does not appear to be any controversy in the new territory (Attachment D). Therefore, staff will process the utility's remaining portion of the application administratively when it is complete, unless an objection is received or the Department of Community Affairs (DCA) submits comments that need to be addressed. In the event of an objection to the territory in Attachment D or comments from the DCA, this matter will be returned to the Commission for final determination.

The utility has submitted an affidavit consistent with Section 367.045(2)(d), Florida Statutes, that it has tariffs and annual reports on file with the Commission. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. Objections to the application were filed; however, they have been resolved, as addressed in the Case Background and in Issue 1. The local planning agency was provided notice of the application and did not file a protest to the amendment.

Florida Water has been regulated by the Commission since 1964 and currently owns and operates over one hundred water and wastewater facilities throughout the state which are under the Commission's jurisdiction. Florida Water has a staff of engineers, scientists, accountants, and other professionals based in its Orlando headquarters, as well as, licensed operators that operate and maintain facilities located throughout the state. At year-end 1998, Florida Water's capital structure consisted of more than \$205 million in total capital, including more than \$117 million in long-term debt and more than \$86 million in equity capital.

The water treatment system consists of three supply wells and a one million gallon storage tank. The water treatment system can deliver a maximum daily demand of about 1,728,000 gallons per day (gpd), and a peak instantaneous demand of 2,700 gallons per minute. The highest maximum daily demand in the past 12 months was 1,263,100 gpd. Florida Water has sufficient capacity in the near future and will expand its water treatment system as required when additional facilities are needed.

The wastewater system currently serves only one-half of the existing Marion Oaks Development. Some water customers are served by septic tanks. The current permitted capacity is 200,000 gallons per day on a three month average basis. The wastewater treatment plant and effluent disposal system are currently scheduled to be expanded by 25,000 gpd. The construction is to be completed in the

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spring of 2000. The Department of Environmental Protection (DEP) has no outstanding notices of violation against this system.

Based on the above information, staff believes that the utility has the capacity and the technical expertise to serve these customers in the future.

The DCA reviewed the initial application and provided comments that indicated a split recommendation on the entire land area at issue. The DCA noted that the County had raised a general objection that these areas are inconsistent with Marion County's Comprehensive Plan which intends for rural land uses and rural densities in these areas. The DCA stated that it found that approximately 12,400 acres were appropriate for central water and wastewater due to the urban land use Future Land Use Map (FLUM) designations or vested lots of record. It also stated that it believed approximately 18,040 acres were not appropriate for central water and wastewater due to the Rural Land and Urban Reserve Area FLUM designations. The DCA identified specific parcels of land in its recommendation with respect to both categories of expansion.

A copy of the DCA comments was forwarded to FWSC, and a response to the comments by FWSC was received on November 12, 1998. FWSC and Marion County had been in negotiations during this time, and in fact, had reached a stipulation (as discussed in Issue 1) on September 1, 1998. As a result of the stipulation, FWSC stated that it maintained that "this settlement is consistent with the County's Comprehensive Plan; and, apparently, the County agrees. The Comprehensive Plan announces the desirability of centralized water and sewer rather than wells and septic tanks." The response goes on to cite several areas of the comprehensive plan to support this statement.

FWSC's response also addressed the DCA's statements that much of the requested service territory has a rural land use designation and is not appropriate for central water and wastewater services. FWSC stated that the latest comprehensive plan for the Marion Oaks and Florida Highlands areas included in the proposed territory, are designated as rural land use. However, both areas are currently approved for development and will have centralized water and sewer service. FWSC stated it was its contention that it was the County's intent to have all of these areas served with public water and wastewater if feasible, regardless of the designation as evidenced by the comprehensive plan.

Finally, FWSC stated that, "granting Florida Water the expanded franchise area in Marion County in no way conveys approval for development, nor does it supplant the County's control over land use/planning. The County Planning Department retains control over development. It can approve or reject potential development plans. Although Florida Water may obtain a water and wastewater certificate from the PSC, Florida Water cannot provide service unless that development is approved by the appropriate governmental agencies. Therefore, approving Florida Water's expanded territory does not stop the County from rejecting development permit applications."

Commission staff contacted the DCA to make it aware of the stipulation in this docket, and to allow it to offer any additional comments to its original analysis as a result of the stipulation. The DCA responded that since the underlying land use designations were not affected by the stipulation, it still believes the original analysis to be appropriate in this case.

Section 367.045(5)(b), Florida Statutes, states:

When granting or amending a certificate of authorization, the commission need not consider whether the issuance or amendment of the certificate of authorization is inconsistent with the local comprehensive plan of a county or a municipality unless a timely objection to the notice required by this section has been made by an appropriate motion or application. If such an objection has been timely made, the commission shall consider, but is not bound by, the local comprehensive plan of the county or municipality.

Although the necessity to specifically address the concerns of the DCA in this case have been alleviated due to the settlement agreement, this case does bring out the regulatory dichotomies which result from the different missions of the two agencies. The DCA oversees the comprehensive plan process of local governments. For the purposes of its analyses of PSC amendments, the DCA uses the last-approved land use data from its local areas. However, it appears the same data may be interpreted somewhat differently or with a different focus by the local government itself, and enforcement of the plan in the local area is totally a function of the city or county government.

In this case, the issue before the Commission is the FWSC amendment and settlement agreement with Marion County. The

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settlement represents Florida Water's and Marion County's negotiated agreement over the long run with respect to water and wastewater service in the area of the County. Although the DCA has indicated concerns, the County's response indicates its concerns have been remedied. While the land use designations may not currently provide for development, the agreement specifies which utility will ultimately serve the area. The staff believes that this agreement should be approved by the Commission to eliminate unnecessary and costly future litigation.

Florida Water's rates were approved in Docket No. 950495-WS. Final Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, in that docket, was affirmed in part, and reversed in part on appeal. The Commission disposed of the pending issues on remand at a special Agenda Conference on August 23, 1999, and a final order on remand will issue shortly. Florida Water should charge the customers in the territory added herein its approved rates and charges until authorized to change by this Commission in a subsequent proceeding.

The utility has returned the certificates for entry of the additional territory and filed revised tariff sheets which reflect the amended territory description.

Based on the above information, staff believes it is in the public interest to grant Florida Water Services Corporation's application for the additional territory described in Attachment B, minus the area stricken. Attachment C is the composite territory description that includes all previously granted territory and the additional water and wastewater service area. Attachment D is the stipulated territory Florida Water did not originally apply. The utility should notice the area in Attachment D, and provide proof of noticing. Florida Water should charge the customers in the territory added herein (Attachment B) the rates and charges until authorized to change by this Commission in a subsequent proceeding.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: No, this docket should remain open for Florida Water to notice the area in Attachment D. After noticing is complete, and Florida Water has provided proof of noticing, staff will process the remaining portion of the amendment administratively. However, if an objection is received or the Department of Community Affairs (DCA) has concerns that need to be addressed, this case will be returned to the Commission for final decision. (VACCARO, REDEMANN)

STAFF ANALYSIS: The utility and Marion County agreed to additional area that was not described in the notice (Attachment D). Therefore, the utility must provide notice in the newspaper and notice the entities in the Marion and Citrus Counties lists provided by the Commission. After noticing is complete, and Florida Water has provided proof of noticing, staff will process the remaining portion of the amendment administratively. However, if an objection is received or the Department of Community Affairs (DCA) has concerns that need to be addressed, this case will be returned to the Commission for final decision.

Legal

GRAY, HARRIS & ROBINSON

PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

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AUG 18 1999

Florida Public Service Commission
Division of Water and Wastewater

September 11, 1998

Our File No: 40200-6

Via Federal Express, Overnight Delivery

Bianca S. Bayo, Director, Records & Recording
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 980467-WS

Florida Public Service Commission
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LEGAL DIVISION

Dear Ms. Bayo:

Enclosed herewith for filing is the Notice of Filing Stipulated Agreement, and a Notice of Withdrawal of Protest. Thank you for your assistance in this matter.

Sincerely yours,

Thomas A. Cloud
Thomas A. Cloud, Esquire

GRAY, HARRIS & ROBINSON, P.A.

Enclosures

cc: See Notice of Filing Certificate of Service

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

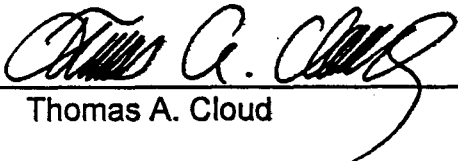
In re: Application for amendment of)
Certificates Nos. 373-W and 322-S to)
add territory in Marion County by)
Florida Water Services Corporation)
_____)

Docket No. 980467-WS

NOTICE OF FILING STIPULATED AGREEMENT

Intervenor, **MARION COUNTY**, by and through its undersigned attorneys, hereby gives notice of filing a copy of a the executed Stipulated Agreement between the Applicant, Florida Water Services Corporation and Marion County.

Respectfully submitted this 11th day of September, 1998.

By: 

Thomas A. Cloud

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on the following: Original and 7 copies, together with the document on diskette, via overnight delivery to:

- (1) Blanca S. Bayo, Director
Division of Records and Reporting
Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
904/413-6770

With a copy via overnight delivery/hand delivery/U.S. Mail to:

- (2) Jennifer Brubaker, Esquire
FPSC Legal Division
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Counsel for the FPSC

- (3) Joseph M. Hanratty, Esquire
FORMAN, KREHL & LANDT
320 NW 3rd Avenue
Post Office Box 159
Ocala, FL 32678-0159

this 11th day of September, 1998.



Thomas A. Cloud, Esquire
Fla. Bar No. 293326
GRAY, HARRIS & ROBINSON, P.A.
Post Office Box 3068
Orlando, FL 32802-3068
Telephone: (407) 843-8880
Facsimile: (407) 244-5690

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Application for amendment of)
Certificates Nos. 373-W and 322-S to)
add territory in Marion County by)
Florida Water Services Corporation)**
_____)

Docket No. 980467-WS

NOTICE OF WITHDRAWAL OF PROTEST

COMES NOW MARION COUNTY (the "County"), by and through its undersigned counsel and files this Notice of Withdrawal of Protest (this "Notice") in Florida Public Service Commission Docket No. 980467-WS. This withdrawal is based upon execution of the Stipulated Agreement, dated September 11th, 1998.

Respectfully submitted,



Thomas A. Cloud
Fla. Bar No. 293326
GRAY, HARRIS & ROBINSON, P.A.
Post Office Box 3068
Orlando, FL 32802-3068
Telephone: 407/843-8880

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on the following: Original and 7 copies, together with the document on diskette, via overnight delivery to:


- (1) Blanca S. Bayo, Director
Division of Records and Reporting
Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

With a copy via overnight delivery/hand delivery/U.S. Mail to:

(2) Jennifer Brubaker, Esquire
FPSC Legal Division
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Counsel for the FPSC

(3) Joseph M. Hanratty, Esquire
FORMAN, KREHL & LANDT
320 NW 3rd Avenue
Post Office Box 159
Ocala, FL 32678-0159

this 11th day of September, 1998.



Thomas A. Cloud, Esquire
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GRAY, HARRIS & ROBINSON, P.A.
Post Office Box 3068
Orlando, FL 32802-3068
Telephone: 407/843-8880
Facsimile: 407/244-5690

STIPULATED AGREEMENT

THIS AGREEMENT made and entered into this 18th day of August, 1998, by and between **MARION COUNTY**, a political subdivision of the State of Florida (hereafter the "COUNTY"), and **FLORIDA WATER SERVICES CORPORATION**, a Florida corporation, formerly known as Southern States Utilities, Inc. (hereafter "FWSC").

RECITALS

1. FWSC filed an Application for Amendment of Certificate No. 373-W and 322-S to add water and sewer territory in Marion County, Florida.
2. The COUNTY objected to FWSC's Application.
3. The parties have now agreed to resolve their differences through a territorial settlement and other agreements set forth below.

ACCORDINGLY, for and in consideration of the Recitals, the mutual undertakings and agreements herein contained and assumed, and other good and valuable considerations received by each party from the other, the receipt and sufficiency of which are acknowledged, the parties do hereby agree as follows:

SECTION 1. RECITALS. The above Recitals are true and correct, and form a material part of this Agreement.

SECTION 2. RESOLUTION OF DISPUTE. It is in the best interest of both parties to resolve their dispute concerning the proposed provision of water and sewer service to various parcels of property within Marion County currently proposed for service by FWSC in PSC Docket No. 980467-WS, and for other parcels of property in the immediate vicinity thereof.

SECTION 3. MODIFICATION OF APPLICATION BY FWSC. Mindful of the cost of continued litigation and other valid considerations, FWSC agrees to modify its application currently pending before the Florida Public Service Commission in Docket NO. 980467-WS in order to remove lands which the parties agree the COUNTY should be allowed to serve in exchange for Marion County agreeing to withdraw their protest in opposition to FWSC's application in Docket No. 980467-WS. FWSC will amend the pending FPSC application for service area amendments to reflect the boundaries as described in Exhibits "1" and "2."

SECTION 4. ALLOCATION OF TERRITORY. FWSC, immediately upon approval of this Agreement by the Marion County Commission, will file an amendment to its application pending before the Florida Public Service Commission to include the lands depicted in Exhibits "1" and "2" hereto within its certificated water and wastewater service areas as FWSC's water and wastewater service areas.

CERTIFIED A TRUE COPY
 DAVID R. ELLSPERMANN
 BY: Wren Pauling DC

SECTION 5. COUNTY WITHDRAWAL OF PROTEST. Once the amended application referenced above is filed, the COUNTY will file its Notice of Withdrawal of Protest in Public Service Commission docket No. 980467-WS and not object to FWSC's amended application contingent upon revision to that application in conformance with the territory outlined herein and in Exhibits "1" and "2" hereof and contingent upon the executed Stipulated Agreement. COUNTY will send a letter to the FPSC acknowledging in this agreement and withdrawing County's objection.

SECTION 6. SERVICE AREAS. The COUNTY will provide water and wastewater services in the area to the east of FWSC's existing eastern water service territory boundary and as if such boundary extended south to the Lake County border and north to the existing southern border of FWSC's existing water service area as described in Exhibits "1" and "2." FWSC will provide water and wastewater service to the lands shown in FWSC's Amended Application before the PSC, west of the service area to be served by the COUNTY as described in Exhibits "1" and "2" and including an area terminating one mile northwest of State Road 200 to the Citrus County border. FWSC and the COUNTY will agree not to contest the other party's exclusive right to provide service in the areas described in Exhibits "1" and "2" and based upon allegations of ability to serve, the other party's inability to serve or for any other reason; provided, however, the COUNTY's agreement not to contest is limited to the area actually certificated in PSC Docket No. 980467-WS. FWSC will agree not to provide water or wastewater service to lands lying east of I-75 or outside of the eastern border of FWSC's service area, as proposed in Florida Water's pending application, unless by acquisition. The COUNTY will likewise agree to take no action in the future, whether directly or indirectly, to disenfranchise FWSC from the right to provide water and wastewater service to the lands described in Exhibits "1" and "2," including, but not limited to using development permitting, zoning or other power of the COUNTY in a manner which would effectively cause such a result. Nothing contained herein shall be construed to prohibit Florida Water or the COUNTY from acquiring other utilities in Marion County.

SECTION 7. COOPERATION. To the extent the COUNTY or FWSC is unable to provide service to a portion of its territory as evidenced by a written statement directly to the other party of its inability or unwillingness to do so, the parties will cooperate to ensure that water and sewer service is provided by whoever is best able to do so in the quickest and most efficient manner, including through bulk service agreements. FWSC, COUNTY and COUNTY utilities department agree to use best efforts to coordinate activities to best protect environment, health and safety of residents of COUNTY.

SECTION 8. BULK AGREEMENT. The parties shall enter into a bulk wholesale wastewater service agreement which will be submitted for approval by the FPSC. This proposed agreement shall contain provisions consistent with this Section 8. FWSC will provide retail wastewater service to the northeast corner of the new service area. When the OCALA MEADOW WASTEWATER TREATMENT PLANT ("OMWTP") is operational, FWSC will purchase bulk wastewater service from the COUNTY to serve the new service area in the northeast corner at a rate equal to eighty-five percent (85%) of the COUNTY's retail wastewater rate. However, such bulk wastewater rates shall never exceed the

greater of eighty-five percent (85%) of the retail wastewater rate which Florida Water charges to its retail customers or the COUNTY's reasonable costs to provide the wastewater service; provided, however, should the COUNTY rates exceed eighty-five percent (85%) of the said retail wastewater rate then FWSC shall have the option to provide retail wastewater service. Other terms including capital contributions to the COUNTY will provide for reasonable and necessary capital contributions from the retail customers to the COUNTY in accordance with COUNTY rate resolutions and ordinances, with contributions for the cost of designing, permitting, and extending the pipeline north and constructing the pump station not to exceed the actual costs thereof. The COUNTY will own the bulk wastewater line and pump station to be constructed so as to facilitate the COUNTY's provision of wastewater service east of I-75.

SECTION 9. ORDINANCE AMENDMENT. The COUNTY will amend Ordinance No. 98-36 to recognize the service areas set forth in Exhibits "1" and "2." COUNTY will agree that any ordinance requiring mandatory hookup to central water or wastewater facilities that may be adopted by the COUNTY, including enforcement provisions thereof, shall be made applicable to FWSC.

SECTION 10. SPECIFIC PERFORMANCE. The Stipulated Agreement shall be specifically enforceable in accordance with its terms by either party against the other by filing with the Fifth Judicial Circuit Court in and for Marion County, Florida. All provisions of this Agreement will survive any action by the Florida Public Service Commission ("FPSC") to approve or modify FWSC's pending application for amended water and wastewater service areas.

SECTION 11. NO BULK WATER TRANSFERS. FWSC shall not transfer water in bulk beyond the boundaries of COUNTY, nor will they sell water to a wholesaler of water for distribution beyond the boundaries of the COUNTY.

SECTION 12. SIMULTANEOUS SERVICE. In new service areas, FWSC agrees to extend water and sewer service simultaneously if consistent with economic feasibility and the Marion County Comprehensive Plan.

IN WITNESS WHEREOF, the parties hereto have hereunder executed this Agreement on the date and year first above written.

MARION COUNTY, FLORIDA

BY: _____

County Chairman

DATE: _____

9-1-98

ATTEST:

BY: [Signature]
David R. Ellspermann, Clerk

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me this 1st day of September, 1998, by Randy Harris as Chairman of MARION COUNTY, FLORIDA, and acknowledged before me that he/she executed the foregoing instrument on behalf of MARION CCUNTY, FLORIDA.



Miriam Pauley
MY COMMISSION # CC688373 EXPIRES
October 29, 2001
BONDED THRU TROY FAIN INSURANCE, INC.

Miriam Pauley

Signature of Notary Public

MIRIAM PAULEY

(Print Notary Name)

My Commission Expires: _____

Commission No.: _____

Personally known, or

Produced Identification

Type of Identification Produced _____

AFFIX NOTARY STAMP

FOR THE USE AND RELIANCE
OF MARION COUNTY ONLY.
APPROVED AS TO FORM.

September 9, 1998

[Signature]

Thomas A. Cloud, Utilities Counsel



Signed, sealed and delivered
in the presence of:

**FLORIDA WATER SERVICES
CORPORATION**

Attest: [Signature]
Print Name: Brian P. Armstrong
Title: Vice President & General Counsel

BY: [Signature]
Print Name: John Cirello
Title: President, Chairman & CEO

DATE: August 28, 1998

[CORPORATE SEAL]

STATE OF FLORIDA
COUNTY OF ORANGE

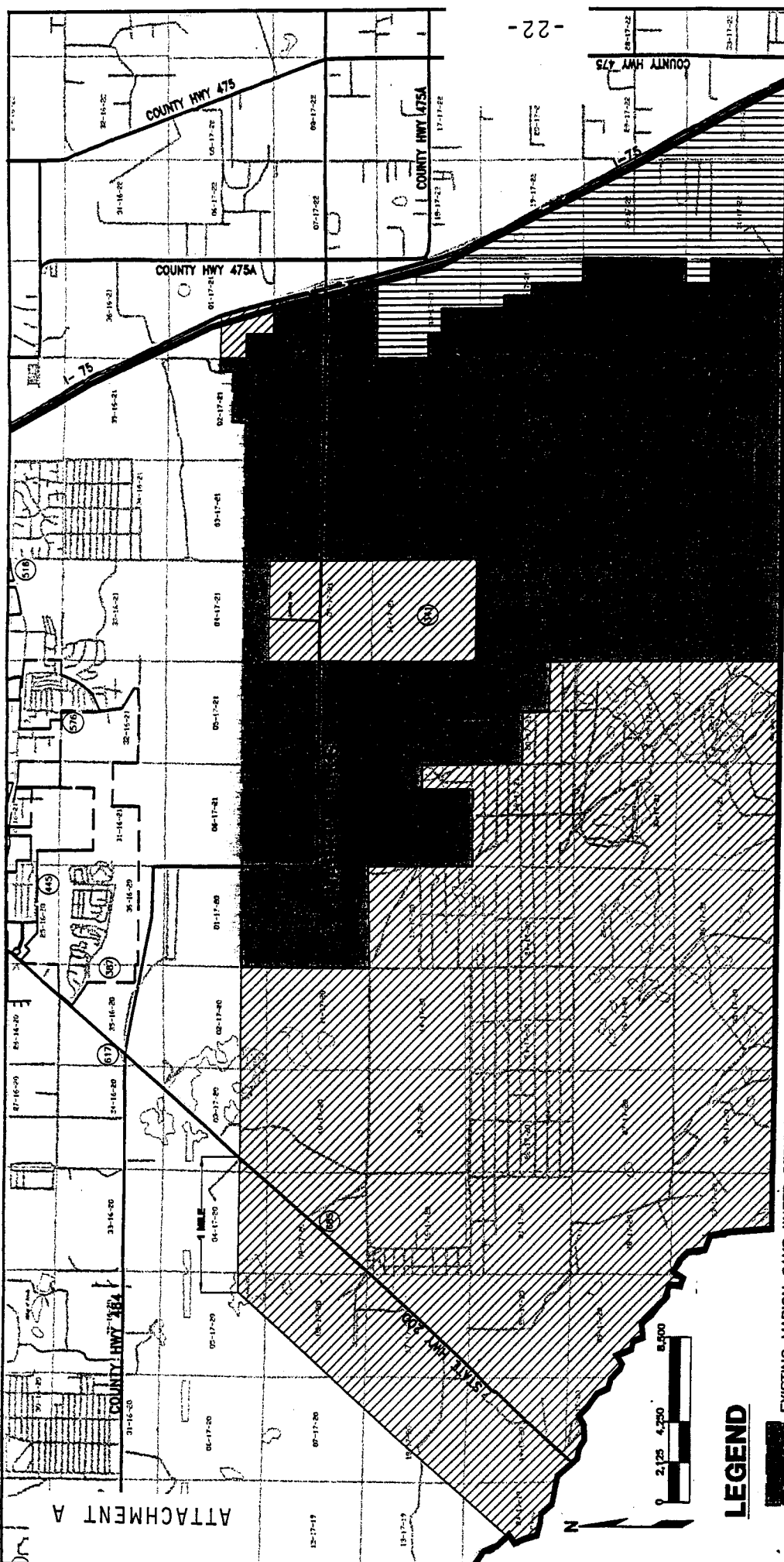
The foregoing instrument was acknowledged before me this 28th day of
August, 1998, by John Cirello, as
President, Chairman & CEO of FLORIDA WATER SERVICES CORPORATION.

OFFICIAL NOTARY SEAL
KIRK D MARTIN
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC561441
MY COMMISSION EXP. JUNE 16,2000

AFFIX NOTARY STAMP

[Signature]
Signature of Notary Public
KIRK D. MARTIN
(Print Notary Name)
My Commission Expires: JUNE 16, 2000
Commission No.: CC561441
 ~~Personally known, -or-~~
 ~~Produced Identification~~
~~Type of Identification Produced~~


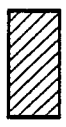






-22-

ATTACHMENT A

LEGEND

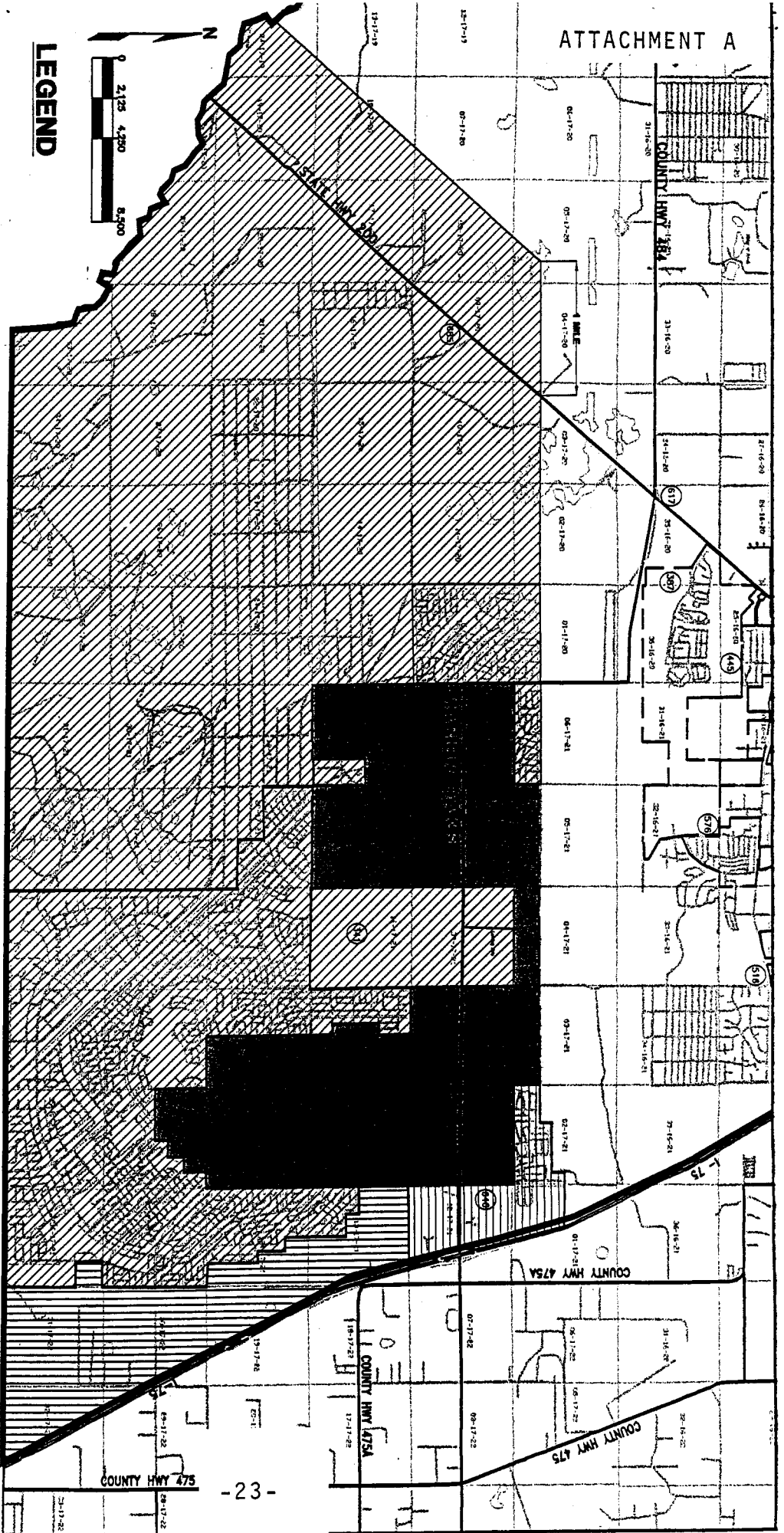
-  EXISTING MARION OAKS WATER SERVICE AREA
-  PROPOSED MARION OAKS WATER SERVICE AREA
-  COUNTY WATER SERVICE AREA




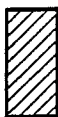


HARTMAN & ASSOCIATES, INC.
 engineers, hydrogeologists, surveyors & management consultants
 200 EAST MAIN STREET - SUITE 1000 - MARION, OHIO 44602
 TELEPHONE (419) 839-3255 - FAX (419) 839-3700

**MARION OAKS EXISTING
AND PROPOSED WATER SERVICE AREA**

EXHIBIT
1

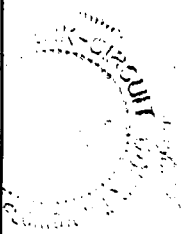


LEGEND

-  EXISTING MARION OAKS WASTEWATER SERVICE AREA
-  PROPOSED MARION OAKS WASTEWATER SERVICE AREA
-  COUNTY WASTEWATER SERVICE AREA
-  PROPOSED MARION OAKS WHOLESALE WASTEWATER SERVICE AREA

HARTMAN & ASSOCIATES, INC.
 engineers, hydrologists, surveyors & management consultants
 301 EAST PINE STREET - SUITE 1000 - OMAHA, NE 68101
 TELEPHONE (402) 446-3455 - FAX (402) 446-3700

MARION OAKS EXISTING AND PROPOSED WASTEWATER SERVICE AREA



FLORIDA WATER SERVICES CORPORATION

MARION OAKS SERVICE AREA

MARION COUNTY

ADDITIONAL TERRITORY

Additional Water and Wastewater Territory

Township 17 South, Range 20 East and ~~19 East~~, Marion County, Florida

~~That part of Sections 13 and 24 in Township 17 South, Range 19 East, Marion County, Florida and Sections 3, 4, 5, 7, 8, 9, 16, 17, 18, 19, 20 and 30 in Township 17 South, Range 20 East, Marion County, Florida being one mile in width and being more particularly described as:~~

~~A tract of land lying northerly and easterly of the Withlacoochee River, lying southerly of the south quarter section line of Sections 3, 4, and 5 of Township 17 South Range 20 East, Marion County, Florida, and lying continuous to, northerly of and measuring one mile perpendicular to the center of State Road 200.~~

And also,

Section 2

The South 1/4 of said Section 2.

Section 3

The South 1/4 of said Section 3 lying East of the centerline of State Road 200.

Section 4

That part of Section 4 lying East of the centerline of State Road 200.

Section 9

The East 50 feet of the North 1520 feet of said Section 9.

Sections 10, 11, 13, 14, 15

All of said Sections.

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Section 16

That part of Section 16 lying East of the centerline of State Road 200 less and except:

The Northeast 1/4 of the Northeast 1/4 and the Northeast 1/4 of the Northwest 1/4 of said Section 16.

Section 17

That part of Section 17 lying East of the centerline of State Road 200.

Section 19

That part of Section 19 lying East of the centerline of State Road 200.

Section 20

That part of Section 20 lying East of the centerline of State Road 200.

Sections 21, 22, 23, 24, 25, 26, 27, 28

All of said Sections.

Section 29

That part of Section 29 lying North and East of the Withlacoochee River.

Section 30

That part of Section 30 lying North and East of the Withlacoochee River and East of the centerline of State Road 200.

Section 32

That part of Section 32 lying North and East of the Withlacoochee River.

Section 33

That part of Section 33 lying North and East of the Withlacoochee River.

Sections 34, 35, 36

All of said Sections.

Township 17 South, Range 21 East, Marion County, Florida.

Section 9, 16, 19, 29, 30, 31, 32

All of said Sections.

Additional Water Territory Only

Township 17 South, Range 21 East, Marion County, Florida.

Section 1

The Southwest 1/4 of said Section 1 lying West of the Westerly right-of-way of Interstate 75 less and except:

The Southwest 1/4 of the Southwest 1/4 of said Section 1.

Section 18

The West 1/2 of the Southwest 1/4 of said Section 18.

Section 20

The Southwest 1/4 of said Section 20 and the South 1/2 of the Southeast 1/4 of said Section 20.

Additional Wastewater Territory Only

Township 17 South, Range 20 East, Marion County, Florida.

Sections 1

The South 1/4 of said Section 1.

Section 12

All of said Section.

Township 17 South, Range 21 East, Marion County, Florida.

Section 1

The Southwest 1/4 of said Section 1 lying West of the Westerly right-of-way of Interstate 75.

Section 2

The South 1/4 of said Section 2 and the East 1/2 of the Northeast 1/4 of the Southeast 1/4 of said Section 2 and the Southwest 1/4 of the Northeast 1/4 of the Southeast 1/4 of said Section 2 and the South 1/2 of the Northwest 1/4 of the Southeast 1/4 of said Section 2 and the Southeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of said Section 2.

Section 6

The South 1/4 of said Section 6.

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Section 12

That part of Section 12 lying West of the Westerly right-of-way of Interstate 75.

Section 13

The South 3/4 of the Southwest 1/4 of said Section 13 and the West 1/2 of the North 1/4 of the Southwest 1/4 of said Section 13.

Section 15

The Northwest 1/4 of said Section 15 and the West 3/4 of the Southwest 1/4 of said Section 15.

Section 18

The East 1/4 of the Southeast 1/4 of said Section 18.

Sections 20, 21

All of said Sections.

Section 22

The West 1/2 of said Section 22.

Section 24

The West 1/2 of the Southeast 1/4 of said Section 24 and the West 1/2 of the Southwest 1/4 of the Northeast 1/4 of said Section 24 and the West 1/2 of said Section 24.

Section 25

All of said Section.

Section 26

The South 1/2 of said Section 26 and the Southeast 1/4 of the Northeast 1/4 of said Section 26 and the East 3/4 of the Northeast 1/4 of the Northeast 1/4 of said Section 26 and the South 1/2 of the Southwest 1/4 of the Northeast 1/4 of said Section 26.

Sections 27, 28, 33, 34, 35

All of said Sections.

Section 36

The West 3/4 of said Section 36 and the South 3/4 of the East 1/4 of said Section 36.

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The proposed correction to the wastewater territory description due to a typographical error:

Territory currently reads as:

Township 17 South, Range 21 East, Marion County, Florida.

Section 5

The South 1/2 of said Section 5.

The territory should read as:

Township 17 South, Range 21 East, Marion County, Florida.

Section 5

The South 1/4 of said Section 5.

FLORIDA WATER SERVICES CORPORATION

MARION OAKS SERVICE AREA

MARION COUNTY

COMPOSITE WATER AND WASTEWATER TERRITORY DESCRIPTION

The following territory description is the composite territory description that includes all previously granted territory and the additional water and wastewater.

Township 17 South, Range 20 East, Marion County, Florida.

Sections 1

The South 1/4 of said Section 1.

Section 2

The South 1/4 of said Section 2.

Section 3

The South 1/4 of said Section 3 lying East of the centerline of State Road 200.

Section 4

That part of Section 4 lying East of the centerline of State Road 200.

Section 9

The East 50 feet of the North 1520 feet of said Section 9.

Sections 10, 11, 12, 13, 14, 15

All of said Sections.

Section 16

That part of Section 16 lying East of the centerline of State Road 200 less and except:

The Northeast 1/4 of the Northeast 1/4 and the Northeast 1/4 of the Northwest 1/4 of said Section 16.

Section 17

That part of Section 17 lying East of the centerline of State Road 200.

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Section 19

That part of Section 19 lying East of the centerline of State Road 200.

Section 20

That part of Section 20 lying East of the centerline of State Road 200.

Sections 21, 22, 23, 24, 25, 26, 27, 28

All of said Sections.

Section 29

That part of Section 29 lying North and East of the Withlacoochee River.

Section 30

That part of Section 30 lying North and East of the Withlacoochee River and East of the centerline of State Road 200.

Section 32

That part of Section 32 lying North and East of the Withlacoochee River.

Section 33

That part of Section 33 lying North and East of the Withlacoochee River.

Sections 34, 35, 36

All of said Sections.

Township 17 South, Range 21 East, Marion County, Florida.

Section 1

The Southwest 1/4 of said Section 1 lying West of the Westerly right-of-way of Interstate 75.

Section 2

The South 1/4 of said Section 2 and the East 1/2 of the Northeast 1/4 of the Southeast 1/4 of said Section 2 and the Southwest 1/4 of the Northeast 1/4 of the Southeast 1/4 of said Section 2 and the South 1/2 of the Northwest 1/4 of the Southeast 1/4 of said Section 2 and the Southeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of said Section 2.

Section 3

The South 1/4 of said Section 3.

Section 4

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The South 1/4 of said Section 4.

Section 5

The South 1/4 of said Section 5.

Section 6

The South 1/4 of said Section 6.

Sections 7, 8, 9, 10, 11

All of said Sections.

Section 12

That part of Section 12 lying West of the Westerly right-of-way of Interstate 75.

Section 13

That Southwest 1/4 less and except the North 1/2 of the Northeast 1/4 of the Southwest 1/4 of said Section 13.

Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23,

All of said Sections.

Section 24

The West 1/2 of said Section 24 and the West 1/2 of the Southeast 1/4 of said Section 24 and the West 1/2 of the Southwest 1/4 of the Northeast 1/4 of said Section 24.

Sections 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35

All of said Sections.

Section 36

All of said Section 36 less and except the Northeast 1/4 of the Northeast 1/4 of said Section 36.

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DATE: SEPTEMBER 7, 1999

ATTACHMENT D

FLORIDA WATER SERVICES CORPORATION

MARION OAKS SERVICE AREA

MARION COUNTY

WATER AND WASTEWATER TERRITORY TO BE NOTICED

That part of Sections 13 and 24 in Township 17 South, Range 19 East, Marion County, Florida and Sections 3, 4, 5, 7, 8, 9, 16, 17, 18, 19, 20 and 30 in Township 17 South, Range 20 East, Marion County, Florida being one mile in width and being more particularly described as:

A tract of land lying northerly and easterly of the Withlacoochee River, lying southerly of the south quarter section line of Sections 3, 4, and 5 of Township 17 South Range 20 East, Marion County, Florida, and lying continuous to, northerly of and measuring one mile perpendicular to the center of State Road 200.