



January 16, 2003

Blanca Bayo, Director
Division of Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: In Re: Application for Certificate
To Provide Water Service in Volusia and
Brevard County By Farmton Water Resources, LLC.
Docket No. 021256-WU

Dear Ms. Bayo:

I have enclosed Brevard County's original Objection and Petition for Formal Hearing to be filed in the above matter. Thank you.

Sincerely,

Scott L. Knox
County Attorney

:md

Enclosures

AUS _____
CAF _____
CMP _____
COM _____
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC _____
OTH _____

cc: Dwight Severs, Titusville City Attorney
Daniel Eckert, Volusia County Attorney
Edward P. Delaparte, Jr., Esquire
F. Marshall Deterding, Esquire

pleadings\farmtonCLERK.wpd
Heng

DISTRIBUTION CENTER
03 JAN 17 AM 10:54

DOCUMENT NUMBER - DATE

00533 JAN 17 8

FPSC-COMMISSION CLERK

000000

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re:)
Application for Certificate)
To Provide Water Service in)
Volusia and Brevard County)
By Farmton Water Resources, LLC.)
_____)

DOCKET NO. 021256-WU

OBJECTION AND PETITION FOR FORMAL HEARING

Pursuant to Section 367.045 Florida Statutes and Rule 28-106.201, Florida Administrative Code. Petitioner, Brevard County, by and through its undersigned attorney hereby objects to the Application for Certificate to Provide Water Service in Volusia and Brevard County by Farmton Water Resources, LLC and petitions the Florida Public Service Commission for a formal evidentiary hearing on said application alleging as follows:

1. The name and address of the agency affected is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850. The Public Service Commission file number is Docket No. 021256-WU.

2. The name, address and telephone number of the Petitioner is Brevard County, a political subdivision of the State of Florida, 2725 Judge Fran Jamieson Way, Viera, Florida, 32940, (321) 633-2000.

3. The name, address and telephone number of the Petitioner's representative is Scott L. Knox, County Attorney, 2725 Judge Fran Jamieson Way, Viera, Florida, 32940, (321)633-2090.

DOCUMENT NUMBER DATE

00533 JAN 17 8

REGISTRAR OF PUBLIC UTILITIES

4. The substantial interests of the Petitioner will be affected by the Public Service Commission determination on the Farmton Water Resources application because the granting of such an application would be inconsistent with and violate the Petitioner's comprehensive plan. Petitioner has standing to object to the application under the authority of section 367.045(4) Florida Statutes.

5. The Petitioner received notice by mail received on December 30, 2002.

6. The disputed issues of material fact are as follows:

- a. Available Public Service Commission public records do not indicate or reference Miami Corporation as an owner or operator of either a water or sewer utility system and Petitioner therefore disputes the existence of utility facilities, permits or licenses necessary to provide raw water, fire protection, public water supply or to meet the future and expanding needs anticipated for water services within the proposed territory. Petitioner therefore disputes the applicant's ability to provide such water supply services or to operate a water utility.
- b. Petitioner disputes the existence of "customers of the Utility" as alleged in paragraph VI of the application.
- c. Petitioner disputes the ability of Farmton to provide water service within the proposed territory or the expansion of that service as and when needed, as alleged in paragraph VIII of the petition.
- d. Petitioner disputes the need for public water supply services throughout the proposed area as alleged in paragraph IX of the application.

- e. Petitioner disputes Farmton's allegation that there are no other systems in a position to provide water service or that attempts of other water systems to provide water service to areas truly requesting service within the proposed service area, including the Miami Tract Hunt Club, Inc., will dramatically increase the cost of service and result in a decrease in quality of service provided by those suppliers.
 - f. Petitioner disputes Farmton's allegation that Farmton Water Resources (FWR) has a greater variety and quantity of available and contiguous sources of supply than other providers.
 - g. Petitioner disputes Farmton's allegation that FWR's provision of water service in the proposed service territory is consistent with the water section of the Brevard County Comprehensive plan.
7. The ultimate facts bearing on this application are as follows:
- a. Brevard County is a political subdivision of the State of Florida which has adopted a comprehensive plan that has been approved by the Florida Department of Community Affairs.
 - b. Brevard County provides water service in the northern Brevard County area and owns a permitted water supply well in the Mims area.
 - c. The portion of the proposed territory located within Brevard County has been designated as agricultural under the County land use element of the comprehensive plan.

- d. Significant flood plain and wetland areas exist within the applicant's proposed territory, within Brevard County.
- e. Numerous existing policies in the Brevard County Comprehensive Plan, including policies in the future land use element, conservation element, and potable water element among others, restrict the expansion of services, such as the water services which are the subject matter of this application, to identified existing and future service areas in order to limit urban sprawl. The extension of water supply service into the proposed territory is inconsistent with and in violation of those policies.
- f. Several existing policies in the Brevard County Comprehensive Plan require protection and conservation of wetlands and flood plains. The withdrawal of water from wells for public or commercial water supply purposes in the proposed territory is inconsistent with and in violation of those policies.
- g. Several policies in the Brevard County Comprehensive Plan require protection and maintenance of the surficial and Floridan aquifer system and expansion of the wellfield in northern Brevard County. The application is inconsistent with and in violation of those policies.
- h. The Brevard County Comprehensive Plan requires review and approval by the County Commission of proposed new water service territories. The Brevard County Commission has neither reviewed, approved or consented to the creation of the applicant's proposed water service territory. The county comprehensive plan has therefore been violated.

9. Under Section 367.045(5)(b), Florida Statutes, the Commission is required to consider consistency with the Brevard County Comprehensive Plan in determining whether it is in the public interest to grant or deny the application. It is in the public interest to deny the application since the application is inconsistent with and in violation of the Brevard County Comprehensive Plan.

10. The applicant cannot demonstrate compliance with the criteria in Section 367.045, Florida Statutes, in that the applicant cannot provide service in the proposed area; there is no need for water services throughout the proposed territory; there is existing service from other sources available to serve the proposed territory. Therefore denial of the petition is in the public interest.

11. The Petitioner demands:

- a. a formal evidentiary hearing on all disputed issues of material fact, relevant issues of law and any other related matters;
- b. that the application be denied;
- c. and for such other relief as the Commission may deem appropriate or warranted.

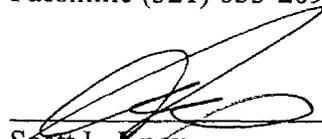
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was mailed by U.S. Mail to F. Marshall Deterding, Esquire, 2548 Blairstone Pines Drive, Tallahassee, Florida, 32301, Edward P. Delaparte, Jr., Esquire, 101 E. Kennedy Blvd., Suite 3400, Tampa, Florida, 33602-5195, Daniel D. Eckert, County Attorney, 123 West Indiana Ave., DeLand, Florida, 32720-4613, and

Dwight W. Severs, City Attorney, 555 South Washington Avenue, Titusville, Florida, 32796-3584,

on this the 16th day of January, 2003.

OFFICE OF THE COUNTY ATTORNEY
2725 Judge Fran Jamieson Way
Viera, Florida 32940
(321) 633-2090
Facsimile (321) 633-2096



Scott L. Knox
County Attorney
Florida Bar No. 211291
Attorney for Defendant

\\pleading\farmtonpetition.wpd