

**Marguerite McLean**

090478-WS

**From:** Joseph Richards [jrichards@pascocountyfl.net]  
**Sent:** Friday, November 13, 2009 2:59 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Records Clerk; Caroline Klancke; 'Geoffrey Kirk'; Linda Strumski; Bruce Kennedy  
**Subject:** E-filing of Pasco County's Objection in Docket # 090478  
**Attachments:** Pasco Petition Docket 090478.pdf

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Docket # 090478, Application for original certificates for proposed water and wastewater system, in Hernando and Pasco Counties, and request for initial rates and charges, by Skyland Utilities, LLC.

Filed on behalf of Pasco County, Florida.

The attached document is nine (9) pages.

The attachment contains Pasco County's Objection to the Skyland Utilities application on the basis of, among other things, a direct conflict with the Pasco County Comprehensive Plan, the Pasco County Code of Ordinances and the Pasco County Utilities Capital Improvement Plan. Pasco County also requests an administrative hearing on this matter. Pasco County requests denial of the application.

Thank you.

11/13/2009

DOCUMENT NUMBER-DATE

11309 NOV 13 8

FPSC-COMMISSION CLERK

STATE OF FLORIDA  
PUBLIC SERVICE COMMISSION

In re: Application of Skyland Utilities, LLC,  
to operate a Water and Wastewater Utility  
in Hernando and Pasco County, Florida

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PSC Docket No. 090478-WS

**PASCO COUNTY'S OBJECTION TO THE PROPOSED UTILITY AND  
PETITION FOR FORMAL ADMINISTRATIVE HEARING**

Petitioner, Pasco County (hereinafter "Pasco"), by and through undersigned counsel, hereby files this Objection to the Application of Skyland Utilities, LLC, to operate a Water and Wastewater Utility in Hernando and Pasco County, Florida, (the "Application") and this Petition for Formal Administrative Hearing pursuant to Rule 25-30.031, Florida Administrative Code and sections 120.569, 120.57 and 367.045, Florida Statutes, and as grounds therefore states the following:

1. On October 16, 2009, Skyland Utilities, LLC, provided notice of its application for Original Certificates for Proposed Water and Wastewater System and Request for Initial Rates and Charges. Pasco received the notice via US Mail on October 20, 2009.

2. Pasco is a Florida political subdivision, which is charged with the power and duty, among other things, to prepare and enforce comprehensive plans for the development of the county, and to provide and regulate water supplies and sewage disposal, pursuant to Chapter 125, Florida Statutes. Pasco also operates a consolidated water, wastewater and reclaimed water utility throughout Pasco County, Florida (hereinafter referred to as "Pasco County Utilities" or "PCU").

3. Skyland proposes to establish a water and wastewater utility in various locations in Northeast Pasco County in direct conflict with the Pasco County Comprehensive Plan, the Pasco County Code of Ordinances and the PCU Capital Improvement Plan.

4. There are numerous issues of disputed fact and Pasco County objects to certification of Skyland Utilities for the following reasons:

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11309 NOV 13 8

FPSC-COMMISSION CLERK

a. There is no need for central water and sewer service in the proposed area. The existing buildings and land uses are adequately served by individual wells and individual septic tanks. The application contains no specific information as to need and the future development and bulk sales noted in the application is purely speculative at this time. The only development projects (Trilby Estates, Saran Ranch and Pine Ridge Estates) approved in the vicinity of Skyland's proposed service area will be developed on individual well and septic, consistent with the Pasco Comprehensive Plan. See attached Exhibit 1, Northeast Pasco MPUD/DRI Map. Furthermore, there are numerous private residences that would be encircled by Skyland's proposed service area (particularly Parcels ID 9, 11, 12A and 12B) and these property owners, currently on private well and septic, have not asked for central service.

b. The proposed provision of utility service is inconsistent with numerous policies and objectives of the Pasco County Comprehensive Plan including but not limited to the sections referenced below. The Comprehensive Plan designates all of the proposed service area as part of the Northeast Pasco Rural Area, within which central water and sewer is prohibited except under very limited circumstances (SEW 3.2.6).<sup>1</sup> The proposed service area does not meet the limited criteria for central water and sewer service. (SEW 3.2.6). Residential properties in the Rural Area are to be developed with individual wells and septic tanks. (SEW 3.2.6; WAT 2.1.4; FLU 2.1.15; FLU 2.1.17). The Comprehensive Plan also prohibits the expansion of central water and sewer service into areas designated as AG, agriculture or AG/R, agriculture/rural, such as the proposed service area properties. (WAT 2.1.1; SEW 3.5.1 and Exhibit 2, Northeast Pasco Zoning Map). The Comprehensive Plan encourages the purchase of private utilities and their conversion to publicly operated utilities, not the creation of new private utilities. (WAT 2.2.4). Skyland's proposal is contrary to the County policy to replace package plants with regional wastewater treatment plants. (SEW 3.2.1).

c. PCU maintains an existing water and wastewater system less than 0.5

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<sup>1</sup> Citations are to the June 2006, Pasco County Comprehensive Plan (PCP), portions of which are attached to the Application as part of Appendix II.

miles from the proposed area and PCU maintains other water facilities within 1.53 miles from the Skyland proposed area. These facilities could be extended to provide service to proposed service area, if service was needed. Additionally, one of the parcels (Parcel ID 4) of the proposed service area is within a designated Employment Center for which PCU plans to provide water and wastewater service consistent with the Pasco County Comprehensive Plan. *See* Exhibit 3, Northeast Pasco Future Land Use Map. Furthermore, Pasco has established as its service territory the entire unincorporated area of the County not currently served by a legally existing private utility. *See*, § 110-28, Pasco County Code. Accordingly, Skyland's proposed service will be in competition with, or a duplication of, the PCU system. Pasco has not received a service request from any property in Skyland's proposed service area.

d. The Applicant does not have the technical ability to provide service. Its experience is in agricultural operations and not retail water and wastewater utility service. Contracting with a utility operator will serve to increase the cost of service contrary to the public interest.

e. It is a disputed fact whether the Application complies with Florida Administrative Code Rule 25-30.033.

f. It is a disputed fact whether Skyland is otherwise entitled to approval of the Application pursuant to Chapter 367, Florida Statutes and Florida Administrative Code Chapter 25-30.

g. It is a disputed fact whether Skyland's provision of public water supply via groundwater supplies currently designated for agricultural use is consistent with the Southwest Florida Water Management District's Regional Water Supply Plan dated December 1, 2006.

5. It is not efficient, cost-effective, good utility practice, or in the public interest to provide central water and sewer to such low density (one unit per 10 acres) as is proposed by Skyland. Skyland's proposed water and sewer rates will be substantially higher than those charged by Pasco County Utilities.

6. It is not efficient, cost-effective, good utility practice, or in the public interest to provide central water and sewer to such widespread, non-contiguous parcels of property.

7. The proposed certificate, if granted, would adversely impact the County and its ability to effectively and efficiently expand and implement its water and wastewater services within the county.

8. The proposed certificate, if granted, would promote urban sprawl and thwart the sound policy and planning objectives of the Pasco County Comprehensive Plan.

9. The proposed certificate, if granted, will result in private water and wastewater utility service to County citizens that will be significantly more costly than service that could be provided through individual wells and septic systems or that could be provided by Pasco County Utilities.

10. The proposed utility does not meet the requirements of section 367.045, Florida Statutes, because the applicant has not proven its ability to provide service, the need for service or the nonexistence of service from other sources. The proposed utility does not meet the requirements of Rule 25-30.033(1), Florida Administrative Code, because the proposal is not consistent with the Pasco County Comprehensive Plan, the applicant has not demonstrated the financial or technical ability to provide service, there is no need for service in the proposed area, the proposed service is not in the public interest, the applicant does not have an adequate agreement for continued use of the land upon which its facilities are to located.

11. Pasco County hereby incorporates by reference, as if fully set forth herein, all objections timely raised by Hernando County in this matter to the extent applicable to Pasco County.

WHEREFORE. Petitioner, Pasco County respectfully requests that the Skyland Utilities, LLC, application for Original Certificates for Proposed Water and Wastewater System and Request for Initial Rates and Charges be denied.

Respectfully submitted this 13th day of November, 2009.



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Joseph D. Richards (FBN 777404)  
Senior Assistant County Attorney  
Pasco County  
7530 Little Road, Suite 340  
New Port Richey, Florida 34654  
**Counsel for Pasco County**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by regular U.S. mail to the following on this 13<sup>th</sup> day of November, 2009:

Director, Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
(via e-filing also)

Caroline Klancke  
Office of the General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399  
(via e-mail also)

Garth Collier, Esq., Geoffrey Kirk, Esq., Jon A. Jouben, Esq.  
County Attorney  
20 N. Main Street, Suite 462  
Brooksville, FL 34601  
Counsel for Hernando County  
(via e-mail also)

Michael Milton, Esq.  
Dean, Mead, Minton & Zwemer  
1903 South 25<sup>th</sup> Street, Suite 200  
Fort Pierce, Florida 34947

Ronald Edwards, Manager  
Skyland Utilities, LLC  
660 Beachland Blvd., Suite 301  
Vero Beach, FL 32963

J.R. Kelly, Public Counsel  
Office of Public Counsel  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400

  
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Joseph D. Richards



EXHIBIT 1

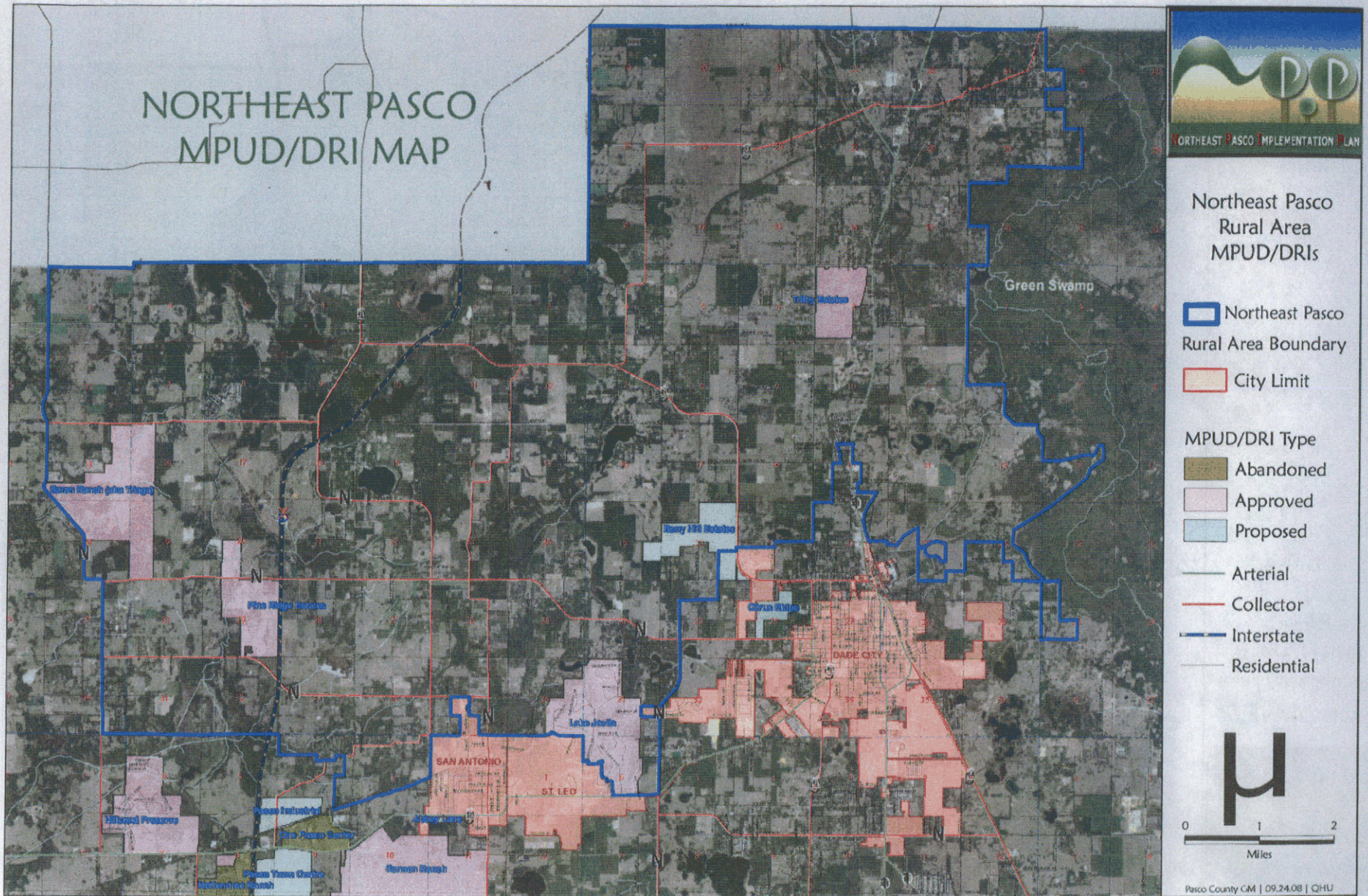




EXHIBIT 2

# NORTHEAST PASCO ZONING AND PARCEL MAP



NORTHEAST PASCO IMPLEMENTATION PLAN

- Northeast Pasco Rural Area Boundary
- City Limit
- Parcel

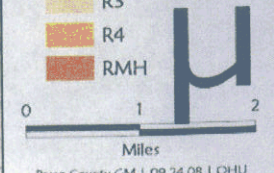
Zoning Type

- AC
- AC1
- AR
- AR1
- AR5
- AR5MH
- C1
- C2
- ER
- ER2
- I1
- I2
- MF1
- MPUD
- PO2
- R1
- R1MH
- R2
- R3
- R4
- RMH

Green Swamp

SAN ANTONIO  
ST. LEO

DADE CITY



Pasco County GM | 09.24.08 | QJHU



EXHIBIT 3

