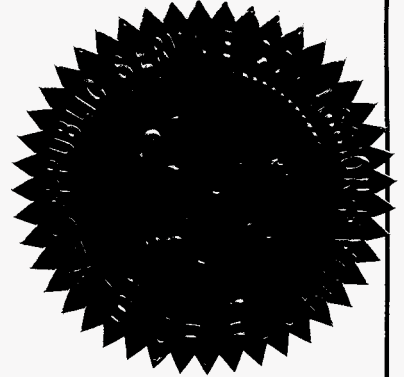


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 090478-WS

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.



VOLUME 5

Pages 702 through 984

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PROCEEDINGS: TECHNICAL HEARING

COMMISSIONERS
PARTICIPATING: COMMISSIONER LISA POLAK EDGAR
COMMISSIONER NATHAN A. SKOP
COMMISSIONER ART GRAHAM
COMMISSIONER RONALD A. BRISÉ

DATE: Thursday, September 23, 2010

TIME: Commenced at 1:22 p.m.
Concluded at 6:54 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
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APPEARANCES: (As heretofore noted.)

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P R O C E E D I N G S

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Volume 4.)

COMMISSIONER SKOP: Okay. We're going to go
back on the record. And, Mr. Rehwinkel, you're
recognized.

MR. REHWINKEL: Thank you, Mr. Chairman.

CONTINUED CROSS EXAMINATION

BY MR. REHWINKEL:

Q. Just a few more questions, Mr. Hartman, if I
could; just a few more questions about your CIAC. We
established earlier that none of the cost to link
parcels, whether it be extension of facilities or
acquisition of rights to use land between the parcels is
included in your cost study, correct?

A. Correct.

Q. And were you to incur those costs, some of
those capital costs would be allocated to the CIAC
charges, correct; and they would be allocable to the
CIAC charges in a future rate proceeding, correct?

A. Potentially, depending on how they're done,
but that's a future speculation.

Q. And to the extent they were not allocable to
CIAC, they would be allocable to cost-recovery in a
general rate proceeding for end user recurring rates,

1 correct?

2 A. Or other means, that's correct.

3 Q. And in your cost study, you have assumed the
4 electric service that would be provided the way it's
5 stated in the application, which I believe has the
6 utility incurring most of the cost to run lines to the
7 water and wastewater plants, correct?

8 A. Yes. We provided those corrections to you in
9 the last, 7th, and 8th, yes.

10 Q. Okay. And if the price for the utility land
11 lease were to change based on the renegotiation
12 provisions or other pricing change provisions in the
13 lease, those costs could affect the cost of service,
14 correct?

15 A. Absolutely. As costs escalate, whether
16 chemicals, labor, whatever the cost component is, that
17 can impact the cost of service.

18 Q. Okay. And Evans Properties could change the
19 price for the utility lease arrangement, correct, the
20 land lease arrangement?

21 A. The contract will speak for itself. I think
22 the parties have the ability to adjust over time.

23 Q. But Evans controls both the utility and their
24 own business, so they could unilaterally change the
25 price?

1 **A.** I don't believe that anything like that would
2 come back to the Commission, typically.

3 **Q.** Would the Commission have --

4 **A.** Or the Commission staff.

5 **Q.** Okay. But does the Commission have any
6 authority to regulate the price that Evans charges for
7 the lease of property?

8 **A.** I thought that the Commission staff, my best
9 recollection, has the ability to review contracts and
10 see if they are appropriate and create undue economic
11 burden on the customers.

12 **Q.** Okay. The ability to review contracts between
13 the customer and the utility, correct?

14 **A.** Contracts that adversely -- the contracts
15 would -- I should just back up and say contracts could
16 come forth. I mean, that lease agreement would be
17 reviewed by staff between Evans and Skyland.

18 **Q.** So is it your testimony that the Public
19 Service Commission has the authority, or that Evans is
20 granting the Public Service Commission the authority to
21 review the terms and conditions of the lease
22 arrangement?

23 **A.** Well, it has been submitted to them for review
24 in this application.

25 **Q.** But that's not for purposes of pricing, it's

1 just whether you have access to the land that the
2 facilities would sit on, correct?

3 A. And whether it has been -- and I think they
4 also look at the entire lease, and if I'm not mistaken,
5 looking at the lease provisions that make them similar
6 to other ones that have been granted throughout the
7 State of Florida for various related parties.

8 Q. Okay. So are you aware of any case where the
9 Commission has regulated the rate, the pricing of a
10 lease for utility --

11 A. I do not know of regulating the prices of
12 leases, but I do know that we have submitted leases to
13 the Commission staff for review. One is reviewing the
14 lease, the other is actually regulating the level of
15 pricing. And I would say the former occurs, the latter
16 I do not know of.

17 Q. Okay. Now, just to be clear, when you say the
18 level of pricing, you mean a lease just like the one
19 that's in the cost study; there's two, one for
20 wastewater and one for water, right?

21 A. That's correct.

22 Q. And you're saying the Public Service
23 Commission reviews the price that the landowner charges
24 to the lessee?

25 A. It reviews the contract terms and conditions,

1 and that's submitted to them. And I said that's what's
2 reviewed is the contract terms and conditions, but
3 regulating the pricing, I do not know that that would
4 occur. The latter is what I stated before.

5 Q. Well, in your rebuttal testimony you list a
6 bunch of criteria, I think, of what's required in the
7 application, correct?

8 A. That's correct, the 20 steps.

9 Q. Okay. And none of those is about the pricing
10 of a lease for the land, correct?

11 A. Provision of -- one relates to the provision
12 of the lease and the control of the land.

13 Q. Okay. In your testimony, rebuttal testimony
14 today you mentioned service to these arsenic affected
15 areas pursuant to the e-mail from Mr. Coultas.

16 A. That's a potential need, extraterritorial as I
17 stated.

18 Q. Okay. Now, isn't it true that your cost study
19 does not include any of the cost to extend service to
20 those areas, correct?

21 A. That's correct.

22 Q. And would the cost to extend service to those
23 areas be significant?

24 A. It depends which ones are being served and how
25 it was served. And service can be accomplished -- it

1 depends is the answer, because one way of doing it is to
2 have the supply at the border of the certificated area
3 and have Hernando County provide the lines and the
4 service and bulk it to them, which is probably a very
5 effective way of doing it.

6 Q. But central service provided solely by Skyland
7 would be a significant cost, correct?

8 A. Central service by Skyland is what?

9 Q. To those arsenic affected areas would be a
10 significant cost, correct?

11 A. It would be based upon the cost of service of
12 providing that water.

13 Q. On Page 40 of your rebuttal testimony --
14 actually, Pages 40 through 42, you somewhat address or
15 rebut Mr. Williams' testimony with respect to the
16 possibility for Skyland to permit its own wells in the
17 proposed service area, is that correct? I'm looking at
18 Page --

19 A. Well, I'm stating on Page 40, Line 19, "Does
20 Mr. Williams feel there is enough existing groundwater
21 for Skyland to provide water service," the answer is
22 yes, and I testified earlier today to the same. I don't
23 understand.

24 Q. Well, I guess since this is rebuttal
25 testimony, you are responding to his testimony?

1 **A.** Yes, I'm responding to his testimony that I
2 concur with that -- what he has delineated, which is
3 quoted right there.

4 **Q.** And on Page 41, Line 20 through 21, you say,
5 "I would agree with Mr. Williams that it is possible for
6 Skyland to permit wells in the proposed service area,"
7 is that right?

8 **A.** Absolutely.

9 **Q.** Okay. Is there some doubt that Evans -- that
10 Skyland may not able to permit its own wells?

11 **A.** Based on the testimony provided here by two
12 experts, the water management district and myself, both
13 believe that they can, and they have an existing well.

14 **Q.** So they can, but there could be things that
15 arise that might not allow them to, correct?

16 **A.** Well, permits are based upon need, and
17 reasonable beneficial use for water use permits. And so
18 as long as you meet the criterion, don't have adverse
19 impacts on the existing legal users and the quantities
20 are matched up with the reasonable beneficial use, then
21 one would think that that -- and all the other criteria
22 are met, then one would think that that could be
23 accomplished.

24 **Q.** Okay. If Skyland was unable to receive the
25 necessary consumptive use permits for its own wells,

1 would it rely on leased access to water from the Evans
2 wells under their CUPs?

3 A. That's a hypothetical, again, and it's
4 typically administrative to transfer that use, because
5 the potable use or essential service use is a higher
6 priority use than agricultural use, and the priority of
7 use by the Southwest Florida Water Management District.
8 But if for some odd reason it was denied, which both the
9 district staff and myself do not believe that makes
10 sense, but if that does happen, then, yes, that's
11 another alternative.

12 Q. On Page 42 of your rebuttal testimony, Lines
13 18 through 25 --

14 A. Yes.

15 Q. -- you discuss the fact that you have not
16 requested a new water use permit and you state the basis
17 for that?

18 A. Uh-huh.

19 Q. But then on Lines 23 through 25 you state,
20 "Skyland and Evans will make the appropriate filing
21 necessary to secure water supply for the proposed
22 service area upon FPSC certification," right?

23 A. Right.

24 Q. Now, this is not a blanket statement that
25 Skyland will request consumptive use permits, is it?

1 **A.** Well, it is that Skyland and Evans, why I said
2 Skyland and Evans, a transfer of use takes both parties.
3 So you have Evans signing that, yes, you can -- to
4 Skyland, yes, you can take part of the 841,000 gallons
5 per day and transfer it into potable use under the
6 utility. It's a transfer.

7 **Q.** But this is not a representation to the
8 Commission that that's what you are going to do, you are
9 saying you might do that?

10 **A.** Well, that's what we propose to do.

11 **Q.** Okay. But the lease agreement does
12 contemplate that Evans would hold the CUPs and own the
13 wells, correct?

14 **A.** They do own them right now.

15 **Q.** But for purposes of going-forward operations?

16 **A.** The transfer of use and the ownership of a CUP
17 are two different things.

18 **Q.** Okay. So would Skyland seek to have its own
19 CUP?

20 **A.** It may or may not.

21 **Q.** The proposal before the Commission is that
22 Skyland will seek to have its own or might?

23 **A.** That's a matter that can be determined later.
24 Right now the transfer of use is what we're talking
25 about.

1 Q. Okay.

2 A. The classification of use changes. Right now
3 it is classified as agricultural and we would look at
4 transfer of use.

5 Q. All right. When you talk on Page 41, Lines 20
6 and 21, where you say I would agree with Mr. Williams
7 that it is possible for Skyland to permit wells in the
8 proposed service area?

9 A. That's true.

10 Q. You are not talking about transfer of use
11 there, you are talking about actually permitting and
12 owning the well under the Skyland --

13 A. Absolutely. That is a possibility.

14 Q. Okay.

15 A. But as I stated earlier, there is four wells
16 in place that are planned for use already built. Why
17 would we duplicate those costs?

18 Q. Okay. So I guess if that's the case, why
19 would you even consider Skyland having their own wells?

20 A. This was responding to Mr. Williams who said
21 that that was possible, and I concur with him that it is
22 possible. That's all that is.

23 Q. Okay. If you don't -- if Skyland does not
24 seek to own and permit their own wells, they would rely
25 on Evans' wells and the leased royalty payment

1 arrangement that is shown in your application, is that
2 correct?

3 A. That's correct.

4 Q. Now, who sets the rates that the lease
5 agreement has with respect to what Skyland pays as a
6 water royalty?

7 A. That's delineated -- will be delineated in the
8 lease when it's finalized.

9 Q. Does the Public Service Commission have any
10 say so on what that rate level is?

11 A. The terms and conditions they review. The
12 rate level, I do not know of that, as I testified
13 earlier.

14 Q. Are you saying that they should or have the
15 authority to establish that royalty payment rate?

16 A. I don't set the policy for the Commission. I
17 can't answer that.

18 Q. The rate that's established in the lease
19 agreement is not one that is arm's-length, it's not
20 established on an arm's-length basis, is it?

21 A. It's between the two entities and established.

22 Q. But that is not an arm's-length transaction,
23 is it?

24 A. Well, I don't know all of your --

25 Q. Okay. Skyland is 100 percent owned by Evans

1 Properties, right?

2 A. Correct.

3 Q. That would normally not be an arm's-lengths
4 transaction, right?

5 A. Okay. I would defer to you.

6 Q. Okay. If Evans were to divest the utility and
7 the parcels that were served by the utility, would they
8 maintain the same lease arrangement that is contained in
9 the leases that are filed?

10 A. Again, that's a hypothetical. That's another
11 speculation. I don't know, though, is the answers.

12 Q. Okay. You don't know.

13 A. I mean, the lease is between Skyland and
14 Evans, so to the extent that I don't know what the
15 divestiture is, so, you know, I don't know what is being
16 divested and all of that kind of stuff. So without all
17 the details, I can't answer.

18 Q. And you don't know what went in the
19 negotiation of the lease, do you, or do you?

20 A. I know that we did provide what typically has
21 been approved by the Commission in other lease
22 arrangements.

23 Q. Okay. But you were not a party to the
24 negotiation process that went on between Skyland and
25 Evans Properties with respect to how they came up with

1 the terms and conditions in that lease?

2 A. I provided forms that were approved by the
3 Commission in other cases.

4 Q. But the forms, though, and then they filled in
5 the prices?

6 A. Well, I also provided what the prices were in
7 the other cases, too.

8 Q. Okay. Were those prices approved by the
9 Commission, or they were just what was filed with the
10 Commission?

11 A. It's what's in place with the Commission and
12 the utilities have been approved.

13 Q. Was it your understanding the Commission
14 approved the rates that were in the lease, or they just
15 approved the fact that there was a lease?

16 A. That subtlety I don't know.

17 MR. REHWINKEL: Okay. Those are all the
18 questions I have.

19 Thank you, Mr. Hartman.

20 COMMISSIONER SKOP: Thank you, Mr. Rehwinkel.
21 Staff.

22 MS. BENNETT: No questions.

23 COMMISSIONER SKOP: Any questions from the
24 bench? I have a few.

25 Good afternoon, Mr. Hartman. On Page 14 of

1 your Rebuttal Testimony on Lines 1 through 8, you were
2 asked a previous question by Mr. Rehwinkel in relation
3 to who originated that e-mail exchange with the DEP.
4 And could you clarify, I thought your response was that
5 actually counsel for Skyland actually originated that,
6 or can you elaborate on that?

7 **THE WITNESS:** It wasn't origination. I said
8 we received it from counsel.

9 **COMMISSIONER SKOP:** Okay. You received the
10 e-mail.

11 **THE WITNESS:** We received it. Our firm, GAI,
12 received the e-mail from counsel.

13 **COMMISSIONER SKOP:** Okay. All right. And
14 with respect to the e-mail dated November 20th, 2009,
15 from Mr. Coultas with the DEP, indicating that DEP was
16 dealing with some 200 or so contaminated potable private
17 wells south of Brooksville, do you know what those wells
18 were contaminated with?

19 **THE WITNESS:** Yes.

20 **COMMISSIONER SKOP:** Can you elaborate.

21 **THE WITNESS:** Primarily with arsenic. There
22 is also EDB and nitrate are the primary contaminants.

23 **COMMISSIONER SKOP:** All right. If I can draw
24 your attention, and I recognize that the exhibit has
25 been marked and used for demonstrative purposes, but the

1 exhibit, the handout, the large one that Mr. Rehwinkel
2 had asked you questions about.

3 **THE WITNESS:** Yes. Go ahead. Thank you,
4 Chairman.

5 **COMMISSIONER SKOP:** If you look at the legend
6 of the figure that's marked as draft --

7 **THE WITNESS:** Uh-huh.

8 **COMMISSIONER SKOP:** -- and you see the
9 triangle for arsenic.

10 **THE WITNESS:** Yes.

11 **COMMISSIONER SKOP:** Subject to check, would
12 you agree that it identifies 196 arsenic contaminated
13 wells in the region?

14 **THE WITNESS:** That's correct. That's what
15 this exhibit shows on the exhibit at the time of the
16 preparation, which was June 24th, 2010.

17 **COMMISSIONER SKOP:** Okay. Are those the wells
18 that are alluded to by the e-mail from the DEP?

19 **THE WITNESS:** In part, yes.

20 **COMMISSIONER SKOP:** Okay. On Lines 6 through
21 9 -- I mean 6 through 8 of Page 14 of your rebuttal
22 testimony, you indicated in a response to Mr. Rehwinkel
23 that this is a request for service to those areas, is
24 that correct?

25 **THE WITNESS:** Well, I also clarified that in

1 my answer that we followed backup on it and there was a
2 subsequent -- there is a request that DEP would like to
3 have service provided to -- you know, we just showed
4 there the arsenic wells, but there's EDB and nitrate
5 wells, also. That they would like to have service
6 provided by a central service system.

7 **COMMISSIONER SKOP:** Isn't a request for
8 service usually made by a customer?

9 **THE WITNESS:** Typically.

10 **COMMISSIONER SKOP:** Okay. So how would the
11 DEP -- I mean, is typically the DEP in the business of
12 identifying that we want you to come serve this area?

13 **THE WITNESS:** Yes, for many utilities. The
14 utilities have a responsibility to the public health,
15 safety, and welfare, and DEP covers that area, and when
16 it goes into that area, DEP requests service by
17 utilities to those areas.

18 **COMMISSIONER SKOP:** Has Skyland filed any
19 initial applications with the DEP?

20 **THE WITNESS:** Not until we get certification.

21 **COMMISSIONER SKOP:** So how is the DEP aware of
22 Skyland's request?

23 **THE WITNESS:** Through all those proceedings.

24 **MR. DETERDING:** Commissioner, if I may, we
25 have had so many questions about it, and I was going to

1 use this on redirect, but it may assist in your line of
2 questioning. I have a copy of the e-mail and how it was
3 obtained by the utility that I would like to give to
4 you, to the Commission, and to the witness.

5 **COMMISSIONER SKOP:** Okay. I'll allow you to
6 do that on redirect.

7 **MR. DETERDING:** I just thought it might help
8 you in your line of questioning.

9 **COMMISSIONER SKOP:** All right, thank you.

10 Mr. Hartman, with respect to the proposed
11 wells and looking at the figure that has been marked as
12 draft for demonstrative purposes, it shows the proposed
13 service territory of Skyland, is that correct, the
14 various, what has been --

15 **THE WITNESS:** Primarily, yes.

16 **COMMISSIONER SKOP:** What has been referred to
17 as checkerboard parcels?

18 **THE WITNESS:** Well, the land parcels that
19 constitute the service area, yes.

20 **COMMISSIONER SKOP:** All right. So following
21 up to a question that was initially raised by Mr.
22 Rehwinkel, are we to assume that by virtue of your
23 testimony on Page 4, rebuttal testimony, or Page 14 of
24 your rebuttal testimony that Skyland would expand its
25 entire service area to cover all of those 200, nearly

1 200 contaminated wells, is that what you are
2 representing?

3 **THE WITNESS:** No. As I responded to OPC, that
4 a logical method of doing it is to provide service right
5 to the boundary and have Hernando County do the line
6 work and bulk it to them such that they have the water
7 there. Then as the lines get extended, that would then
8 interconnect with their system.

9 Another way is to do short extensions or have
10 individuals request it directly, and we could expand and
11 do extensions of the service area to pick up those that
12 are most cost-effective to be served directly, if that
13 is the best and most cost-effective way to do it.
14 There's all kinds of arrangements that could be done.
15 DEP does provide funding relative to nitrate pollution,
16 EDB pollution in wells, and assists in the amelioration
17 of those contaminations for the citizens of the state.
18 And those funds, I've worked in Polk City and other
19 places where we have utilized those funds to facilitate
20 service.

21 **COMMISSIONER SKOP:** Would it be fair to say
22 that the DEP e-mail is not the primary driver for the
23 request for service, that the primary driver is the
24 request by the Evans Properties to be served by Skyland?

25 **THE WITNESS:** Oh, the application is for the

1 land areas that we delineated, absolutely, Chairman.
2 But also with this it shows that why would you do well
3 and septic? It doesn't make sense to do well and septic
4 here. And since the intervenors are wanting well and
5 septic on these properties, it only makes sense to have
6 central service without the arsenic, EDB, or nitrate
7 pollution to serve the public.

8 **COMMISSIONER SKOP:** Okay. Just a few more
9 questions. I want to go back to the water lease
10 agreement that you were asked a line of questions on.
11 And in that water lease agreement it identified
12 16 acres, but did not identify specific wells, and I
13 believe you testified that the 16 acres would be
14 approximately four wells with four-acre parcels, is that
15 character?

16 **THE WITNESS:** That is what was shown in the
17 cost of service study, yes.

18 **COMMISSIONER SKOP:** Okay. But I'm talking
19 about the water lease agreement to make sure we are on
20 the same page.

21 **THE WITNESS:** Yes, the 16 acres would cover
22 four wells.

23 **COMMISSIONER SKOP:** Okay. And those wells
24 were never specified within that water lease agreement,
25 is that correct, no specific wells?

1 **THE WITNESS:** In the agreement? No, all the
2 attachments haven't been -- at the time of the
3 application, the attachments were not all provided to
4 it. That's something that we would be providing and was
5 discussed in the last hearing.

6 **COMMISSIONER SKOP:** You stated that the -- in
7 response to a question that the water lease agreement
8 was not fully definitized as well as I believe the land
9 leased agreement was not fully definitized. What would
10 happen if the Commission approved the certification and
11 those agreements were subsequently amended, but had an
12 adverse impacts on the cost of service study?

13 **THE WITNESS:** The risk of loss would stay with
14 Skyland, because only the rates and charges approved by
15 this Commission are the only rates legally that they can
16 impose. So the risk of loss would be not to the
17 customer as in well and septic, and not to the public as
18 in well and septic, the risk of loss would go to the
19 corporation.

20 **COMMISSIONER SKOP:** I'm not understanding
21 that, because typically the water lease agreement
22 provides for how much revenue would be provided to the
23 lessor from the lessee.

24 **THE WITNESS:** That's right.

25 **COMMISSIONER SKOP:** Okay. So if that

1 agreement is subsequently modified and the cost
2 increased substantially, why would the lessor not be
3 able to pass those -- excuse me, why would the lessee or
4 leasee not be able to recover those costs and pass those
5 through to its customers?

6 **THE WITNESS:** Well, the rates and charges
7 would be set, and once they are set and advertised that
8 is what is applied. Then to change rates and charges,
9 then, you would have to come in for that change.

10 **COMMISSIONER SKOP:** Well, I guess I'm a little
11 bit confused, because in granting an original
12 certificate we are not setting the rates. So if these
13 agreements subsequently change after the fact, the rates
14 are going to be whatever is presented in the rate case
15 to set the rates. So if these agreements change
16 substantially and the costs increase substantially over
17 and above what's projected, then hasn't the train
18 already left the station by virtue of the fact that the
19 certificate would have been granted?

20 **THE WITNESS:** Chairman, I understand your
21 comment, but it has been my experience in original
22 certifications that when we do an application such as in
23 this specific case, it's both for the certification of
24 the area and the initial rates and charges. So to come
25 back, that takes care of your concern because the

1 corporation is limited to the rates and charges as shown
2 in the cost of service study such that any cost overruns
3 or risk of loss is to the corporation not to the public.

4 **COMMISSIONER SKOP:** Well, I guess I'll look to
5 staff on that a little bit at the appropriate time, but
6 I'm just not, for whatever reason, following that train
7 of thought. I mean, I know in response to some of the
8 questions Mr. Rehwinkel asked you indicated that there
9 was hypothetical upon hypothetical, but it seems to me
10 that we are presented with a set of facts that by your
11 own testimony are saying they are not yet fully
12 definitized, yet this is the predicate for the cost of
13 service that you say will be commensurate with the
14 original certificate. But it seems to me if things are
15 not fully definitized, that's fair game and open to
16 change at any subsequent point in time.

17 **THE WITNESS:** To change the rates you have to
18 come through a whole another proceeding. And this is an
19 initial certification and initial rates, both, and so
20 the risk of loss goes with the corporation. It has been
21 in my entire career relative to this.

22 **COMMISSIONER SKOP:** Would you agree that if
23 Skyland were certificated and it had a water lease
24 agreement, and the water lease agreement specified that
25 payments would be made for, you know, taking water out

1 of the ground, would that not be a prudently incurred
2 cost that could be recovered by the utility?

3 **THE WITNESS:** In a future rate case if so
4 deemed by this Commission and gotten through by staff.

5 **COMMISSIONER SKOP:** So if that agreement
6 changed, then and the lease payment increased
7 substantially, then future ratepayers, subject to the
8 Commission approving those rates, might be having to
9 pick up those costs, is that correct?

10 **THE WITNESS:** In that scenario, Chairman, that
11 is correct. But initially, until that would occur, the
12 risk of loss stays with the corporation until you do
13 have another rate case.

14 **COMMISSIONER SKOP:** With respect to the water
15 lease agreements, you mentioned that the lease agreement
16 itself did not specify the locations of the four wells
17 that are contemplated by the lease agreement. If I
18 could ask you to turn to, I believe, Appendix 3 or 4
19 where it actually has the parcel properties. I believe
20 that was in your prefiled direct testimony. There are
21 some pictures showing the existing wells and the water
22 treatment plants and the figure number begins with D-1B.

23 **THE WITNESS:** Yes. You're talking about
24 Exhibit 31A, D-2A and going through to D-1B and
25 continuing. Those are the well locations with the

1 locator maps based upon this parcel for this service.

2 **COMMISSIONER SKOP:** Okay. I understand. So
3 the figure looking -- if we are looking at Figure D-1B?

4 **THE WITNESS:** Right.

5 **COMMISSIONER SKOP:** And you would agree,
6 according to that legend, would you not, that that
7 figure shows two existing wells?

8 **THE WITNESS:** Let me see. I see one -- in
9 D-1B I see one existing well and a treatment plant.

10 **COMMISSIONER SKOP:** Look at the right-hand
11 corner.

12 **THE WITNESS:** Oh, yeah. In the right-hand
13 corner there is another well all the way over in the
14 corner. You're right, Chairman. I stand corrected.

15 **COMMISSIONER SKOP:** All right. And looking --
16 holding D-1B at hand for a second and looking at the
17 document that has been marked as draft as well as what
18 has been marked for identification and stipulated as
19 Exhibit 42, which is the Figure 3A from the past
20 hearings that actually has the parcel ID numbers on it.
21 Do you have those three documents?

22 **THE WITNESS:** And, Chairman, if you were
23 alluding to the point that I stated that the wells are
24 shown on the maps in the application, yes, they are. Is
25 that the question?

1 **COMMISSIONER SKOP:** No, that's not. I'm
2 getting to my other questions, so I need you to have
3 those three documents ready referencing the figure that
4 is marked as draft, that has been marked as Exhibit 42,
5 which is Figure 3A, and then looking at the photographs
6 of the parcels that's starting with D-1B.

7 **THE WITNESS:** I believe that --

8 **COMMISSIONER SKOP:** And where I'm going with
9 this, would you agree that the parcels shown on Figure
10 D-1B corresponds to ID Number 1 on Figure 3A on Exhibit
11 42?

12 **THE WITNESS:** Yes, and that's ID 1.

13 **COMMISSIONER SKOP:** Okay. All right. So
14 looking at what has been marked as ID 1 on Figure 3A,
15 which is Exhibit 42, in relation to Figure D-1B, there
16 are two existing wells on that parcel, is that correct?

17 **THE WITNESS:** Yes. And the second one in the
18 corner is not one of the eight that would be considered
19 in the utility out of the 14 as shown in the water use
20 permit.

21 **COMMISSIONER SKOP:** Okay. And I will get to
22 that in a second. Now, looking at the demonstrative
23 exhibit that has been marked as draft in relation to
24 Figure 3A and Figure D-1B?

25 **THE WITNESS:** Okay, D-1B and --

1 **COMMISSIONER SKOP:** 3A, and the demonstrative
2 is draft.

3 **THE WITNESS:** I'm referring to the blow-up of
4 that for that parcel is Q3. The company provided 3A?

5 **COMMISSIONER SKOP:** Mr. Hartman, it might be
6 simpler if we had smaller copies so you can work with
7 effectively, so I would look to counsel. If they have a
8 smaller copy of 3A, which has been marked as Exhibit 42,
9 and then the handouts we passed this morning, it
10 might --

11 **THE WITNESS:** Okay, thank. Yes, I have it.

12 **COMMISSIONER SKOP:** So that the Figure 3A you
13 have in your hand?

14 **THE WITNESS:** Yes, I do. Thank you.

15 **COMMISSIONER SKOP:** All right. Now, looking
16 at Figure 3A and what has been marked as ID Number 1,
17 which is the parcel we are talking about, and relating
18 that back to the demonstrative that has been marked as
19 draft. You would agree, would you not, that a location
20 of arsenic is very close to the parcel marked as ID 1?

21 **THE WITNESS:** Yes, and it's north in those
22 two -- on those two parcels.

23 **COMMISSIONER SKOP:** Okay. All right. Now if
24 I could ask you to turn to Figure --

25 **THE WITNESS:** And, Chairman, it's shallow and

1 the ID 1 well is 700 feet deep, in totally different
2 aquifer systems, and the likelihood of pollution is
3 remote.

4 **COMMISSIONER SKOP:** But you also testified,
5 did you not, that perhaps at the higher levels that
6 where there may be contamination migration up to and
7 including arsenic that if the casing of the well was
8 permeated that that might somehow get into the water
9 supply?

10 **THE WITNESS:** Yes. If there is a failure of
11 the well, absolutely, and then you would do a
12 replacement well, or line it, or you could line the
13 well. And with these low quantities it would be very
14 simple to line the well.

15 **COMMISSIONER SKOP:** All right. If I could
16 next turn your attention to Figure 2B -- or, I'm sorry,
17 D-2B, which is in your prefiled testimony.

18 **THE WITNESS:** Yes.

19 **COMMISSIONER SKOP:** All right. Now looking at
20 that figure and cross-referencing it to Figure 3A of
21 Exhibit 42, you would agree that that photo is what is
22 shown as ID Number 2 on Exhibit 3A, is that correct?

23 **THE WITNESS:** That is correct.

24 **COMMISSIONER SKOP:** Okay. Now, on Figure
25 D-2B, you would agree, would you not, that there are two

1 existing wells shown in that figure, is that correct?

2 **THE WITNESS:** Yes, and only one of the two
3 we'd be looking at.

4 **COMMISSIONER SKOP:** Okay. So that takes us up
5 to four wells total so far, is that correct?

6 **THE WITNESS:** Yes. And of the four, only two
7 we are looking to the utility relative to that.

8 **COMMISSIONER SKOP:** Now if I could ask you the
9 same question I previously asked on ID Number 2 in
10 relation to the demonstrative that's marked as draft,
11 there is an arsenic well very close in proximity to the
12 northwest side of that parcel, is that correct?

13 **THE WITNESS:** Yes.

14 **COMMISSIONER SKOP:** Okay. All right. If I
15 could turn your attention now to Figure D-3B.

16 **THE WITNESS:** Yes.

17 **COMMISSIONER SKOP:** Which cross-referencing
18 back to Figure 3A on Exhibit 42, I believe would be a
19 parcel that is marked as ID 3, is that correct?

20 **THE WITNESS:** Yes.

21 **COMMISSIONER SKOP:** Okay. And on Figure D-3B
22 it shows one existing well on that parcel, is that
23 correct?

24 **THE WITNESS:** Yes.

25 **COMMISSIONER SKOP:** And if I could turn your

1 attention now to Figure D-4B, which I believe
2 corresponding to Figure 3A would be Parcel ID 4, is that
3 correct?

4 **THE WITNESS:** Yes.

5 **COMMISSIONER SKOP:** And on Figure 4 -- I mean,
6 D-4B there's one existing well shown on that parcel, is
7 that correct?

8 **THE WITNESS:** That's correct.

9 **COMMISSIONER SKOP:** So given the figures that
10 we have reviewed, I count a total of six wells on those
11 existing properties, is that correct -- excuse me, yes?

12 **THE WITNESS:** Yes, you're correct. Six wells,
13 four of which we are looking into use.

14 **COMMISSIONER SKOP:** Okay. So if we can
15 identify the wells on these Exhibits D-1B through D-4B,
16 but those wells aren't identified in the water lease
17 agreement, is that correct?

18 **THE WITNESS:** That's correct. They are
19 notified in the cost of service study.

20 **COMMISSIONER SKOP:** Are any of the wells in
21 Figure D-1B through D-4B any of the wells that are going
22 to be used or contemplated for use under the water lease
23 agreement?

24 **THE WITNESS:** Yes.

25 **COMMISSIONER SKOP:** Which four?

1 **THE WITNESS:** The four that we discussed as I
2 testified to that depending on the demand in the market
3 which one goes first. We are looking at those as
4 parcels that would be utilized, but that's on the cost
5 of service study.

6 **COMMISSIONER SKOP:** All right. Can you show
7 me specifically on D-1B through D-4B, which of those
8 wells are going to be used, because I need --

9 **THE WITNESS:** The ones that say water
10 treatment plant, WTP, right on top of them, those are
11 they.

12 **COMMISSIONER SKOP:** Those are them, okay. All
13 right. Just one or two follow-up questions. On Figure
14 3A, which has been marked as Exhibit 42, it shows
15 Parcels ID 10A and 10B, which is located in, I believe,
16 Hernando, or at least 10A and 10B are located in
17 Hernando County, would you agree with that?

18 **THE WITNESS:** Yes.

19 **COMMISSIONER SKOP:** And then right below it
20 contiguously connected it shows ID Parcel 6, which is
21 located in Pasco County, is that correct?

22 **THE WITNESS:** Yes.

23 **COMMISSIONER SKOP:** Okay. Now, out of all
24 these parcels that have been referred to as the
25 checkerboard service area, these are the only two

1 properties that are contiguous across the county line,
2 is that correct.

3 **THE WITNESS:** Yes.

4 **COMMISSIONER SKOP:** Okay. But Parcel 10A and
5 10B, according to the legend, are not set to be
6 developed until Phase IV, is that correct?

7 **THE WITNESS:** Well, that's just a conceptual
8 phasing pattern. It could be changed at any time. But,
9 yes. And whether, you know, there's a physical crossing
10 immediately or in the future, it would all be functional
11 as one utility system.

12 **COMMISSIONER SKOP:** Okay. Are there any wells
13 on those two parcels, ID 6 or ID 10A, or 10B, existing
14 wells? And if you don't know, I mean, that's fine. I
15 just wanted to --

16 **THE WITNESS:** Yes, there are. We have them
17 blown up large. Yes, there are two wells, two large
18 wells.

19 **COMMISSIONER SKOP:** All right. Just one final
20 or two final questions. If the area to be certificated
21 were only that shown in ID 6, just in isolation, which
22 is located entirely in Pasco County, would you agree
23 with that, that ID 6 is entirely in Pasco County?

24 **THE WITNESS:** The hypothetical, yes, ID 6 is
25 totally in Pasco County.

1 **COMMISSIONER SKOP:** So if ID 6 was the only
2 service territory to be permitted, you would agree,
3 would you not, that the Commission would not have
4 jurisdiction over this application?

5 **THE WITNESS:** It would be in Pasco County, and
6 I think -- I'm going to have to look in the -- I thought
7 in Hernando County, solely in Hernando County they have
8 taken back jurisdiction. I don't know, I have forgotten
9 whether Pasco County has taken back jurisdiction or not.
10 I don't think so.

11 **COMMISSIONER SKOP:** Okay. And if you look at
12 in isolation Parcel ID 10A and 10B, if that were the
13 sole parcel that would constitute the service area, that
14 would be located entirely in Hernando County, is that
15 correct?

16 **THE WITNESS:** Yes.

17 **COMMISSIONER SKOP:** Okay. And if that were
18 the sole parcel to be certificated, you would agree,
19 would you not, that the Commission would not have
20 jurisdiction?

21 **THE WITNESS:** If it was nothing but that, it
22 would go to the Hernando County utility franchising
23 organization.

24 **COMMISSIONER SKOP:** Okay. And the basis for
25 the Commission's jurisdiction is when a utility serves

1 across county lines, is that correct?

2 **THE WITNESS:** When there is service in one
3 utility system that has parcels of property in multiple
4 counties either in function, financial, operations,
5 physically, or with facilities, yes.

6 **COMMISSIONER SKOP:** Is that what the statutory
7 basis states or the Commission rule?

8 **THE WITNESS:** Service, and service is the
9 operative word; service involves all of those aspects.

10 **COMMISSIONER SKOP:** All right. I think that's
11 all the questions that I have. But right now the Parcel
12 10A and 10B and Parcel ID 6, it's not known when Skyland
13 would provide service to those two contiguous parcels
14 that would cross the county line, is that correct?

15 **THE WITNESS:** Well, it could happen at any
16 time. It could happen -- it depends on the market. If
17 an agribusiness wants to locate in that area, it could
18 be short-term.

19 **COMMISSIONER SKOP:** Okay. All right. Thank
20 you. I have no further questions. Any additional
21 questions from the bench?

22 Okay. Mr. Deterding, you're recognized for
23 redirect.

24 **MR. DETERDING:** Thank you, Commissioner.

25 **REDIRECT EXAMINATION**

1 **BY MR. DETERDING:**

2 **Q.** Mr. Hartman, you were asked at the beginning
3 of your cross-examination about if there was anything
4 special about Skyland concerning its arrangement to
5 provide service to these areas. Does Skyland have an
6 agreement to acquire the existing water facilities from
7 the related party?

8 **A.** Yes, they have the ability to do so. What
9 they need.

10 **Q.** And are they proposing to do so?

11 **A.** They would propose to do so if that is
12 appropriate, yes.

13 **Q.** Can a utility begin operations to provide
14 service to a service territory without first getting a
15 PSC certificate?

16 **A.** Could they -- excuse me?

17 **Q.** Can a utility begin operations to provide
18 water and sewer service without first getting a PSC
19 certificate?

20 **A.** Not for sale to the public for this number of
21 ERCs, no. You need a certificate first.

22 **Q.** You were directed to Paragraph 6 of the lease
23 agreement. Do you have that in front of you, the first
24 page?

25 **A.** Yes, water lease agreement, Paragraph 6.

1 Q. Yes. You were referenced to the 12-month
2 deadline to commence drilling. Does that paragraph
3 provide for extensions of that 12-month period?

4 A. Yes, it does.

5 Q. Does it provide for unlimited extensions of
6 that period? Does it place a limitation on it?

7 A. No. It provides for 12-month extensions.

8 Q. Does it place a limitation on the number of
9 12-month extensions?

10 A. No.

11 Q. If you'll refer to the -- I guess the
12 demonstrative, or 3A, Figure 3A as it's called, either
13 one of them. The red lines that you were questioned
14 about, are these included in the legal description
15 proposed for service by the utility?

16 A. No.

17 Q. Does a utility have to interconnect all the
18 parcels within its service territory?

19 A. No.

20 Q. Are you familiar with other utilities that do
21 not have contiguous territories?

22 A. Yes. Aqua Utilities, Utilities Inc., as I
23 mentioned before, are two examples.

24 Q. And those are certificated utilities?

25 A. Yes.

1 Q. And do they have parcels of property that are
2 more than two or three miles apart?

3 A. Oh, yes. Sometimes it takes them quite awhile
4 to drive between the different locations.

5 Q. Has anyone pointed out to you any appropriate
6 cost of providing service to the proposed territory that
7 you have failed to include in your cost of service
8 study?

9 A. No.

10 Q. Do you believe all the relevant costs have
11 been included?

12 A. Yes.

13 Q. You have been questioned by several of the
14 intervenors in this case about changes in costs. Are
15 all utilities subject to changes in cost of providing
16 service?

17 A. Yes.

18 Q. Are governmental entities subject to changes
19 in cost to providing service?

20 A. Yes.

21 Q. Mr. Rehwinkel referred you to Schedule 6A of
22 the cost of service study concerning CIAC.

23 A. Yes.

24 Q. And the portions marked as being related to
25 developer and customer. I believe he asked you if the

1 sum of that in the customer column could end up in the
2 developer column, and you answered him concerning the
3 possibilities -- under what circumstance that might
4 happen. Is it also possible that some of the costs from
5 the customer column could end up in the developer
6 column?

7 A. Yes.

8 Q. You were asked about a cost comparison of
9 Skyland and the counties. Have either of the counties
10 proposed to serve this area?

11 A. No, other than with the caveat that one parcel
12 in Pasco County in the future. Bruce Kennedy mentioned
13 that if the densities arrived in the requested service
14 that he felt that that might be served. There's one of
15 the parcels.

16 Q. Have either of the counties proposed rates for
17 service to these areas?

18 A. No. There's no cost of service study to serve
19 these areas by either county.

20 Q. Who regulates the rates of Skyland Utilities?

21 A. The Florida Public Service Commission.

22 Q. Who regulates the rates of the county?

23 A. The Board the County Commissioners.

24 Q. So is there any separate agency that regulates
25 the rates of these governmental entities?

1 **A.** It's their the Board of County Commissioners,
2 that's it. They are also the holders in trust of the
3 assets.

4 **MR. DETERDING:** Commissioners, I'd like to
5 hand out a copy of this, the e-mails by which the
6 utility became aware of the request by DEP concerning
7 those contaminated wells.

8 **COMMISSIONER SKOP:** Would you like an exhibit
9 number for that?

10 **MR. DETERDING:** Yes, I would.

11 **COMMISSIONER SKOP:** All right. They will be
12 marked for identification as Exhibit Number 45. And if
13 you have a brief title.

14 **MR. DETERDING:** DEP E-Mail, I guess.

15 **COMMISSIONER SKOP:** All right. Thank you.

16 (Exhibit Number 45 marked for identification.)

17 **BY MR. DETERDING:**

18 **Q.** Mr. Hartman, is this the e-mail by which
19 Skyland became aware of the request from DEP concerning
20 those contaminated wells?

21 **A.** Yes.

22 **Q.** And if you'll look at that, how is it referred
23 to by -- well, how did you acquire it? How did it come
24 into the hands of you or your company?

25 **A.** Provided by counsel, Michael Menton.

1 **Q.** To you?

2 **A.** That's correct.

3 **Q.** All right. If you will look at Page 2. Who
4 is it?

5 **A.** It came to Michael Menton cc'd Dennis --

6 **Q.** If you will look below that on Page 2. You
7 are on Page 2. It's the front page.

8 **A.** Right. Oh, to Tony Isaacs, also, from
9 Caroline M. Klancke.

10 **Q.** And what does Ms. Klancke's message say?

11 **A.** Please see the request for service and
12 responses below.

13 **MR. KIRK:** Mr. Chairman, I'm going to --
14 Hernando will object. This witness is not qualified to
15 establish the foundation. I don't see his name anywhere
16 on any of these e-mails. It's just kind of a chain.

17 **COMMISSIONER SKOP:** Mr. Deterding to the
18 objection.

19 **MR. DETERDING:** It was forwarded to Mr.
20 Hartman's firm, Mr. Hartman's assistant under Mr.
21 Hartman's control by staff counsel.

22 **THE WITNESS:** But also it was forwarded to me
23 specifically by Michael Menton, and that's what I
24 testified to that I got it from counsel, from Michael
25 Menton, who copied his two counsels and myself.

1 **COMMISSIONER SKOP:** Staff to the objection.

2 **MS. CIBULA:** I think a proper foundation has
3 been laid for this exhibit.

4 **COMMISSIONER SKOP:** All right. The objection
5 is overruled. You may continue.

6 **THE WITNESS:** I answered the question, I
7 believe, Mr. Deterding.

8 **MR. DETERDING:** Yes, you did.

9 **BY MR. DETERDING:**

10 **Q.** So this request did not come -- was not
11 initiated by Skyland?

12 **A.** No, it was not.

13 **Q.** Who was it initiated by?

14 **A.** By Charles Coultas, and he has sent it -- he
15 sent it to Ruth McHargue, who then forwarded it to
16 Hernando County, to Rhonda Hicks of Hernando County, and
17 then Hernando County to Tim Devlin, Tim Devlin to
18 Hernando County, Rhonda Hicks, Connie Kummer, Marshall
19 Willis, then --

20 **MR. KIRK:** Mr. Chairman, Hernando would move
21 to strike this exhibit. It's apparently an incomplete
22 copy of an e-mail. All you see at the top cut off is CC
23 Dennis Corrick (phonetic), Lee Dobbins, Jerry Hartman.
24 We don't see who it is to. We don't see the date on the
25 e-mail, so we are being provided with an incomplete

1 document.

2 **MR. DETERDING:** If you'd like to see the first
3 page that shows where it was sent from Michael Menton to
4 Lee Dobbins within his firm, and then again to Michael
5 Menton from Lee Dobbins, I'd be glad to give that to
6 you. But all that is is back and forth between the
7 various counsel within the Dean Meade (phonetic) firm,
8 counsel for Skyland, but I would be more than happy to
9 provide that if there is some concern.

10 **COMMISSIONER SKOP:** Staff to the motion to
11 strike.

12 **MS. CIBULA:** I think it should be denied if
13 Skyland is willing to give the full document to the
14 other party.

15 **COMMISSIONER SKOP:** All right. Very well.
16 The motion to strike is denied, and you may continue.
17 And, Mr. Kirk, if you do want a complete --

18 **MR. DETERDING:** We will hand one out now.

19 **COMMISSIONER SKOP:** Okay. Do we need another
20 exhibit number or just the same one, just a complete
21 copy?

22 **MR. DETERDING:** I would just say put it on the
23 front, if you would like. That would be fine with me.

24 **COMMISSIONER SKOP:** Okay. It looks like my
25 page, something might have been ripped off.

1 **BY MR. DETERDING:**

2 **Q.** Mr. Hartman, you referred to various
3 recipients of this as being from Hernando County. How
4 did you determine they were from Hernando County?

5 **A.** I'm sorry, it's subject, Hernando County. I
6 misspoke. I'm not sure. I just don't know these people
7 so --

8 **Q.** Okay.

9 **A.** It's consumer contact. I guess it must have
10 gone to the PSC.

11 **Q.** But you would agree with me that it came from
12 Mr. Colter (phonetic) to something referred to as to
13 Ruth McHargue I guess is how you pronounce that?

14 **A.** I don't know her.

15 **Q.** I know, but that is who it goes to?

16 **A.** Yes.

17 **Q.** From her to Rhonda Hicks?

18 **A.** That's correct.

19 **Q.** From Rhonda Hicks to Tim Devlin?

20 **A.** Now we are up into the Commission.

21 **Q.** From Tim Devlin to Connie Kummer, from Connie
22 Kummer to Stan Rieger?

23 **A.** I know Stan.

24 **Q.** From Stan Rieger to Pat Brady?

25 **A.** Uh-huh.

1 Q. From Pat Brady to Robert Simpson, back to Pat
2 Brady, back to Robert Simpson, and then to Tony,
3 correct?

4 A. Yes.

5 Q. Your employee?

6 A. And then also to -- it went also to -- after
7 Tony somehow it went to Michael Menton, and then Michael
8 Menton also copied to me.

9 Q. Okay. Thank you.

10 **COMMISSIONER EDGAR:** Commissioner Skop, could
11 I jump in with a question?

12 **COMMISSIONER SKOP:** Yes. Commissioner Edgar,
13 you're recognized.

14 **COMMISSIONER EDGAR:** Thank you.

15 I'm a little confused. I'm looking at this
16 e-mail -- and thank you for providing us with the
17 document, Mr. Deterding. On Page 14 of your rebuttal
18 testimony that you have been asked a couple of different
19 questions about -- your words in Line 6 to 7 say, "This
20 is a request for service to those areas," and then you
21 go on to say that Skyland would be willing to consider
22 it.

23 But when I read this original e-mail from
24 Mr. Coultas is, who I do not know, so I'm just -- it
25 seems to me more like an inquiry rather than a request

1 for service.

2 **MS. HARTMAN:** That's how it started off.

3 **COMMISSIONER EDGAR:** So where does it -- where
4 is the actual request for service that you are referring
5 to on Page 14?

6 **THE WITNESS:** It was categorized as a request
7 for service in these e-mails, as Mr. Deterding
8 delineated, but also our firm then followed up on it.
9 Tony Isaacs, who happens to be sitting right over there,
10 followed up on it, and DEP did request to us that we
11 would look into potentially providing service.
12 Subsequent to that time period, I believe
13 representatives from Skyland did talk with Hernando
14 County Utilities Director and say that they were willing
15 to -- in part of the discussions, the part that relates
16 to this, that we were willing to assist them in making
17 this happen in the most appropriate fashion.

18 **COMMISSIONER EDGAR:** Okay. So, again, looking
19 at your rebuttal testimony on Page 14, that statement,
20 this is a request for service, I read that, and still
21 read it, which is why I'm asking you for clarification,
22 I read that as referring to the e-mail that is referred
23 to above when you say this is a request for service.

24 **THE WITNESS:** Okay.

25 **COMMISSIONER EDGAR:** I do see -- and I did not

1 mean to interrupt you, I apologize. I do see that
2 through this e-mail chain somewhere there is a
3 characterization request for service, but yet when I go
4 back to the original here on the back page it doesn't
5 look like a request for service to me. So when you say
6 this is a request for service, to what are you
7 referring?

8 **THE WITNESS:** And in the corrections that
9 happened back on July 8th, that line happened to have a
10 correction that says this is the type of potential
11 request for service to those areas that we are willing
12 to -- and that's what we --

13 **CHAIRMAN ARGENZIANO:** That was the change we
14 made when we were down in -- okay. I don't have that
15 change in my copy. All right. That's helpful. Thank
16 you.

17 **THE WITNESS:** But subsequent to that, it is
18 also truthful, is the fact that since that time period
19 we have been in contact with DEP. And as I updated, 22
20 more wells since that hearing were found to be
21 contaminated in this area. In addition, they have
22 requested that we work in the most appropriate fashion
23 with Hernando County to expedite, if we could, any way
24 that we could assist to provide for this service to
25 protect the public health, safety, and welfare. And I

1 don't think that the parties are adverse in that. I
2 think we are willing to work together.

3 **COMMISSIONER EDGAR:** So can you read me again
4 what the --

5 **THE WITNESS:** Corrected one?

6 **COMMISSIONER EDGAR:** -- actual corrected
7 version would read for those lines?

8 **THE WITNESS:** This is the type of potential
9 request for service is how it was corrected.

10 **COMMISSIONER EDGAR:** All right. Thank you.

11 **MR. WHARTON:** And, Commissioner Skop, if I
12 may, it's not our point, and I think Commissioner Edgar
13 just made the record clear in that regard, to hook staff
14 counsel on the use of the phrase. We understand she was
15 just using a phrase in an e-mail that got sent around,
16 but that was the impetus, as Commissioner Edgar just
17 brought out, for the use of the phrase originally.

18 **COMMISSIONER SKOP:** Thank you for that
19 clarification. Again, I think the semantics there, you
20 know, corrected, and I corrected my copy, too, because I
21 did not have the change in that. Potential is a very
22 important word of import when it's concerned with the
23 characterization of the request, I think.

24 I do have one additional question to Mr.
25 Hartman. You mentioned the e-mail exchange, and that

1 Mr. Isaacs had some additional conversations as
2 pertaining to the application pending before the
3 Commission. However, there is nothing in the record to
4 indicate a specific request by any of the landowners
5 with a contaminated well that they would like to have
6 service, is that correct?

7 **THE WITNESS:** That's correct. We have not
8 taken that step because we have not resolved how we
9 would work with Hernando County or what that
10 relationship would be. And, of course, some of that
11 holdup is relative to getting the certification such
12 that we can do that.

13 **COMMISSIONER SKOP:** Okay. And I believe when
14 I asked the question about potentially serving those
15 affected areas outside of the service territory, you
16 indicated in a response that just may be a matter of
17 providing bulk water to an interconnection point and
18 having Hernando County basically run the lines to those
19 affected areas, is that correct?

20 **THE WITNESS:** Yes. That's an option, yes,
21 sir.

22 **COMMISSIONER SKOP:** But for Skyland to do it,
23 it would be cost prohibitive, is that correct?

24 **THE WITNESS:** No, absolutely not. Skyland can
25 run to the ones that are close to us. I have that table

1 before that delineated the ones that were fairly close
2 to us, and we could take a good number of them that are
3 surrounding us that we could get service to without
4 that. But we felt that it's only appropriate to
5 coordinate with Hernando County to see what's the best
6 fashion.

7 There are other means that Hernando County can
8 tap into that I believe the utilities director has
9 initiated relative to getting grants and loans and doing
10 what he can do in that regard considering his governing
11 board and the situation. It has just been deferred at
12 this time. And that those types of things all need to
13 be worked out, and so that's is why we can't get there
14 definitively for you, Chairman, at this time. If we
15 were certificated right now, I think we could resolve
16 something quickly.

17 **COMMISSIONER SKOP:** All right. And just one
18 final question with respect to what has been marked for
19 identification as Exhibit 43. I just wanted to get some
20 clarification on Page 3 of that which has the Farmington
21 local plan. Is there a significance that I missed here?
22 Is this something that your company has done or a
23 company that you represent is providing utility service
24 in that proposed area?

25 **THE WITNESS:** In Farmington?

1 **COMMISSIONER SKOP:** Yes, or Farmington.

2 **THE WITNESS:** No. For Farmington, I was their
3 expert relative to the certification of Farmington, and
4 we negotiated a less out for Edgewater on the northern
5 side. That graphic was of all the Farmington
6 properties. Not all the Farmington properties are
7 certificated.

8 **COMMISSIONER SKOP:** Okay. And I was just
9 wondering about that, because, again, when it said
10 certificated, I was looking at what that meant in the
11 utility context. It seemed to me like I was trying to
12 understand what I was looking at and why I was looking
13 at it, but I know that area very well. It used to be a
14 management area.

15 **THE WITNESS:** Yes. Our firm designed the 5
16 MGD water treatment plant and well field for Edgewater.
17 It's right there. And then we worked with Terry
18 Wadsworth and others, who was the utilities director at
19 the time, and the subsequent persons at the city to give
20 an area of influence around their well field and thereby
21 that Farmington property is not certificated, so the
22 representation that that was the certificated area is
23 incorrect.

24 **COMMISSIONER SKOP:** All right. Thank you.
25 Mr. Deterding.

1 **MR. DETERDING:** Thank you.

2 **BY MR. DETERDING:**

3 **Q.** Mr. Hartman, just to clarify, the e-mail that
4 was received from DEP through those channels was
5 received after this application was filed, correct?

6 **A.** Yes.

7 **Q.** You were talking just a moment ago to
8 Commissioner Skop about the method by which Skyland
9 might assist in providing service to these wells. Did
10 Hernando County do an analysis of the cost of providing
11 service?

12 **A.** I believe there's testimony from the utilities
13 director relative to that issue with a general cost of
14 about \$10 million or more for that. I testified earlier
15 about that.

16 **Q.** And do you believe that Skyland could assist
17 in making that cost less?

18 **A.** Absolutely. And it could provide for a very
19 beneficial fashion of services. It is always better to
20 have service coming from multiple locations. It
21 minimizes your pipe sizing, et cetera.

22 **Q.** You were questioned about the land lease. Is
23 the lease term of that intended to be 99 years?

24 **A.** Excuse me, the lease term for which?

25 **Q.** For the water well sites.

1 **A.** Yes. I believe that it delineated initially
2 20 years, and then I believe that they were willing to
3 have automatic renewals through to 99 years, or change
4 it to 99 years, either one.

5 **Q.** And the costs related to that lease are
6 included in the calculation of the rates proposed in
7 this proceeding?

8 **A.** Yes.

9 **Q.** If the Commission finds that those proposed
10 rates or charges in the lease, if changed, are
11 unreasonable, are they bound to recognize those costs?

12 **A.** No.

13 **Q.** You were asked about the customers being -- I
14 think the term utilized by Mr. Rehwinkel was the utility
15 customers being stuck with the rates. Are county
16 customers stuck with the rates that the county charges?

17 **A.** I tried to stay away from that adjective,
18 because I believe that the rates and charges set by the
19 counties and set here through the cost of service
20 studies are what's fair and reasonable, and I don't
21 consider that sticking someone. I consider that paying
22 for the cost of the service.

23 **Q.** Are the rates of the county subject to change?

24 **A.** Yes.

25 **Q.** You were asked numerous questions about need.

1 Have you been involved in meetings with Evans Properties
2 and state and local government representatives to
3 discuss and explore what role a certificated utility
4 might play in providing -- meeting water and wastewater
5 needs?

6 A. Yes. We had a meeting with the Southwest
7 Florida Water Management District before the hearing and
8 discussed potential opportunities to apply reuse water,
9 stormwater recharge, various other items for water
10 resource management that would benefit the area and
11 provide a living kidney, basically, to clean up storm
12 water aspects, including abatement on the properties,
13 and what kind of TMDL type credits and value was
14 associated with that, and as well as what facilities
15 that we could utilize associated with that.

16 Q. Can utilities with noncontiguous service areas
17 be served efficiently and effectively?

18 A. Yes.

19 Q. You were asked about the dissimilarities
20 between Farmington ECFS and Skyland's proposals. Do you
21 believe there are similarities between those proposals?

22 A. Yes. The major landowners have been stewards
23 of the land for a long period of time and not a separate
24 utility-only company. So there is a stability; there is
25 a major interest into the properties. It's a different

1 type of situation. And I think that is a very positive
2 thing, because if you look at the record for ECFS over
3 the past 20 years you will find it excellent and it has
4 solved many water resource situations in the
5 three-county area where it operates.

6 Q. When you were referenced to a term of carving
7 up of territories, what were you talking about?

8 A. I didn't bring that up, counsel brought it up,
9 and that was in the order that -- it was a quote out of
10 an order from the Commission that they felt was
11 inappropriate to carve up large landowner properties and
12 certificate only a portion versus all the intended
13 properties. And the rationale for that was it allows
14 for better planning and more effective water and
15 wastewater end service to customers if you do the whole
16 thing because then you have some certainty relative to
17 service and use.

18 Q. You were asked many questions relative to the
19 rates of Skyland and local government by, I believe, Mr.
20 Rehwinkel. Have you seen any attempt by any of the
21 local governments to quantify the cost of their -- on
22 their present ratepayers of extending to provide service
23 to the territories proposed for service by Skyland?

24 A. No, and there has been no cost of service
25 study.

1 **Q.** Are you aware of any strategic plans of Evans
2 Properties which have not been shared with the PSC
3 concerning the use of this land and the utility service?

4 **A.** No. As I testified to that earlier, no.

5 **MR. DETERDING:** Commissioners, that's all I
6 have. I would like to move Exhibits 37, 38, and 45.

7 **COMMISSIONER SKOP:** Okay. I have had a
8 request to move 37, 38, and 45 into the record. Is
9 there any objection at this time? Okay. Hearing none,
10 show Exhibits 37, 38, and 45 entered.

11 And I believe Mr. Rehwinkel --

12 **MR. REHWINKEL:** I would move 43 and 44.

13 **COMMISSIONER SKOP:** All right. Are there any
14 objections to entering what has been marked for
15 identification as Exhibit 43 and 44 at this time?
16 Hearing none, show Exhibit 43 and 44 to be entered.

17 (Exhibit Numbers 37, 38, 43, 44, and 45
18 admitted into the record.)

19 **COMMISSIONER SKOP:** And, Mr. Hartman, you may
20 step down.

21 And, Mr. Deterding, please call your next
22 witness.

23 **MR. WHARTON:** We would call Mr. DeLisi.

24 **COMMISSIONER SKOP:** And for planning purposes,
25 we still have five witnesses to get through, so let's

1 try our best to get out of here at a reasonable hour
2 this evening.

3 **MR. REHWINKEL:** I only have questions for one
4 of those five.

5 **COMMISSIONER SKOP:** All right. Thank you.

6 Okay. You may proceed.

7 **DANIEL B. DELISI**

8 was called as a rebuttal witness on behalf of Skyland
9 Utilities, LLC, and having been duly sworn, testified as
10 follows:

11 **DIRECT EXAMINATION**

12 **BY MR. WHARTON:**

13 **Q.** Sir, would you state your name and employment
14 address for the record?

15 **A.** My name is Dan DeLisi. My work address is
16 1605 Hendry Street, Fort Myers, Florida.

17 **Q.** Have you been retained by Skyland Utilities to
18 provide testimony and expert opinions in this
19 proceeding?

20 **A.** Yes, I have.

21 **Q.** By whom are you employed and in what capacity?

22 **A.** DeLisi Fitzgerald. I am a principal with the
23 firm.

24 **Q.** Did you prepare and cause to be filed rebuttal
25 testimony in this case consisting of 29 pages?

1 A. I did.

2 Q. If I asked you those same questions here
3 today, would your answers be the same?

4 A. They would.

5 Q. Do you have any corrections to make to that
6 testimony at this time?

7 A. No, I don't.

8 Q. Did you also cause to be prepared in
9 conjunction with the preparation of that rebuttal
10 testimony an exhibit which was prefiled as DBD-1?

11 A. I believe so. Was that the resume?

12 Q. Yes.

13 A. Yes, that's correct.

14 MR. WHARTON: Mr. Skop, I believe that that
15 has been marked as -- or designated to be marked as
16 Exhibit 39.

17 COMMISSIONER SKOP: Yes.

18 BY MR. WHARTON:

19 Q. Mr. DeLisi, would you summarize your testimony
20 in five minutes or less?

21 A. Sure. In short, I presented rebuttal
22 testimony with regard to comprehensive planning,
23 consistency with the local comprehensive plans,
24 compliance with the Florida Statutes, and the Florida
25 Administrative Code as they relate to comprehensive

1 planning. Basically, the testimony I gave was that I
2 disagree that the proposal is inconsistent with the
3 comprehensive plans. In the case of Pasco County, it's
4 pretty simple. Pasco County specifically allows for
5 private utilities in the northeast Pasco overall area.
6 You know, a plain reading of the language demonstrates
7 that.

8 In the case of Hernando County, it's more
9 vague. It neither specifically allows, like in the case
10 of Pasco County, or disallows. In addition to the
11 testimony, in addition to my review of the local
12 comprehensive plans, there was significant testimony by
13 the intervenors with regard to how they felt this PSC
14 certificate would promote urban sprawl, and I have a few
15 points on that.

16 First off, sprawl is a form of development and
17 this is simply not a development application as defined
18 by the statutes or, you know, in any plain definition.
19 To make a conclusion that this would lead to urban
20 sprawl is at minimum a huge leap. There's just nothing
21 that was substantiated by any of the intervenors to lead
22 to that conclusion.

23 Second, there's no way to develop in excess of
24 what the current comprehensive plans allow for without
25 doing a comprehensive plan amendment. You just can't do

1 it. And so the intervenors had some speculation about,
2 you know, will this lead to increased development. That
3 is just simply not on the table, and without a comp plan
4 amendment you can't do it.

5 And in that comp plan amendment process, I
6 could tell you because I process them on a very regular
7 basis, there is a very rigorous review of urban sprawl.
8 In the Florida Administrative Code there is what we call
9 the urban sprawl rule, which is in 9J-5, and I promise
10 you DCA does not slack off, you know, in any means with
11 regard to enforcing the urban sprawl rule. Nor do they
12 feel in any way compelled to overlook urban sprawl
13 criteria because an area has a PSC certificate.

14 And I listed several cases. One case that I
15 listed was the Sun River Utility case, which the PSC
16 granted a certificate on a few years back. I processed
17 a comp plan amendment in the area following that
18 certificate, and it was a very, very rigorous review,
19 and it led to a proposal that no one would describe as
20 urban sprawl. No one.

21 So I listed some historical examples of how
22 PSC certificates simply don't lead to urban sprawl. I
23 guess, finally, to date there is no development proposal
24 on the table other than development that is assumed in
25 compliance with the existing comprehensive plan. So

1 with regard to form of development urban sprawl, you
2 know, there is no conjecture. The current comprehensive
3 plans have been found in compliance by DCA. By
4 definition they don't constitute urban sprawl in that
5 regard, so granting a utility a certificate in this area
6 even under the current comprehensive plan or any assumed
7 future comprehensive plan would not lead to urban
8 sprawl.

9 Q. Does that conclude your summary, Mr. DeLisi?

10 A. That is.

11 MR. WHARTON: Commissioner Skop, we would move
12 that the testimony be inserted into the record as though
13 read, and would thereafter tender the witness.

14 COMMISSIONER SKOP: Thank you.

15 The prefiled testimony of Witness DeLisi will
16 be entered into the record as though read.
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REBUTTAL TESTIMONY OF DAN DELISI

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

APPLICATION FOR ORIGINAL CERTIFICATES

FOR PROPOSED WATER AND WASTEWATER SYSTEMS

IN HERNANDO AND PASCO COUNTIES

AND REQUEST FOR INITIAL RATES AND CHARGES

FOR SKYLAND UTILITIES, LLC

DOCKET NO. 090478-WS

ON BEHALF OF SKYLAND UTILITIES, LLC

REBUTTAL TESTIMONY OF DANIEL B. DELISI

Q. State your name and address.

A. Dan DeLisi, DeLisi Fitzgerald, 1605 Hendry Street, Fort Myers, Florida 33901.

Q. Have you reviewed the direct testimony of Ronald A. Pianta, AICP, on behalf of Hernando County, Florida?

A. Yes.

Q. Have you reviewed the direct testimony of Paul L. Weiczorek, AICP, on behalf of Hernando County, Florida?

A. Yes.

Q. Have you reviewed the direct testimony of Bruce Kennedy, PE, on behalf of Pasco County, Florida?

A. Yes.

Q. Have you reviewed the direct testimony of Richard E. Gehring on behalf of Pasco County, Florida?

A. Yes.

REBUTTAL TESTIMONY OF DAN DELISI

1 Q. Have you reviewed the direct testimony of Daniel W. Evans
2 on behalf of the Florida Department of Community Affairs?

3 A. Yes.

4 Q. What is the purpose of your testimony in this proceeding?

5 A. To review the consistency of the Skyland application with
6 the comprehensive plans of Hernando and Pasco Counties, to
7 address their relevance to this proceeding, and to respond to
8 some of the testimony of the aforementioned individuals.

9 Q. Would you please review your educational background?

10 A. I hold a Bachelor of Arts Degree from Brandeis University
11 and a Masters Degree in City Planning from the Massachusetts
12 Institute of Technology. Additionally, I received a
13 Certificate in Urban Design at MIT, which included a series of
14 courses in the graduate program dealing with land development
15 and urban, suburban, rural and regional planning issues. My
16 graduate work also included a series of published articles and
17 written works on environmental dispute resolution through the
18 Harvard Law School Program on Negotiation; car sharing and
19 mobility in China through the MIT Cooperative Mobility
20 Project; and community planning through the Earth Pledge
21 Foundation. I have attached a copy of my resume as Exhibit
22 DBD-1.

23 Q. How many years and where have you practiced as a planner?

24 A. I have been practicing as a land use planner in the State
25 of Florida for the last 10 years.

REBUTTAL TESTIMONY OF DAN DELISI

1 Q. Would you please review your employment experience as a
2 professional planner?

3 A. After graduating with my Masters Degree in City Planning
4 from MIT in 2000, I moved to Florida and worked as a planning
5 consultant for Vanasse Daylor, a land planning and engineering
6 firm based in Fort Myers, Florida. In 2003, I joined Barraco
7 and Associates, another Planning/Engineering firm as its Vice
8 President of Planning. My primary responsibilities for both
9 companies included amending land use entitlements for
10 properties ranging in size from small 1 acre infill sites to
11 large 5,000 acre Developments of Regional Impact. Through this
12 time, I processed rezonings and comprehensive plan amendments,
13 serving as an expert witness before the Lee County hearing
14 examiner and zoning boards/planning agencies in Lee, Hendry
15 and Charlotte Counties. During this time, I also worked on a
16 number of public sector planning efforts from community/sector
17 plans to the creation of industrial overlays.

18 In 2004, I was hired by The Bonita Bay Group, a developer
19 of large master planned communities in southwest Florida and
20 served as its Director of Planning. In this role, I was
21 responsible for all land use entitlement efforts for all of
22 its properties in southwest Florida and land use due diligence
23 efforts for properties throughout the state. I also served as
24 the person responsible for monitoring and reviewing land use
25 policy changes in the local governments where we had

REBUTTAL TESTIMONY OF DAN DELISI

1 properties, as well as state legislative issues as they
2 related to comprehensive planning.

3 In 2006, I formed DeLisi Fitzgerald, Inc., a consulting
4 firm specializing in land use planning and engineering. My
5 responsibilities in my current firm are the same as my
6 consulting responsibilities prior to joining The Bonita Bay
7 Group, the difference being that I have been actively working
8 in central Florida, with a satellite office in Maitland. I
9 have worked on projects to varying degrees throughout the
10 state in the east coast, west coast, and central Florida
11 regions, as well as providing expert testimony.

12 During my career, I have served as a guest speaker at
13 conferences throughout Florida presenting on topics ranging
14 from creating Capital Improvement Elements in Comprehensive
15 Plans to "Innovations in Planning". For the last several years
16 I have been a regular guest speaker for the Urban Land
17 Institute throughout the United States on land use regulation
18 and models of compact growth patterns. I am also an adjunct
19 faculty member at Nova Southeastern University in Davie,
20 Florida where I teach a graduate level course at the Huizenga
21 School of Business on "Land Use Regulation".

22 Q. Do you hold any professional registrations and
23 certifications?

24 A. I am certified through the American Institute of
25 Certified Planners (AICP). In addition I am certified by the

REBUTTAL TESTIMONY OF DAN DELISI

1 Supreme Court of Florida as a Circuit Mediator.

2 Q. Are you a member of any professional organizations?

3 A. I am a member of the American Planning Association.

4 Additionally, I am a former member of the Board of Directors
5 and Chapter President of the Florida Planning and Zoning
6 Association.

7 Q. Have you ever testified as an expert before any courts,
8 administrative tribunals, or in quasi-judicial venues?

9 A. Yes. I have testified as an expert witness before
10 administrative tribunals and Hearing Officers in quasi-
11 judicial matters.

12 Q. Are you familiar with Chapter 163, Florida Statutes,
13 known as the "Local Government Comprehensive Planning & Land
14 Development Act"?

15 A. Yes.

16 Q. Are you familiar with the rules of the Department of
17 Community Affairs as they relate to local government and
18 comprehensive plans?

19 A. Yes.

20 Q. Mr. DeLisi, do you have any comments regarding the
21 testimony of Mr. Pianta?

22 A. Yes.

23 Q. Who is Mr. Pianta?

24 A. The Planning Director for Hernando County.

25 Q. Do you agree with Mr. Pianta's opinion that Skyland's

REBUTTAL TESTIMONY OF DAN DELISI

1 proposal is not consistent with the adopted Comprehensive Plan
2 for Hernando County?

3 A. No.

4 Q. What is your opinion in that regard?

5 A. Mr. Pianta relies on a series of policies in the Hernando
6 County Comprehensive Plan that lead him to conclude that the
7 Comprehensive Plan does not allow utility service in the Rural
8 area as so designated on the Future Land Use Map. A careful
9 review of the Comprehensive Plan and the policies that are
10 specifically listed in his testimony lead me to conclude that
11 Mr. Pianta is not correct in his finding. In my opinion, in
12 several instances, Mr. Pianta has either taken the policies
13 out of context or he has inappropriately applied them. I will
14 address a few such instances here:

15 Policy 1.01B6 states: "Allow new development within the
16 Rural Land Use Category which is compatible with the level of
17 public services provided. The County will not provide water,
18 sewer, transportation, or other infrastructure to support
19 urban development in the Rural Land Use Category so that urban
20 development can be directed into those areas which are planned
21 to receive such services."

22 When a policy in a comprehensive plan directs a county to
23 do something, the application of that policy is limited to the
24 county's actions, not a private land owner or a private entity
25 such as Skyland. For example, if a comprehensive plan states

1 that the county will create buffer guidelines in their land
2 development code, it is the responsibility of the county to
3 take that action, not another entity. In reviewing a
4 development application in that scenario, it would not be
5 appropriate to transfer or superimpose the county's
6 responsibility of creating the buffering ordinance to a
7 private land owner, or to infer any tangible intent from that
8 policy. The same is true with a policy that directs that
9 county to refrain from the provision of water and sewer
10 service in the rural area.

11 Therefore, if Hernando County sought to prevent all
12 utilities, public and private, from providing service in rural
13 areas; rather than stating "the county will not provide water,
14 sewer..." the Comprehensive Plan should have been written to
15 state that "no utility provider will extend service in to the
16 Rural land use category..." Whether such would be lawful is a
17 subject I will leave for the Commission to address.

18 Given the limited resources of public agencies it is
19 understandable that Hernando County, through its comprehensive
20 plan, would prioritize urban areas for the provision of public
21 utilities. Policy 1.01B6 reads the way it was likely intended
22 to be written - to prioritize the county's limited resources
23 in the most cost efficient manner by directing the county to
24 concentrate those limited resources in areas with the greatest
25 population. Stating in a comprehensive plan that the county

REBUTTAL TESTIMONY OF DAN DELISI

1 will not provide water and wastewater in the rural area does
2 not, however, preclude a private utility from providing those
3 same services. It is commonly understood that if government
4 has limited resources it should concentrate those resources in
5 areas with the most population, especially urban areas.
6 Private entities, however, do not have the same resource
7 limitations that the public sector has.

8 Similarly, Policies 1.01T1, 1.01T2, 1.01T4 and 1.01T8 all
9 are policies that describe how public utilities will be
10 extended. All of these policies must be read in context to
11 understand their meaning. According to the rules of statutory
12 construction commonly used by professional planners,
13 objectives in a comprehensive plan are intended to implement
14 the goals that they are listed under. Policies are intended to
15 implement the objectives that they are listed under.

16 Objective 1.01T states: "Provide for efficient use and
17 provision of public facilities/services in a cost-efficient
18 manner." The policies under Objective 1.01T are intended to
19 implement the county's desire for the county to provide
20 utilities in a cost efficient manner. Policies that direct the
21 county to concentrate its limited resources in areas with
22 existing development or contiguous to existing development
23 implement Objective 1.01T. However, similar to Policy 1.01B6,
24 there is nothing in this policy that directs that private
25 resources should not or cannot provide infrastructure

1 elsewhere in the county.

2 Q. Specifically with regard to the siting of the proposed
3 utility, did you review Mr. Pianta's opinion?

4 A. Yes.

5 Q. Did you review Mr. Pianta's opinion that Skyland's
6 proposal would violate the intent of the Hernando County
7 Comprehensive Plan?

8 A. Yes.

9 Q. Do you agree with that opinion?

10 A. No.

11 Q. Does Mr. Pianta set forth the basis of his opinion?

12 A. Yes.

13 Q. What is your opinion in that regard?

14 A. He is incorrect in his reading of the Hernando County
15 Comprehensive Plan. Mr. Pianta seems to equate the proposed
16 utility certificated area with a development proposal (Page 5,
17 lines 7 - 21). To the extent that development has been
18 discussed as part of this application, those levels of
19 development are within levels allowed under the existing
20 comprehensive plans of Hernando and Pasco Counties.

21 It is important to note that "development" cannot happen
22 if it is inconsistent with a comprehensive plan. The proposal
23 that is currently being reviewed is not a development action.
24 Mr. Pianta, in his testimony, seems to indicate that approval
25 of a utility certificated territory would make it a foregone

REBUTTAL TESTIMONY OF DAN DELISI

1 conclusion that levels of development in excess of that which
2 are currently permitted in the Comprehensive Plan will be
3 permitted. Mr. Pianta provides no basis for his conclusion. I
4 am not aware of any real world instance where the creation of
5 a PSC certificated area has somehow exempted a land owner from
6 complying with the development levels allowed in a local
7 comprehensive plan, or exempted any proposal of a land owner
8 from any required review under Chapter 163 FS and Rule 9J-5
9 FAC to change the Comprehensive Plan.

10 It seems to be inferred in Mr. Pianta's testimony that
11 the provision of utilities will create pressure for new
12 development to occur. However, in my experience utilities will
13 create development pressure only if all other services are in
14 place or otherwise planned for, and there is a market for that
15 development. For instance, even if utilities exist, but there
16 is poor road access, development won't happen. Even if
17 utilities exist, but the county's comprehensive plan does not
18 allow development at significant levels, then the only
19 development that will occur will be that which is allowed. In
20 the planning process, if urban development is proposed in a
21 rural area, the applicant for the change must show how
22 infrastructure would be planned for and financially feasible,
23 in addition to demonstrating "need", land use form, and the
24 myriad of other requirements in Chapter 163 F.S and Rule 9J-5
25 FAC and must satisfy the general requirements of the

REBUTTAL TESTIMONY OF DAN DELISI

1 Department of Community Affairs. The existence of a utility,
2 much less a PSC certificate, in and of themselves, changes
3 none of this.

4 Q. Did Mr. Pianta express the opinion that Skyland's
5 proposal undermines the stated goals, objectives, and policies
6 of the county?

7 A. Not really. He was asked a hypothetical question whether
8 he had an opinion "if a development is allowed to go forward
9 which is inconsistent with the County's Comprehensive Plan"
10 and his opinion was stated in reference to that premise. This
11 is not a "development" proposal, and no such proposal is
12 pending before Hernando County. In his hypothetical
13 development proposal, Mr. Pianta is assuming entitlements in
14 excess of what exists on the property today. However, in the
15 Skyland application, the entitlements on the property are
16 consistent with what is allowed in the comprehensive plan. I
17 want to be clear though that in my opinion, the application of
18 Skyland does not undermine any of the goals, objectives or
19 policies of the Hernando Comprehensive Plan.

20 Q. Mr. Pianta is asked in his testimony if development can
21 go forward inconsistent with the County's comprehensive plan.
22 He states that it cannot, and then further elaborates that the
23 form of the development would constitute urban sprawl. Do you
24 agree or disagree with his assertion that the Skyland
25 Utilities proposed certificated area constitutes a

REBUTTAL TESTIMONY OF DAN DELISI

1 "development proposal"?

2 A. No. The term "development" refers to something very
3 specific. The Florida Statutes has an extensive definition of
4 what constitutes a development activity. This definition is
5 found in Chapter 380.04 F.S. and specifically referenced in
6 Chapter 163.3164, the "Local Government Comprehensive Planning
7 and Land Development Regulation Act; definitions" section.
8 Both Chapters 163 and 380 F.S. are administered by the state
9 Department of Community Affairs and govern development and
10 comprehensive planning. The definition in the Statutes lists
11 the activities and uses that involve "development".
12 Certification of a utility territory is not one of those
13 actions or uses. The definition also specifically lists those
14 operations or uses that do not constitute development as
15 follows:

16 "(3) The following operations or uses shall not be taken
17 for the purpose of this chapter to involve "development" as
18 defined in this section: ...

19 (b) Work by any utility and other persons engaged in the
20 distribution or transmission of gas, electricity, or water,
21 for the purpose of inspecting, repairing, renewing, or
22 constructing on established rights-of-way any sewers, mains,
23 pipes, cables, utility tunnels, power lines, towers, poles,
24 tracks, or the like. This provision conveys no property
25 interest and does not eliminate any applicable notice

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1 requirements to affected land owners..."

2 As I read this definition, the Florida Statutes
3 specifically contemplate the process for growth management
4 being separate and distinct from utility planning. That is to
5 say that utility "work", as that phrase is used, does not
6 remove or diminish any of the tools for growth management that
7 exist under Chapter 380 or 163 F.S. and therefore does not, in
8 and of itself require review under these Chapters of the
9 Florida Statutes. Certification of a utility territory is not
10 a development activity.

11 Q. What, in your opinion, is "urban sprawl"?

12 A. Urban sprawl is the proliferation of low density single
13 use development spread out over large areas of land. Chapter
14 9J-5 of the Florida Administrative Code has a formal
15 definition which sets forth 13 indicators of urban sprawl.

16 Q. Do you agree with Mr. Pianta's opinion that if Skyland
17 Utility "begins a water/wastewater utility operation" that
18 this would constitute or promote urban sprawl?

19 A. No. There is no development being proposed in this
20 application. Urban Sprawl is a concept describing patterns of
21 development, not the location of certificated utility areas.

22 Q. In your opinion, would the certification of Skyland alone
23 constitute or promote urban sprawl?

24 A. No. Urban sprawl relates to development patterns.

25 Q. In your opinion, would the construction of Skyland's

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1 proposed utility facilities alone promote or constitute urban
2 sprawl?

3 A. No. In order for either the certification or construction
4 of a utility to promote urban sprawl, the County and the State
5 would have to first permit urban sprawl to occur under the
6 county's comprehensive plan. That has not happened. In the
7 absence of Hernando County, with the concurrence of the
8 Department of Community Affairs, amending the Hernando
9 Comprehensive plan, development in excess of current
10 entitlements cannot and will not happen. Urban sprawl as
11 envisioned by Mr. Pianta simply will not occur as a result of
12 this application.

13 Q. Do you agree with Mr. Pianta's projection as to "what
14 types of affects can be expected" if Skyland begins
15 operations?

16 A. No, I do not. And I am not aware of any similar cases
17 where the certification of a utility area in a rural area has
18 lead to uncontrolled sprawling development.

19 Q. Can you think of examples where unexpected positive results
20 have been created through the establishment of a PSC
21 certificated area?

22 A. Yes. It is impossible to predict any future development
23 form that may take place under a future county administration.
24 Such would be subject to numerous vagaries including, but not
25 limited to, population growth and trends, the economy, and the

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1 political and policy decisions of state and local governments.
2 Mr. Pianta's scenario envisions only the worst possible
3 outcome, one that is in fact the most unlikely outcome given
4 the development of the Growth Management Statutes in Chapter
5 163 F.S. over the last 2 ½ decades. As stated above, the only
6 thing that this application requests is the designation of a
7 utility certificated area in a location where the county's
8 comprehensive plan precludes the county itself from providing
9 service.

10 As history with these types of actions has shown, it is
11 impossible to predict the planning and environmental
12 preservation opportunities that may exist in the future. In
13 one instance I am familiar with, when Town and Country
14 Utilities (Babcock Ranch) received its certificate from the
15 PSC in 1999 there was likely no understanding that it would
16 remove one future impediment to the state's acquisition of
17 over 73,000 acres of pristine environmental lands. In 2005 The
18 State had tried unsuccessfully to acquire the full 91,000 acre
19 property but could not do so without the intermediary
20 assistance of a private entity. The end result was one
21 supported by nearly every local environmental and planning
22 organization and involved a private land developer, gaining
23 development rights on approximately 17,000 acres of impacted
24 lands in order to broker the sale of the pristine lands to the
25 state. Had the utility plan not been established and in place,

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1 that may have ended the entire complex deal which was
2 structured, to the detriment of the state's land acquisition
3 goals and the open advocacy of nearly every state planning and
4 environmental organization. Since its designation in 1999 by
5 the PSC, we know three things about the affect of the
6 existence of Town and Country Utilities:

- 7 1. Its existence did not in any way create an artificial
8 market for development. No sprawling development has
9 happened on the property or in the area and the utility
10 still does not have an urban customer base, even 11
11 years after this designation and through one of the most
12 aggressive development cycles in the history of Florida.
- 13 2. Having the utility in place at the time of the
14 comprehensive plan amendment and the sale of the
15 preservation area to the State of Florida did not in any
16 way limit the state's and the local governments'
17 abilities to regulate and impose land use forms that did
18 not allow or constitute "urban sprawl". It is important
19 to note the widespread agreement among planning and
20 environmental organizations to this point.
- 21 3. Having the utility in place with a plan for the
22 provision of central water and wastewater facilities did
23 remove an impediment for the State of Florida to achieve
24 a larger land acquisition goal that was unforeseen at
25 the time of the PSC designation.

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1 In another example, two years ago Charlotte and DeSoto
2 Counties challenged a proposal by Sun River Utilities to
3 establish a certificated area over a portion of northern
4 Charlotte County and southern DeSoto County. Eventually the
5 Counties and Sun River Utilities entered in to a settlement
6 agreement that allowed the designation of the certificated
7 area. Last year a joint public/private planning study that
8 included a portion of the area in Charlotte County was
9 completed. The establishment of the certificated area did not
10 deprive Charlotte County of any existing tool to prevent urban
11 sprawl. Even more instructive was the review at the state
12 level which included a strenuous application of what is
13 commonly referred to as the "Urban Sprawl Rule" found in 9J-5
14 of the Florida Administrative Code. In this particular review,
15 however, the Department of Environmental Protection saw an
16 opportunity to tie future development to the conversion of
17 leaky septic systems that are currently leading to pollution
18 of the Peace River. This unforeseen opportunity to stop a
19 point of environmental pollution would not have been possible
20 without prior utility planning. Not only does the form of
21 development contemplated in the planning study not constitute
22 urban sprawl under the Rule 9J-5 or any other planning
23 definition of the word, but it contributes to an environmental
24 restoration project that was not anticipated when Charlotte
25 County originally challenged the designation of the PSC

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1 franchise area.

2 Q. Do you agree with Mr. Pianta's opinion regarding the
3 "public policy implications" if "property develops" in a
4 manner that constitutes urban sprawl?

5 A. Yes. I agree that if Hernando County chooses to amend
6 their comprehensive plan to allow development on this property
7 that is in a sprawling land use form, without any of the
8 controls afforded to the County in Rule 9J-5 FAC, and that
9 development actually occurs, there are "public policy
10 implications." What I do not agree with is Mr. Pianta's
11 implication of how such a result would occur. Hernando County,
12 with the concurrence of the Department of Community Affairs,
13 would need to approve and permit increased levels of
14 development in a sprawling land use pattern for Hernando
15 County to be faced with these "public policy implications". It
16 is, of course, possible for Hernando County and the Department
17 of Community Affairs to approve an amendment to the
18 comprehensive plan that is not characteristic of urban sprawl.
19 However, since there has been no effort to seek increased
20 entitlements on this land, it is not possible to specifically
21 address future land use form that may or may not be proposed
22 or approved.

23 Q. Do you have any comments regarding the testimony of Mr.
24 Paul Wieczorek?

25 A. Yes.

1 Q. Who is Mr. Wieczorek?

2 A. Senior Planner with the Hernando County Planning
3 Department.

4 Q. Does Mr. Wieczorek provide any opinions that are any
5 different than those opinions provided by Mr. Pianta?

6 A. No.

7 Q. Does Mr. Wieczorek explain why he concurs with Mr.
8 Pinata's opinions?

9 A. No.

10 Q. Do you have any comments regarding the testimony of
11 Richard Gehring?

12 A. Yes.

13 Q. Who is Mr. Gehring?

14 A. The Director of Planning and Growth Management for Pasco
15 County.

16 Q. Do you agree with Mr. Gehring's opinion that Skyland's
17 proposed utility is inconsistent with Pasco County's
18 Comprehensive Plan?

19 A. No.

20 Q. Why not?

21 A. While there are several areas of the Comprehensive Plan
22 that discourage private utilities county-wide and which direct
23 Pasco County to take over private systems, the policies that
24 are specific to the Northeast Pasco Rural Area do the
25 opposite. They specifically permit private systems under

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1 certain circumstances, two of which occur on properties
2 located within Skyland's proposed certificated territory. In
3 interpreting comprehensive plans, when there are two seemingly
4 conflicting policies the more specific or directed policy
5 applies. Therefore, even though there are policies that do
6 speak generally about the removal and discouragement of
7 private systems, the policy that deals directly with the
8 Northeast Pasco Rural Area specifically permits these
9 facilities and is therefore the controlling policy.

10 Q. Do you agree with Mr. Gehring's opinion that the very
11 existence of Skyland will promote "urban sprawl"?

12 A. No. I fail to see how that will occur just by the
13 existence of a utility franchise area. I am personally not
14 aware of any cases where the designation of a utility
15 franchise area has created urban sprawl in the absence of the
16 comprehensive plan already allowing for that form of
17 development. In other words, many other things would need to
18 occur in order for future development to be "sprawling" in
19 nature. Most notably the comprehensive plan would need to
20 permit that form of development already, or be amended. In
21 this case, in amending the comprehensive plan to allow for
22 "urban sprawl", both Pasco County and the Department of
23 Community Affairs would need to ignore the provisions of
24 Chapter 163 F.S. and 9J-5 of the Florida Administrative Code,
25 which guide the form of development that occurs under

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1 comprehensive plans. It may be possible to create a proposal
2 for amending the comprehensive plan in the future that
3 addresses Mr. Gehring's concerns. It is not possible however,
4 to comprehend all future opportunities that may occur in this
5 area, such as described in the Town and County Utility case
6 above. However, for urban sprawl to occur the worst case
7 scenario of every review process - and a total disregard for
8 state law - would also need to occur. From my experience in
9 representing both local government and private interests in
10 the amendment of comprehensive plans, I simply do not see
11 state agencies ignoring the Florida Statutes and Florida
12 Administrative Code to allow Mr. Gehring's dire predictions to
13 be realized.

14 Q. Did you review Mr. Gehring's opinion regarding
15 "deviations" from the requirements of the Pasco Comprehensive
16 Plan?

17 A. Yes.

18 Q. Do you agree with that opinion?

19 A. No. As I have alluded to in my previous testimony, I see
20 this concern as a bit of a red herring.

21 Q. Please explain your opinion.

22 A. It is impossible and unlawful to "deviate" from a
23 comprehensive plan. Comprehensive plans must be followed or
24 amended. As Mr. Gehring outlined in his testimony, there is a
25 process for amending comprehensive plans. However,

1 Conservation Subdivisions and Employment Centers located in
2 the Northeast Pasco County Rural Area in compliance with
3 Policies WAT 2.1.4, SEW 3.2.6 and FLU 3.1.13 would neither
4 constitute a "deviation" nor would they require an amendment
5 to the comprehensive plan. Conservation Subdivisions can be
6 designated on the property and a portion of the property (ID
7 4) is already designated for Employment Center uses.

8 The inclusion of a private utility for Conservation
9 Subdivisions and Employment Centers is specifically allowed in
10 Policies WAT 2.1.4, SEW 3.2.6 and FLU 3.1.13 and therefore
11 would not constitute a "deviation" from the plan or the
12 "intent" of the plan. In fact, FLU Policy 3.1.13, the policy
13 that specifically allows for private utilities for these forms
14 of development, was created and proposed as part of the
15 Northeast Pasco County Special Area Plan in 2005, a study
16 conducted with the expressed intent of preserving rural
17 character and natural resources.

18 Policies FLU 2.1.15 and FLU 2.1.17 state that:

19 "Individual wells and septic tanks shall be accepted as
20 the primary method of providing potable water and
21 sanitary sewer to the residents and other occupants
22 within the Northeast Pasco County Rural Area.";

23 The same policies further state that the county will:

24 "Protect groundwater systems in the Northeast Pasco
25 County Rural Area by:... Relying primarily on a system of

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1 small, individual, residential wells for the provision of
2 potable water...and... Relying primarily on properly
3 installed and periodically inspected septic tanks..."

4 This is not inconsistent with the provisions in Policy
5 FLU 2.1.13 which specifically allows the use of private
6 utilities for both and Employment Center and a Conservation
7 Subdivision. It is highly unlikely that there will be
8 significant areas of the Northeast Pasco County Rural Area
9 that will qualify for one of the five exceptions and develop
10 with utilities. This remains consistent with the county's
11 vision for the area as expressed in Objective FLU 2.1. Even
12 with utility service over the entire Skyland certificated
13 territory, the Northeast Pasco County Rural Area will
14 primarily be reliant on septic systems and individual wells,
15 consistent with FLU 2.1.15 and FLU 2.1.17.

16 Q. Do you agree with Mr. Gehring's conclusion that if the
17 PSC denies Skyland's application it will "preserve Pasco
18 County's ability to implement its Comprehensive Plan"?

19 A. No.

20 Q. Why not?

21 A. Pasco County is the implementing agency of its own
22 comprehensive plan and it has the sole discretion in the
23 approval of plan amendments (with review by the Department of
24 Community Affairs) and development proposals. That authority
25 is in no way being removed, diminished, or impeded by this

1 application. Pasco County will remain the decision making
2 authority for plan amendments and development proposals after
3 designation of a utility franchise area. There is nothing in
4 this designation that compels the County or the Department of
5 Community Affairs to grant future plan amendments or
6 development on this property.

7 Q. Mr. Kennedy states in his testimony that, "One of the
8 parcels (Parcel ID 4) of the proposed service area is within a
9 designated Employment Center for which PCU plans to provide
10 water and wastewater service consistent with the Pasco County
11 Strategic and Comprehensive Plans." In your review, have you
12 found anything in the Pasco County Strategic and Comprehensive
13 Plans that would substantiate this comment?

14 A. No. I can't find anything in the Pasco County Capital
15 Improvement Element or in the Strategic Plan that would
16 indicate that the county has any ability to serve Parcel ID 4
17 as Mr. Kennedy states. In fact the Strategic Plan indicates a
18 \$200 million deficit in the five-year Capital Improvement
19 Element. Based on this it seems very unlikely that plans exist
20 to actually construct utility service as Mr. Kennedy
21 indicates.

22 Q. Will you please discuss, generally, the concept of "urban
23 sprawl" as it relates to this type of certificate application?

24 A. Both Mr. Gehring and Mr. Pianta have significant
25 testimony regarding the way that utilities impact or influence

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1 development patterns. It is true that providing utility
2 service may allow development to happen. It is untrue that
3 utility service will cause development to happen. The primary
4 determinant of whether or not development will happen is
5 whether or not land is entitled for development and whether or
6 not there is a market for that development. In addition, the
7 only determinant of whether or not development happens in a
8 land use form that is characteristic of "urban sprawl" is how
9 those entitlements are granted in the comprehensive plan and a
10 given county's land development code. Because this PSC
11 certificate is not an amendment to the comprehensive plan and
12 does not grant any particular development entitlements to this
13 property in addition to those already allowed in the
14 comprehensive plan, there is zero relationship between the
15 granting of this certificated area and urban sprawl.

16 Both Mr. Pianta and Mr. Gehring discussed their fear that
17 the granting of this utility certificate area would lead to
18 "leap frog" development. With regard to this, I have two
19 points:

20 1. I believe that we are in agreement that the problem with
21 leap frog development is the cost inefficiencies of extending
22 urban services from one urban area to another by crossing
23 large areas of undeveloped land. However, as far as utilities
24 are concerned, this would not happen. Having an on-site
25 utility does not create this inefficiency.

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1 2. Mr. Gehring seems to recognize this by pointing to other
2 forms of infrastructure that would also be needed to support
3 development. All of this is conjecture without knowing the
4 nature of that development. For instance, additional school
5 children would not be generated from the Employment Center
6 that is already designated on the Future Land Use Map and
7 subject to this application; we do not know if a unique park
8 system can be accommodated within this area; funding
9 mechanisms can be established to off set infrastructure
10 construction and maintenance fees; etc... There are potential
11 solutions with regard to the provision of infrastructure, all
12 of which will need to be addressed if a given property submits
13 for an amendment to the local comprehensive plan.

14 Should no amendment to the comprehensive plan ever be
15 requested, this utility would serve the area based on current
16 entitlements. Should Evans Properties request an amendment to
17 the comprehensive plan, at that point in time there would be
18 an extensive review process for the provision of urban
19 services outlined in Chapter 163 F.S. Should any future
20 applicant fail to meet those requirements (as Mr. Gehring is
21 already concluding) then in my experience the amendment would
22 not be granted.

23 Q. In the course of your professional career and in your
24 preparation for your participation in this proceeding, have
25 you become aware, from any source, of any sprawling

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1 development occurring on any property that resulted from the
2 issuance of a PSC certificate?

3 A. No.

4 Q. From your professional and expert perspective, do you
5 believe it is in the public interest for the PSC to grant this
6 certificate?

7 A. Yes.

8 Q. Have you reviewed other such certificates re: urban
9 sprawl?

10 A. I have become aware of a few other certificates granted
11 by the PSC to large land owners. None of them have resulted in
12 the development patterns Pasco County and Hernando County seem
13 to be concerned about. Three such service areas contain
14 properties that are pursuing plan amendments that have been
15 unable, at least so far, to overcome review by the Department
16 of Community Affairs and local governments based on their
17 statutory authority to review for urban sprawl. Thus the
18 planning process continues to remain in force and effect if
19 those land owners continue to desire increased densities.
20 These examples demonstrate that local government retains its
21 planning authority even when an applicant owns property within
22 a certificated area. Another certificated area, Town and
23 Country Utilities as discussed above, has urban development
24 entitled only after overcoming local and state review based on
25 a clear demonstration that urban sprawl would not be created.

1 Q. Have you reviewed Section 367.045(5)(b), Florida
2 Statutes?

3 A. Yes.

4 Q. Will you comment generally on the interrelationship
5 between the granting of a PSC Certificate, that statutory
6 provision, and comprehensive planning as a whole under the
7 rules and regulations in Florida?

8 A. Yes. This section of the Florida Statutes states that,
9 "the commission shall consider, but is not bound by, the local
10 comprehensive plan of the county or municipality." The
11 statutes recognize that there are two very separate processes
12 here. This process is to designate PSC certificated areas.
13 Chapter 163 F.S. deals specifically with comprehensive
14 planning, should a plan amendment ever be proposed at a future
15 date. Since there is no pending amendment to the Pasco or
16 Hernando comprehensive plan it is not appropriate and simply
17 out of context to assume any future level of entitlements to
18 support the position that a certificated area is inconsistent
19 with either plan.

20 Q. Does anything about a PSC certificate take away any right
21 the County would otherwise have to prevent the type of
22 development that the fear is being expressed about?

23 A. As discussed above, granting of a PSC certificate does
24 not take away any right that the county or the Florida
25 Department of Community Affairs would otherwise have to

1 prevent urban sprawl through the appropriate processes.

2 Q. Do you have any further testimony at this time?

3 A. Not at this time.

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1 **COMMISSIONER SKOP:** And Pasco, Mr. Hollimon,
2 you're recognized for cross examination.

3 **MR. HOLLIMON:** Thank you, Mr. Chairman.

4 **CROSS EXAMINATION**

5 **BY MR. HOLLIMON:**

6 **Q.** Good afternoon Mr. DeLisi.

7 **A.** Good afternoon.

8 **Q.** Let's see. I believe in your summary you said
9 that Pasco County allows private utilities in the
10 northeast portion of the county, is that correct?

11 **A.** That is correct.

12 **Q.** Now, isn't it true that there are very limited
13 conditions under which Pasco County allows utilities?

14 **A.** That is true.

15 **Q.** And what are those conditions?

16 **A.** The two conditions that would apply to this
17 property are the employment center and the conservation
18 subdivision.

19 **Q.** And how many of the identified parcels that
20 are shown on Figure 3A that we talked about fall within
21 the employment center?

22 **A.** One.

23 **Q.** So one of, what is that, twelve parcels, would
24 that be correct?

25 **A.** Do you have a --

1 Q. Do you have 3A?

2 A. I don't. It would be ID Number 4.

3 Q. So ID Number 4 is the only one of these
4 parcels that falls within the Pasco County comp plan
5 exception that allows for private utilities under the
6 employment center exception, is that correct?

7 A. That's correct.

8 Q. And you also said that you referenced a -- I'm
9 sorry, a second example, or a second exception. What
10 was the second exception?

11 A. Conservation subdivisions.

12 Q. Okay. Is there currently -- are any of these
13 parcels zoned or whatever the correct land use word is,
14 designated as conservation subdivisions?

15 A. Conservation subdivisions are an allowed use
16 for this area in this land use category in the
17 comprehensive plan. So to obtain a zoning you would
18 need to rezone, which I do need to say is a
19 quasi-judicial process. So to do a rezoning to
20 something that's allowed in the comprehensive plan and
21 consistent all other provisions of the comprehensive
22 plan, as this would appear to be, is something where the
23 burden of proof would shift to the county to deny it.
24 So, you know, it is an allowed use, absolutely.

25 Q. Okay. I just want to make sure the record is

1 clear here. As we sit here today, there is -- none of
2 the parcels that are identified on Figure 3A have a
3 current designation as a conservation subdivision, or
4 conservation whatever the term was?

5 A. As we sit here today, a conservation
6 subdivision is an allowed use in that land use category.
7 Have they gone through the process at this point? No.

8 Q. Okay. So as we sit here today, out of these
9 parcels that are shown on Figure 3A, there is only one
10 that is under the current zoning current designations in
11 which a private utility could provide services in Pasco
12 County?

13 A. Yes, but I need to stress, again, that what we
14 are looking at is consistency with the comprehensive
15 plan, and the comprehensive plan allows for private
16 utilities on all of these properties. The property that
17 is not an employment center would be if they rezone to a
18 conservation subdivision. I'd be happy to read what it
19 means to be a quasi-judicial process as Pasco County
20 lays it out in their comprehensive plan, because none of
21 these parcels are platted either, or have gone through
22 any other quasi-judicial process to go and achieve the
23 development rights that are allowed in the comprehensive
24 plan, but they are still allowed that in the
25 comprehensive plan.

1 Q. Well, let me just move to a different area
2 here. So in preparing your rebuttal testimony, you
3 reviewed the application that was submitted by Skyland,
4 is that correct?

5 A. I did.

6 Q. And you reviewed the Pasco and Hernando County
7 Comprehensive Plans, is that correct?

8 A. I did.

9 Q. And I think you also said that the application
10 does not itself constitute a development proposal, is
11 that correct?

12 A. That is correct.

13 Q. But the application itself does make certain
14 assumptions about how development is going to occur,
15 does it not?

16 A. Yes.

17 Q. And it doesn't assume that there is going to
18 be agribusiness operations occurring on any of these
19 parcels, does it?

20 A. No. It assumes --

21 Q. It does not.

22 A. It assumes the density listed in the
23 comprehensive plan.

24 Q. So it assumes a development that's consistent
25 with a one unit per ten acre type of density?

1 **A.** Some properties are one per five, so it's
2 mixed. It depends on the category.

3 **Q.** Okay. So let me ask you this. You would
4 agree that a density -- in Pasco County, that a density
5 of development of one unit per ten acres is a low
6 density development, would you not?

7 **A.** Are we talking gross or net?

8 **Q.** I'm talking about one unit per ten acre as
9 currently allowed under the comprehensive plan.

10 **A.** Well, if I develop that on a net basis, if I
11 look at one unit per ten acres gross over, let's just
12 say, 100 acres to make it simple, you know, but I do it
13 on a net basis on one acre of land, that is ten units an
14 acre. And so, you know, to me that's not low density.
15 One unit an acre spread out -- I mean, one unit per ten
16 acres spread out over a large area of land, absolutely
17 that would be low density.

18 **Q.** Sir, do you remember having your deposition
19 taken?

20 **A.** I do.

21 **Q.** And do you remember being asked a question --
22 this is on Page 35 of your deposition. Do you have a
23 copy of the transcript?

24 **A.** Yes, I do.

25 **Q.** "The development that is assumed in the

1 Skyland application, would you consider that to be a low
2 density development," question. Answer: "Yes.

3 Are you receding from that testimony in your
4 deposition?

5 A. No. What page is that, again?

6 Q. Thirty-five.

7 A. Let me just get there. And what line are you
8 looking at?

9 Q. Page 35, Line 16. The question asked is, "The
10 development that is assumed in the Skyland application,
11 would you consider that to be a low density
12 development?" Answer: "Yes."

13 And my question now to you, sir, is at the
14 time you gave this testimony was your testimony
15 accurate, were you telling the truth at that time?

16 A. I was. And what I just said is not
17 inconsistent with that, because if you continue to read
18 where we talk about the large area of land, I was trying
19 to figure out, you know, over what area of land we were
20 talking about because -- you know, and I'd be happy to
21 read the rest of my answer.

22 Q. Well --

23 A. I mean, it's not an inconsistent answer. I
24 understand what you are saying. Again, if we are
25 talking about one unit per ten acres spread out, sure,

1 it's a low density.

2 Q. Isn't that what is assumed in the Skyland
3 application?

4 A. Not necessarily. A conservation subdivision
5 is what is assumed and they specifically say that in the
6 Skyland application.

7 Q. Where do they say that in the Skyland
8 application? I'm sorry.

9 A. That's fine. Do you have a copy of the
10 Skyland application I can look at?

11 Q. I do.

12 A. I'm just looking for it.

13 Okay. Since the copy I don't have is not
14 numbered, I would be happy to just show you the page,
15 but on the paragraph I am looking at it's talking about
16 the Pasco County Comprehensive Plan, Chapter X, Page 9
17 of the Pasco County Comprehensive Plan contains Policy
18 WAT 2.1.1, which prohibits the expansion of potable
19 water services for lands designated with the future land
20 use element ag, agricultural, or AGR, agriculture rural,
21 unless the area is designated as a conservation
22 subdivision. It goes on. I'll skip some of this.

23 Basically, Pasco County is prohibiting the
24 building of central sewer systems unless the area is
25 designated as a conservation subdivision. It is the

1 utility's understanding that the developer will work
2 with the county to receive the conservation subdivision
3 designation for the applicable lands within the proposed
4 service area.

5 Q. Now, the development that is assumed in the
6 application is only residential, is that correct?

7 A. That's right.

8 Q. So that would be a single use development?

9 A. That's correct.

10 Q. And is it fair to say that the cumulative area
11 of land that is included within this application
12 constitutes a large area of land?

13 A. It's a fairly large area.

14 MR. HOLLIMON: Okay. All right. That's all I
15 have. Thank you.

16 COMMISSIONER SKOP: Thank you, Mr. Hollimon.

17 Mr. Kirk for Hernando.

18 **CROSS EXAMINATION**

19 **BY MR. KIRK:**

20 Q. Good afternoon, Mr. DeLisi.

21 In preparing your opinion regarding the
22 Hernando County Comprehensive Plan, you indicated you
23 read the plan?

24 A. I did.

25 Q. How about the county's land development

1 regulations?

2 A. Yes. I glanced over them at different points
3 in time.

4 Q. Okay. And you would agree as a professional
5 planner the land development regulation must be
6 consistent with the county's adopted comprehensive plan?

7 A. That's correct.

8 Q. There's a few places in your prefiled
9 testimony where you make reference to public service
10 uses. Do you recall if you read within the land
11 development regulations the definitions for public
12 service usage in structures?

13 A. I don't recall that.

14 Q. Okay. If I represent from Hernando County
15 Code of Ordinances Appendix A that the definition for
16 public service uses in structures, any use of structure
17 necessary for the operation and maintenance of a utility
18 that is regulated or controlled by the city, county,
19 state, or federal government, or legally empowered
20 special government district, but not owned and operated
21 by such government. Based upon that definition, would
22 that also contemplate private utilities?

23 A. Yes. Continue.

24 Q. The answer is yes, that would contemplate
25 privately owned utilities?

1 **A.** Yes, that would.

2 **MR. KIRK:** I have no further questions.

3 **COMMISSIONER SKOP:** Thank you, Mr. Kirk.

4 Mr. McAteer from Brooksville.

5 **MR. McATEER:** The City has no questions.

6 **COMMISSIONER SKOP:** All right. Thank you.

7 Mr. Rehwinkel.

8 **MR. REHWINKEL:** No questions.

9 **COMMISSIONER SKOP:** Staff.

10 **MS. KLANCKE:** No questions.

11 **COMMISSIONER SKOP:** All right. Any questions
12 from the bench? All right. Any redirect?

13 **MR. WHARTON:** Just briefly, Commissioner Skop.

14 **REDIRECT EXAMINATION**

15 **BY MR. WHARTON:**

16 **Q.** Mr. DeLisi, you were asked some questions
17 about the conservation or cluster subdivisions. In both
18 the cases of Hernando and Pasco County, are increased
19 densities allowed on these particular properties if the
20 process in place is employed and the criteria is
21 satisfied for conservation or cluster subdivisions?

22 **A.** You can do a conservation subdivision in Pasco
23 County, yes.

24 **Q.** In your opinion as a planner, are central
25 services appropriate in a clustered or conservation

1 subdivision?

2 A. They would be. I --

3 Q. Go ahead.

4 A. Well, you know, I do want to point out that
5 the reason why conservation subdivisions are in these
6 comprehensive plans, it's not unique to Pasco County, it
7 is to preserve open space. It is to promote a public
8 benefit, and so it is certainly not out of the ordinary
9 to see a policy like this where it allows for public
10 utilities to get these things to happen.

11 Q. Would there need to be zoning changes in order
12 to have a clustered development approved on these lands?

13 A. Yes.

14 Q. Do you consider that a significant hurdle in
15 the process?

16 A. No.

17 Q. Why not?

18 A. Well, because as Pasco County's Comprehensive
19 Plan points out, that's a quasi-judicial process, and so
20 all the rules of evidence apply. The ability for a
21 county commission to say no to it has to be based on
22 competent substantial evidence, and it can't just be an
23 arbitrary decision. So if someone meets all of the
24 language in a comprehensive plan, if they are compliant
25 with the intent of that comprehensive plan, then it's up

1 to the Board of County Commissioners to grant that.

2 **MR. WHARTON:** That's all we have,
3 Commissioner.

4 **COMMISSIONER SKOP:** All right. Thank you.
5 Exhibits?

6 **MR. WHARTON:** Yes. We would move Exhibit 39.

7 **COMMISSIONER SKOP:** All right. Any objection
8 to the admission of Exhibit 39? Hearing none, show
9 Exhibit 39 entered.

10 (Exhibit Number 39 admitted into the record.)

11 **COMMISSIONER SKOP:** And thank, you, Mr.
12 DeLisi. You may step down.

13 And call your next witness.

14 **MR. WHARTON:** We would call Mr. Edwards.

15 **RON EDWARDS**

16 was called as a rebuttal witness on behalf of Skyland
17 Utilities, LLC, and having been duly sworn, testified as
18 follows:

19 **DIRECT EXAMINATION**

20 **BY MR. WHARTON:**

21 **Q.** Sir, would you state your name and employment
22 address for the record?

23 **A.** Ron Edwards. I'm employed by Evans
24 Properties, Inc., and our office are at 660 Beachland
25 Boulevard, Vero Beach, Florida.

1 Q. By whom are you employed and in what capacity?

2 A. I am employed by Evans Properties, Inc. as
3 President and Chief Executive Officer.

4 Q. Have you prefiled rebuttal testimony in this
5 case consisting of 13 pages?

6 A. I have.

7 Q. If I asked you those same questions here
8 today, would your answers be the same?

9 A. They would.

10 Q. Do you have any corrections to make to that
11 testimony at this time?

12 A. I do not.

13 Q. Did you also cause to be prepared in
14 conjunction with the preparation of that rebuttal
15 testimony an exhibit prefiled as RE-1?

16 A. I did.

17 MR. WHARTON: Commissioner Skop, we would ask
18 that Exhibit RE-1, we believe it has been designated as
19 Exhibit 40, and ask that it would be identified as such.

20 COMMISSIONER SKOP: Yes. Exhibit 40 has been
21 marked for identification and will be entered later.

22 BY MR. WHARTON:

23 Q. Mr. Edwards, would you summarize your
24 testimony in five minutes or less?

25 A. Yes, I will. My testimony begins with a short

1 history and description of the lands, and we have
2 covered that description fairly well in all the
3 testimony so far, but it is those -- there are
4 contiguous and noncontiguous parcels in Hernando and
5 Pasco County, and they have been in the Evans family
6 companies for, in most cases, over 50 years. I think
7 the most recent acquisition of any of those properties
8 was in 1987. They have been used for agricultural
9 purposes, primarily citrus and cattle, pasture grazing.

10 In regard to these parcels, we have filed not
11 only an application as Skyland Utilities for
12 certification of these properties, but we filed two
13 others at virtually the same time for other properties
14 that we own in Okeechobee, Martin, Indian River, and St.
15 Lucy Counties, Groveland Utilities and Bluefield
16 Utilities.

17 Evans has faced a rapid decline in our citrus
18 acreage over the last several years, and that decline
19 has been accelerated by a disease known as greening,
20 which has been introduced into the citrus industry and
21 currently has no cure that's known to the industry,
22 although a lot of money is being spent on that research.

23 We face the likelihood that in the next three
24 to five years we could possibly lose the remaining part
25 of the citrus that we now operate, which is

1 approximately 16,000 acres across the state. Ten years
2 ago we were operating 25,000, and there has already been
3 roughly a 9,000-acre reduction in our production because
4 of the disease. And greening is now the ultimate
5 disease that none of us have an answer for.

6 We face a challenge of finding and
7 implementing new potential crops and other land uses to
8 remain a viable company. Nearly every viable strategy
9 that we have considered is impacted by water. We
10 propose to certificate and operate a utility to ensure
11 the current and future needs for water and wastewater
12 services no matter which strategies are ultimately
13 determined to be the most appropriate for maintaining
14 ourselves in business.

15 Individual strategies may involve over time --
16 may evolve over time, but it is especially difficult to
17 decide with finality at this time which ones would be
18 appropriate. We want to preserve our options to react
19 to the market and the changing government regulation
20 which is ongoing at this time. We are looking at
21 changing what crops that may be grown, and we are doing
22 a great deal of testing in various test plots to
23 determine other things that will grow in these areas.

24 We are looking at whether we need to subdivide
25 and lease our properties to others in order to gain new

1 skills and new capital to use these lands in a different
2 way for crops that may be specific to that area. We are
3 not -- we do not know how to farm every type of crop
4 that exists, nor do we have all the specialized
5 equipment. So in order to transition, we may have to
6 consider using others and their skills.

7 Many of the things we are looking at would
8 require additional processing or storage and possibly a
9 great amount of water in the case of biofuels. Those
10 types of crops are one of the few things that are large
11 enough markets that the amount of acreage that's going
12 to have to convert in the citrus industry, which is
13 something, 800,000 acres if it all goes down in the next
14 few years, is the only kind of markets big enough to
15 accept that kind of volume.

16 Biofuel processing potentially takes a lot of
17 water and could be an important aspect of whether or not
18 someone could be attracted to the lands that we own and
19 be able to use that water. Whether we farm it ourselves
20 or use someone else to help do it, we are going to need
21 the ability to provide water in almost every case.

22 Where continued farming is not viable, we are
23 considering development consistent with the
24 comprehensive plans in that area, and we are considering
25 providing water in excess of agricultural need for other

1 permitted public benefit uses, such as bulk sales of
2 water to adjacent utilities. We want to work in concert
3 with the local governments and municipalities, adjacent
4 landowners, the Southwest Florida Water Management
5 District --

6 **COMMISSIONER SKOP:** Mr. Edwards, I'm sorry,
7 your time has expired. Can you briefly conclude?

8 **THE WITNESS:** All right. Quickly, also I
9 covered our ability to operationally handle operating
10 utilities. In my past experience I have always -- in
11 the past 11 years I was Chief Operating Officer of
12 Tropicana, and I had a great deal of experience in
13 complicated manufacturing processes, and I know the
14 importance of getting the right people, the right
15 consultants, the right engineers in order to manage and
16 run a large operation efficiently which may be involved
17 in the utility, as well. So our company in the past has
18 also operated citrus processing plants, and I have been
19 involved in those. We have been involved in building
20 large groves.

21 Also, there's a question of Evans' financial
22 capability of actually funding and having the commitment
23 to fund the utilities that we have suggested. We have
24 filed our financial statements with the Public Service
25 Commission. We have asked for confidentiality. We have

1 also filed the exhibit that was requested to be admitted
2 from our bankers testifying to our ability to have the
3 equity or find borrowing that could cover the investment
4 that's required. And that's the primary areas of my
5 testimony.

6 **MR. WHARTON:** Does that conclude your summary,
7 sir?

8 **THE WITNESS:** Yes, it does.

9 **MR. WHARTON:** Commissioner Skop, we would ask
10 that the testimony be inserted as though read and would
11 thereafter tender the witness for cross.

12 **COMMISSIONER SKOP:** Thank you. The prefiled
13 testimony of Witness Edwards will be entered in the
14 record as though read.
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REBUTTAL TESTIMONY OF RONALD EDWARDS

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 APPLICATION FOR ORIGINAL CERTIFICATES

3 FOR PROPOSED WATER AND WASTEWATER SYSTEMS

4 IN HERNANDO AND PASCO COUNTIES

5 AND REQUEST FOR INITIAL RATES AND CHARGES

6 FOR SKYLAND UTILITIES, LLC

7 DOCKET NO. 090478-WS

8 ON BEHALF OF SKYLAND UTILITIES, LLC

9 REBUTTAL TESTIMONY OF RON EDWARDS

10
11 **Q. Please state your name and tell the Commission by whom**
12 **are you currently employed?**

13 A. My name is Ronald Edwards. I am the manager of Skyland
14 Utilities, LLC, the applicant in this case. I also hold the
15 position of President and Chief Executive Officer of Evans
16 Properties, Inc., Skyland's ultimate parent entity. For the
17 purposes of my testimony, I will sometimes refer to Evans
18 Properties, Inc. as Skyland's parent.

19 **Q. What are the duties and responsibilities of your**
20 **position?**

21 A. I am responsible for the day to day decisions, such as
22 they have been thus far, for Skyland Utilities. For the
23 purposes of this proceeding, I am representing Skyland
24 Utilities and Evans Properties, Inc. My purpose in this
25 proceeding is to provide information about our intentions and

REBUTTAL TESTIMONY OF RONALD EDWARDS

1 to answer any questions the Commissioners might have of me.

2 Q. Are you familiar with the application of Skyland
3 Utilities for an original certificate in Hernando and Pasco
4 Counties?

5 A. I am. I have been continually involved in the decision
6 to move forward with this request for an original certificate
7 as well as the pending requests of Grove Land Utilities and
8 Bluefield Utilities, which I discuss in a little more depth
9 later.

10 Q. Have you read the direct testimonies of the witnesses for
11 Pasco and Hernando Counties?

12 A. Yes I have.

13 Q. Some of those witnesses have indicated a belief that
14 there is not a need for service in the territory proposed for
15 service by, and have raised other questions regarding, Skyland
16 Utilities. Do you have any comments with regard to that?

17 A. Yes I do, but in order to do so, some general background
18 will be necessary.

19 Q. Will you describe the property which Skyland seeks to
20 certificate and a bit of its ownership history for the
21 Commission?

22 A. The lands which Skyland seeks to certificate transverse
23 the county boundary of Hernando and Pasco Counties. Those
24 lands are comprised of several contiguous and noncontiguous
25 tracts. Evans Properties has owned most of this land for over

REBUTTAL TESTIMONY OF RONALD EDWARDS

1 50 years.

2 Q. What has been the historical use of the property?

3 A. These properties have traditionally been used for
4 agriculture purposes.

5 Q. Did Evans Properties create other limited liability
6 corporations which contemporaneously filed other requests for
7 original water and wastewater certificates at the Commission?

8 A. Yes, Evans Properties is the ultimate parent of Grove
9 Land Utilities, which proposes to provide water and wastewater
10 service in Indian River, Okeechobee, and St. Lucie Counties on
11 lands which are owned by Evans Properties. Evans Properties
12 is also the ultimate parent of Bluefield Utilities, which
13 proposes to provide water and wastewater service upon lands
14 owned by Evans Properties in Martin and St. Lucie Counties.
15 Those applications are also pending before the Commission.

16 Q. Does Evans Properties, by and through Skyland, propose to
17 provide water and wastewater service to the public for
18 compensation?

19 A. Yes. And we understand that in order to do that we need
20 to have a certificate from the Public Service Commission.
21 That's why we formed Skyland Utilities and why we filed this
22 application.

23 Q. Talk a little bit about what is proposed.

24 A. I believe that Mr. Hartman has addressed the issue of
25 need in greater detail in his testimony and the issue is also

REBUTTAL TESTIMONY OF RONALD EDWARDS

1 addressed at some length in our application, which he has
2 sponsored. However, the applications were generally filed for
3 the purposes of ensuring that the current and future needs for
4 water and wastewater service within the Evans Properties will
5 be met. We propose to operate and certificate a utility to
6 provide those services. In order to do the long range
7 planning necessary to ensure the effective, efficient and
8 timely provision of needed services to all of these
9 properties, it is imperative that we begin the planning
10 process now, which includes certification of the utility to
11 allow for that detailed and timely planning.

12 In addition to an existing residence and shop that have a
13 need for central service, as well as the other demands for
14 service which are outlined in our application, Evans
15 Properties proposes to utilize these utility services for a
16 variety of ventures, and Evans Properties and Skyland are open
17 to meeting the potential needs for these services in a way
18 that could be accomplished cooperatively with local
19 government, adjacent landowners, and the Southwest Florida
20 Water Management District in a manner such that ultimately
21 water resources would be preserved , the environment would be
22 benefitted, and the service could be efficiently and
23 effectively rendered.

24 As our application indicates, Evans Properties (in
25 addition to those services needed as indicated in our

REBUTTAL TESTIMONY OF RONALD EDWARDS

1 application) has considered and will continue to consider the
2 provision of exempt and/or non-exempt bulk water; the
3 possibility of providing central water and wastewater services
4 to agricultural workers upon our property; the availability of
5 central/regional water to assist the SWFMD as it engages in
6 water supply planning efforts; and the availability of central
7 wastewater treatment as may be required by recent changes in
8 state and federal law. All of this could potentially be
9 accomplished in the context of partnerships with other private
10 enterprises or public entities. For instance, the
11 availability of central water facilities in Skyland could be
12 utilized to more effectively deliver water either upon the
13 properties that Skyland seeks to certificate or, in bulk, to
14 other water supply entities or users of bulk water. If we
15 wait until every potentiality actually presents itself before
16 we begin to certificate a water and wastewater service area
17 for our properties, we may be severely inhibited in our
18 ability to act and react on those various possibilities as
19 they materialize.

20 We have a present and real intention to provide water and
21 wastewater service to the public, as described in our
22 application and in my testimony, as well as a present
23 intention to meet additional needs, with the provision of such
24 water and wastewater service, as they arise.

25 It is critical to Evans Properties, and it is one of the

REBUTTAL TESTIMONY OF RONALD EDWARDS

1 reasons that we created Skyland and are seeking this
2 certificate, that we be in the position to adapt and evolve
3 and meet the needs for the types of uses I have described in
4 our application, as well as those needs which develop or
5 present themselves to us later.

6 It is important for the Commission to understand the
7 larger context. Evans Properties, by the filing of its
8 applications, is in part addressing a corporate intention to
9 evolve as a land owner and prepare itself for the future in a
10 way that meets its own needs and is consistent with the public
11 interest. The citrus groves which are located upon many of
12 our properties have a disease that afflicts citrus throughout
13 the state. It is, to our current knowledge, incurable and
14 progressive. Suffice it to say that this is one of the
15 primary reasons motivating us to position our properties so
16 that they can be utilized for varied purposes into the future.
17 Evans Properties is not a company that has decided to segue
18 from agricultural pursuits to sprawling development as has
19 happened in so many places in Florida. We are actively
20 pursuing and turning our attention and resources to a variety
21 of uses for our properties, including the growth of cutting
22 edge biofuels, and even algae which could be processed on-site
23 (in facilities which will have a demand for water) to create
24 bioenergy. We have engaged, and remain willing to engage, with
25 state and local government to discuss and explore how water

1 resources might be shared and allocated in a way that reduces
2 water demand, water use, and undesirable discharges to Florida
3 water bodies. These are things which we, as a corporate
4 citizen and a large land owner, desire to be positioned to
5 address in a timely manner, rather than reacting to a proposal
6 after the fact. The opposition of Hernando and Pasco Counties
7 in this particular case just goes to show how long a process
8 like this can take and how expensive it can be.

9 In the end, we believe that Skyland Utilities, LLC
10 through its relationship with Evans Properties, is in the best
11 position to provide central water and wastewater services
12 throughout the proposed certificated service territory in the
13 most efficient and effective manner, and that no other
14 entities can meet the needs for such services in the area,
15 given the economies of scale achieved by having one utility
16 serve all of these areas in two counties, and Skyland's unique
17 ability to work with the landowner to ensure that timely, as
18 well as efficient and properly located, facilities exist to
19 meet the needs within those proposed territories.

20 **Q. Will you discuss Skyland's willingness to work**
21 **cooperatively with state and local government on a going**
22 **forward basis?**

23 A. Yes. Skyland certainly would have that willingness, just
24 as Evans Properties has that willingness now. For instance,
25 we have heard that there are contaminated wells in close

REBUTTAL TESTIMONY OF RONALD EDWARDS

1 proximity (but located outside of) the territoires that
2 Skyland seeks to certificate. The provision of central water
3 might help solve that critical environmental issue to the
4 benefit of the individuals who are having those problems with
5 their on-site wells. We also understand that in the recent
6 past there have been discussions between Pasco County and
7 Hernando County regarding a scenario in which Pasco County
8 would send untreated wastewater to Hernando County to be
9 treated in a Hernando County wastewater plant. These
10 discussions involved facilities and service needs that were,
11 again, in close proximity to, although outside of, the
12 territory we seek to certificate. We understand that, as of
13 now, that particular proposal is on the back burner. Skyland
14 would be ready, willing, and able to discuss comprehensive
15 solutions to these kind of problems as they arose with local
16 government, whether such solutions might involve facilities or
17 service within the areas we seek to certificate or whether
18 they might involve activities outside of the requested service
19 area in a way that could be done in harmony with our
20 jurisdictional responsibilities. This is just one example of
21 how our proposal is ultimately in the public interest.

22 **Q. Are you aware of any discussions in which Hernando County**
23 **has proposed the construction of facilities or infrastructure**
24 **on or near these properties?**

25 **A.** Yes. We have had discussions with Hernando County in

REBUTTAL TESTIMONY OF RONALD EDWARDS

1 which Hernando County expressed interest in the positioning of
2 certain non-utility infrastructure on our properties in
3 exchange for the county's acquiescence to increased density
4 within those properties.

5 **Q. Are you aware of any discussions in which Pasco County**
6 **has proposed the construction of facilities or infrastructure**
7 **on or near these properties?**

8 A. Yes, as I discussed above, we understand that Pasco
9 County and Hernando Counties have recently engaged in
10 discussions about the possibility of wastewater generated in
11 Pasco County being treated at a facility in Hernando County,
12 the availability of central wastewater treatment facilities on
13 our properties could meet such a demand in the future, with
14 proper planning, in a way that is in the public interest.

15 **Q. Have you read the concerns about urban sprawl that are**
16 **expressed by the planning witnesses for both Hernando and**
17 **Pasco Counties?**

18 A. Yes, I have.

19 **Q. Based upon your knowledge, experience, and position with**
20 **Evans Properties, do you believe that to be a genuine concern?**

21 A. The properties that Skyland seeks to certificate have
22 been owned by Evans Properties for decades. Evans Properties
23 has every incentive to see growth upon its properties occur in
24 an orderly manner which will enhance the quality of life of
25 the persons who live upon the property and in the surrounding

REBUTTAL TESTIMONY OF RONALD EDWARDS

1 areas. It is Evans Properties' continuing intention that the
2 use of the resources of its properties occurs in a way that is
3 sound, efficient, and environmentally acceptable. Evans
4 Properties, and Skyland Utilities, intend to work closely with
5 state and local government in going forward with their
6 proposals, as well as in the implementation of any other
7 options or plans which either may present themselves in the
8 future or which other private entities, or state or local
9 government, may present to the property owner. Evans
10 Properties and Skyland are committed to the continued
11 stewardship of the land and the operation of the utility in a
12 way that can meet the challenges and demands of both the
13 present and future. Our continued commitment in the face of
14 publically funded opposition, such as we see in this case, is
15 evidence of that commitment.

16 **Q. How will Skyland insure that it has the technical and**
17 **operational ability to manage and operate the utility it**
18 **proposes to construct?**

19 A. We fully understand that Skyland will need to retain the
20 very best people to design the facilities; to work with state
21 and local government in the permitting and construction of the
22 facilities; and to operate the facilities thereafter. Skyland
23 sought the advice of entities and individuals experienced in
24 the design, operation, and management of water and wastewater
25 systems from the inception of this proposal, and will continue

1 to seek that advice and to retain those individuals necessary
2 to operate the utility in the most efficient manner possible.
3 As a former executive Vice President and Chief Operating
4 Officer for Tropicana, I am well familiar with the demands and
5 requirements of operating industrial and commercial processes
6 that need to be run efficiently, cost effectively, and
7 consistent with local, state, and federal regulations, as well
8 as the engineers, operators, and construction experts which
9 need to be retained in order to design, put into place, and
10 operate such facilities.

11 **Q. Are the principals of the utility financially committed**
12 **to the sound and efficient construction and operation of the**
13 **utility on a going forward basis?**

14 **A.** Yes, as described in our application, Evans Properties
15 and Skyland appreciates and understands the financial
16 commitment required to implement utility service as and when
17 needed, and the financial commitment necessary to expand that
18 service as the demand for the same presents itself. We
19 understand what it means to obtain a PSC certificate, and the
20 responsibilities of the same. Again, our participation in
21 this proceeding, against publically funded opposition, is
22 evidence in and of itself of our financial commitment to our
23 proposal to provide water and wastewater service to the public
24 for compensation. This is the very reason we created Skyland
25 and the very reason for which we have requested a certificate

REBUTTAL TESTIMONY OF RONALD EDWARDS

1 from the Public Service Commission.

2 Q. Does Skyland and its parent company, Evan Properties,
3 have the financial ability to fund the capital and operational
4 needs for the utility as outlined in your application?

5 A. Yes. The resources that are available to Skyland and its
6 parent, Evans Properties, are as described in the application
7 and in the financial information submitted to the Public
8 Service Commission. Evans Properties is fully committed to
9 provide capital, and/or to utilize its ability to raise
10 capital, on behalf of the utility. We understand this is a
11 substantial financial undertaking. Evans Properties owns and
12 controls approximately 43,000 acres of real property free and
13 clear of debt in the state of Florida, on which it conducts
14 substantial commercial activities. Evans Properties has the
15 ability to attract the capital and to fund the utility as
16 necessary, such that its design, construction, and operation
17 can proceed and be performed as proposed in our application.
18 The utility, through funding from its parent company, has
19 ample access to capital through infusion of debt or equity to
20 fund any of the capital needs projected for the utility. I
21 have attached as Exhibit RE-1 a letter from our banker wherein
22 he concurs.

23 Q. With regard to the Funding Agreement found in Appendix
24 VII to the application, does Evans Properties continue to have
25 the assets and financial ability to fulfill its commitments

1 therein?

2 A. Yes.

3 Q. Does Evans Properties continue to stand by its
4 commitments therein?

5 A. Yes.

6 Q. Does that conclude your rebuttal testimony?

7 A. Yes.

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1 **COMMISSIONER SKOP:** And, Mr. Hollimon from
2 Pasco County, you're recognized for cross examination.

3 **MR. HOLLIMON:** Thank you, Mr. Chairman.

4 **CROSS EXAMINATION**

5 **BY MR. HOLLIMON:**

6 Q. Good afternoon, Mr. Edwards.

7 A. Good afternoon.

8 Q. So you've provided prefiled rebuttal testimony
9 in this case, is that correct?

10 A. That's correct.

11 Q. And what is your understanding of the purpose
12 of rebuttal testimony?

13 **MR. WHARTON:** I object. It calls for a legal
14 conclusion.

15 **COMMISSIONER SKOP:** To the objection.

16 **MR. HOLLIMON:** I'm just asking for his common
17 everyday understanding. He filed rebuttal testimony; I
18 want to know what he understands rebuttal testimony to
19 mean.

20 **COMMISSIONER SKOP:** All right. The objection
21 is overruled. The witness may answer the question to
22 the best of his ability.

23 **THE WITNESS:** My rebuttal testimony is
24 rebutting the testimony that the objectors made in their
25 testimony.

1 BY MR. HOLLIMON:

2 Q. Why didn't you file direct testimony?

3 A. I did not have a specific reason to file it at
4 that point.

5 Q. Okay. Tell me about your -- the preparation
6 you undertook to prepare your rebuttal testimony. What
7 documents did you review?

8 A. I don't believe I reviewed any documents.

9 Q. Did you have any conversations with people
10 about your rebuttal testimony?

11 A. I had conversation with our legal counsel.

12 Q. Anybody else?

13 A. No.

14 Q. Did you do any independent research?

15 A. I read all of the objectors' testimony.

16 Q. So you did review some documents?

17 A. Well, yes. Obviously I had to read it to
18 rebut it.

19 Q. Okay. Well, that's what I'm just trying to
20 establish, exactly what you did. So you reviewed the
21 testimony of the intervenors in the case, is that
22 correct?

23 A. I did.

24 Q. Did you review any deposition transcripts?

25 A. I did.

1 Q. And I want to get a little better
2 understanding of the corporate structure that is at play
3 here, so I'm going to ask you some questions about that.
4 I believe you testified you are employed by Evans
5 Properties, is that correct?

6 A. That is correct.

7 Q. There is another entity Evans Utilities, is
8 that correct?

9 A. Evans Utilities is a wholly owned subsidiary
10 created by Evans Properties, Inc., and then Evans
11 Utilities formed these three LLCs, which are to hold the
12 companies, the utility companies that we are attempting
13 to get certificated.

14 Q. Okay. So Evans Properties is the parent
15 company, and Evans Utilities is the first level
16 underneath that, and then Skyland Utilities is
17 underneath Evans Utilities, is that correct?

18 A. That is correct.

19 Q. Okay. And Skyland Utilities is wholly owned
20 by Evans Properties?

21 A. Skyland Utilities is a single member LLC that
22 is owned by Evans Utilities.

23 Q. Okay. And Evans Utilities is wholly owned by
24 Evans Properties?

25 A. That is correct.

1 Q. Okay. And today your testimony is on behalf
2 of which of those entities?

3 A. All three.

4 Q. All three. What is your role with Evans
5 Utilities?

6 A. Well, I am the president of Evans Utilities.

7 Q. And you are the president of Skyland
8 Utilities, as well?

9 A. I am.

10 Q. And you are also the president of Evans
11 Properties, is that right?

12 A. That is correct.

13 Q. I wonder if there's anybody has anymore
14 presidencies in their job resume.

15 Okay. So your rebuttal testimony that you
16 filed, you said it is on behalf of all three of those
17 entities?

18 A. Yes.

19 Q. Is it possible to segregate your rebuttal
20 testimony? In other words, is there some portion that
21 is applicable for one of those entities and some portion
22 that is applicable for a different entity?

23 A. Certainly.

24 Q. And can you tell me which parts of your
25 rebuttal testimony are applicable to Skyland Utilities?

1 A. Most of the ones that are applicable to
2 Skyland Utilities are probably also applicable to Evans
3 as far as things like our --

4 Q. I'm sorry, which Evans?

5 A. Evans Properties, Inc. and Evans Utilities.
6 The intention to be cooperative with the other
7 municipalities, governments, adjacent landowners, and
8 the part about our overall strategy and redeployment of
9 our land, because we no longer are in the citrus
10 business, probably pretty much that applies to Evans
11 Properties, Inc. The other aspects, the technical
12 capabilities, financial capabilities apply to Evans
13 Properties, Inc. The efforts regarding the utilities
14 themselves would apply to Evans Utilities and to the
15 Skyland Utilities.

16 Q. Okay. And does Evans Properties, Inc., as the
17 ultimate parent, does it treat each of these
18 subsidiaries as completely independent entities?

19 A. We do.

20 Q. So they have their own corporate existence?

21 A. They do.

22 Q. Why was Skyland Utilities, LLC, formed as its
23 own separate entity?

24 A. Because of a geographic area that it was going
25 to cover, the lands that we have here in Pasco and

1 Hernando County.

2 **Q.** So Evans Utilities, the bigger company
3 couldn't be the utility that was providing the same
4 service?

5 **A.** I guess theoretically it could have been done
6 that way, but it seemed to make more sense to us to make
7 it geographic.

8 **Q.** Mr. Hartman testified about being an agent and
9 a consultant in this proceeding. Do you recall that?

10 **A.** Yes, I do.

11 **Q.** I'm not quite sure if I understand exactly
12 which of these entities he is an agent and consultant
13 to, so I want you to answer that for me. To which of
14 the entities that we have discussed is Mr. Hartman an
15 agent for?

16 **MR. WHARTON:** I object that it's outside the
17 scope of his rebuttal testimony.

18 **COMMISSIONER SKOP:** To the objection.

19 **MR. HOLLIMON:** His rebuttal testimony says my
20 purpose in the proceeding is to provide information
21 about our intentions and to answer any questions the
22 Commissioners might have of me. I mean, that's pretty
23 broad.

24 **MR. WHARTON:** It is. I don't think that that
25 opened it to every possible question that he could think

1 of.

2 **COMMISSIONER SKOP:** Staff, to the objection.

3 **MS. CIBULA:** I think it should be allowed, but
4 maybe we should, you know, after a few questions we
5 could limit it after that.

6 **COMMISSIONER SKOP:** Okay. I'm going to
7 overrule the objection.

8 Mr. Hollimon, you may ask your question and
9 the witness may answer to the best of his ability, but
10 let's try and keep this within the realm of the
11 discussion at hand.

12 **THE WITNESS:** Can you repeat the question?

13 **MR. HOLLIMON:** Certainly.

14 **BY MR. HOLLIMON:**

15 **Q.** I am wondering -- Mr. Hartman testified as
16 being an agent in this proceeding, and I want to
17 understand which of the entities he's an agent for?

18 **A.** I would interpret it that he is an agent for
19 all of them.

20 **Q.** And what is the scope of his agency?

21 **A.** Can you describe or explain what --

22 **Q.** Well, I mean, is he authorized to bind any of
23 these entities on financial matters, can he buy land for
24 you, can he --

25 **A.** He's an advisor to us on these utility

1 filings --

2 Q. And so what --

3 A. -- and to sponsor this certification before
4 the Public Service Commission.

5 Q. Is Evans Properties privately held?

6 A. It is.

7 Q. What is the ownership structure of Evans
8 Properties?

9 A. You mean -- it's a Subchapter S corporation
10 that is owned by family members of the Evans family.

11 Q. Is it completely owned by family members?

12 A. It is.

13 Q. And are there -- approximately how many family
14 members are owners?

15 A. Approximately 35.

16 Q. Is there any one single person who has a
17 controlling interest, more than 50 percent interest in
18 the company?

19 A. No.

20 Q. Is there any kind of succession plan that you
21 are aware of having to do with, I mean, as people, you
22 know, pass on, or move forward, change their lives,
23 whatever, any kind of succession plan that you are aware
24 of with respect to the ownership of Evans Properties?

25 A. No.

1 **MR. HOLLIMON:** Are those demonstrative -- the
2 big blow ups still -- can we use those?

3 **MR. WHARTON:** They are.

4 **BY MR. HOLLIMON:**

5 **Q.** Mr. Edwards, I want to refer you now to Page 4
6 of your rebuttal testimony beginning around Line 12 when
7 you talk about the existing residence and a shop with a
8 need for central service. Just let me know when you
9 have found that.

10 **A.** Which line did you say?

11 **Q.** Line 12.

12 **A.** Okay.

13 **Q.** Are you there? Okay. Have there been any
14 formal demands for service made to Evans Properties or
15 Skyland Utilities other than the demand or request for
16 service for the existing residence and a shop?

17 **A.** No.

18 **Q.** And if you'll refer -- you can either look --
19 do you have 3A?

20 **A.** Yes.

21 **Q.** Okay. I'm just curious. In between, if you
22 can see ID 9, ID 11, and ID 12, which are at the lower
23 right-hand corner, do you see those?

24 **A.** Yes.

25 **Q.** And there is a piece of property that is in

1 between those. Isn't it true that there are residences
2 that are inside, in that piece of property?

3 A. There are.

4 Q. Have any of those residents made any kind of
5 request to Skyland with regard to service?

6 A. No, they have not.

7 Q. And then just immediately to the -- I guess to
8 the east of ID 11, the red piece there, isn't it true
9 there are also some residences in that area?

10 A. I answered your question that no one has
11 requested.

12 Q. Okay. But there's not any requests from
13 anybody there, either, is what you are saying, on the
14 east side?

15 A. That is correct.

16 Q. Okay. And I'm going to refer you now to Page
17 5, Line 15, when you discuss -- you discuss bulk sales.
18 I'm sorry, maybe my reference is wrong. It's a little
19 bit before that. Above that, Line 13. Do you see that,
20 Page 5, Line 13?

21 A. Yes.

22 Q. And have you had any discussions with third
23 parties about bulk sales?

24 A. I've had one.

25 Q. And who was that with?

1 **A.** Hernando County.

2 **Q.** And when did that occur?

3 **A.** I don't remember the date, but between our
4 last, the 7th and 8th meeting and today. Approximately
5 a month ago, six weeks ago.

6 **Q.** Okay. And I'm going to refer you now to Page
7 10 of your rebuttal testimony. Beginning on Line 16,
8 you're asked a question, "How will Skyland ensure that
9 it has the technical and operational ability to manage
10 and operate the utility it proposes to construct?" Do
11 you see that?

12 **A.** Yes.

13 **Q.** Now, whose testimony -- which intervenor's
14 testimony are you rebutting in your response there?

15 **A.** I don't recall which one right now, but I
16 recall there was an intimation in the testimony that
17 we -- I believe it was Hernando County's that we did not
18 have the technical capability to manage a utility.

19 **Q.** Okay. And on Page 11 beginning on Line 11
20 there is a question about your financial capabilities.
21 Whose testimony are you rebutting there?

22 **A.** Again, I believe it was Hernando. I think
23 Hernando pretty much went down the list of 20 saying
24 that we didn't have the capability.

25 **Q.** So was there testimony filed by a witness that

1 you are referring to?

2 **A.** It may have been interrogatories rather than
3 testimony.

4 **Q.** So you can't identify a Hernando witness
5 who --

6 **A.** I do not recall, no.

7 **Q.** Okay. And the application that was filed
8 makes certain assumptions about the type of development
9 that will occur, is that correct?

10 **A.** It did.

11 **Q.** And the assumption is that you are going to
12 develop the property in accordance with the now existing
13 requirements of the comprehensive plan in Pasco and
14 Hernando County, is that correct?

15 **A.** That's correct.

16 **Q.** Okay. And that is essentially an assumption
17 of residential development, is that correct?

18 **A.** That's correct.

19 **Q.** And the cost of service study is based upon
20 that assumption, is that correct?

21 **A.** It is.

22 **Q.** In your summary and in your testimony you talk
23 about other forms of development, such as agribusiness
24 and bulk sales, retail development, those type of
25 things, is that correct?

1 **A.** Yes.

2 **Q.** And if you prioritized the type of development
3 that Evans Properties would like to see on these parcels
4 of land, how would you prioritize the type of
5 development you would like to see on these parcels?

6 **A.** I would prefer to see agriculture to be able
7 to be sustained on those properties.

8 **Q.** Would it be fair to say that residential
9 development is on the bottom of your list of priorities?

10 **A.** Depending on the given property and the market
11 at the time, I would say that the residential can be on
12 the top of the list on certain ones and possibly lower
13 on others.

14 **Q.** But there are certain parcels where
15 agriculture certainly is at the very top of the list, is
16 that fair?

17 **A.** That's fair.

18 **Q.** Can you tell me why the cost of service study
19 is based solely upon residential use?

20 **A.** Over time residential use may end up being the
21 preferred development form for any of those properties.
22 You know, this is a long strategy for the future that
23 covers all of these properties.

24 **Q.** Would you agree that the cost of service -- if
25 the cost of service study was based upon agribusiness

1 being conducted on all of these parcels, that the cost
2 of service would reach a different result, the study
3 would reach a different result?

4 A. Well, I'm sure it would be different. I don't
5 know what -- I don't know if it would be more or less
6 for the particular parcel that's in question.

7 Q. As part of this proceeding, did you
8 participate in responding to interrogatories that were
9 propounded by either the intervenors or by staff?

10 A. I did.

11 Q. And what was your role in responding to those
12 interrogatories?

13 A. Depending on the interrogatory, I may have had
14 a direct role or I may have been just reviewing the
15 answers that were prepared by some of our consultants or
16 suggested by others.

17 Q. Okay. As part of the process of planning,
18 going through trying to establish how Evans Properties
19 is going to deal with all these parcels of land, did you
20 meet with commissioners in Pasco County individually to
21 discuss your plans?

22 A. I did meet with some of the commissioners in
23 Pasco County.

24 Q. Okay. And did you represent to the
25 commissioners in your individual meetings that Skyland

1 Utilities and/or Evans Properties would not build-out
2 the utility at the densities currently allowed in the
3 comprehensive plan?

4 A. I do not recall making such a representation.
5 I said that it would take a long time for all of those
6 lands to be utilized in residential. In today's market
7 I would say it would take even longer.

8 COMMISSIONER SKOP: Mr. Hollimon, at this
9 point can we take a five-minute break for the court
10 reporter? I have been meaning to cut in and do that.
11 But let's take five minutes, and we will come back at 35
12 after the hour.

13 (Recess.)

14 COMMISSIONER SKOP: At this point we're going
15 to go back on the record. And, Mr. Hollimon, you're
16 recognized.

17 MR. HOLLIMON: Thank you, Mr. Chairman.

18 BY MR. HOLLIMON:

19 Q. Mr. Edwards, I'm very close to the end. And
20 we talked for a minute about your discussions with
21 respect to bulk sales, do you recall that?

22 A. Yes.

23 Q. And I believe you said your only discussion
24 about bulk sales was with Hernando County, is that
25 correct?

1 **A.** That is correct.

2 **Q.** And what were the results of those
3 discussions?

4 **A.** The results were in the context of a possible
5 settlement, among other things, and we agreed on what we
6 would potentially do if they wish for us to, which was
7 relative to the contaminated wells that we potentially
8 could sell bulk water to them, and we also indicated
9 that we would be willing, in the case of settlement,
10 that if we were to sell bulk water it would be through
11 Hernando County to Hernando County, and so they would
12 have control over any other subsequent sale if one were
13 to happen.

14 **Q.** But those discussions did not lead to any kind
15 of an agreement, is that correct?

16 **A.** They did not.

17 **Q.** And are they concluded?

18 **A.** I don't know.

19 **MR. HOLLIMON:** Thank you. That's all I have.

20 **COMMISSIONER SKOP:** Thank you, Mr. Hollimon.

21 Mr. Kirk from Hernando County.

22 **CROSS EXAMINATION**

23 **BY MR. KIRK:**

24 **Q.** Good afternoon, Mr. Edwards. Do you a copy of
25 your application?

1 A. Yes, I do.

2 Q. I'm going to direct you to the first -- the
3 initial 11 pages. It says application for original
4 certificate and then it has exhibits attached.

5 A. Say again where --

6 Q. At the very beginning, Page 1 through 11.

7 A. Page 1 through 11.

8 Q. The actual application itself.

9 A. Okay.

10 Q. Go to Page 11. Did you sign this application,
11 sir?

12 A. Well, the one that I have right here is a
13 copy, and I have not -- I didn't sign this one, but I
14 did sign the that got filed.

15 Q. Okay. Thank you. Go to Page 3, please. Part
16 3, system information, Subparagraph A, water,
17 Subparagraph 3, and it says description of the types of
18 customers anticipated (i.e., single family, mobile
19 homes, clubhouse, commercial, et cetera), and under the
20 description it says the applicant currently is proposing
21 to serve general service residential and exempt and
22 nonexempt bulk service customers. Is that generally a
23 fair statement? Strike that.

24 As we sit here today, is it your desire to
25 change this statement?

1 **A.** No.

2 **Q.** Is it fair to say -- you mentioned I think
3 Bluefield Utilities. Did you file a general similar
4 description with Bluefield, in the application with
5 Bluefield?

6 **A.** We did.

7 **Q.** And the same for Groveland?

8 **A.** Yes.

9 **Q.** When you talk about exempt and nonexempt bulk
10 service, could you give us some examples as you
11 understand bulk service?

12 **A.** You could sell bulk water to another utility
13 which would potentially be exempt from Public Service
14 Commissioner oversight, or you wouldn't have to have a
15 certificate to sell that in an individual and maybe to
16 multiple utilities. I'm not sure about that legally
17 what the requirements are.

18 **Q.** Any other examples?

19 **A.** You could sell bulk water to some other
20 potential user, a large industrial plant or something
21 like that that may require it.

22 **Q.** Other water systems, for example, other water
23 systems, municipalities, local governments?

24 **A.** I'm not totally sure of the differentiation
25 between what the difference between where the Public

1 Service Commission has jurisdiction and which ones they
2 do not, but those are other potential sales one way or
3 the other of bulk water.

4 Q. Do you consider water an asset?

5 A. Yes, I do.

6 MR. KIRK: Thank you. Nothing further.

7 COMMISSIONER SKOP: Thank you, Mr. Kirk.

8 Mr. McAteer from Brooksville.

9 MR. McATEER: Yes, sir. Just one moment,
10 please.

11 CROSS EXAMINATION

12 BY MR. McATEER:

13 Q. Mr. Edwards, you spoke about citrus greening
14 and the difficulties that Evans Properties has
15 encountered as a result of that disease, and the acreage
16 reduction that Evans Properties has suffered. You tied
17 it directly to citrus greening. Is citrus greening the
18 only cause of that reduction?

19 A. I didn't tie it directly. I said the
20 reductions that we have undergone to date have been a
21 variety of diseases some of which were greening, canker,
22 hurricanes, freezes, and tristeza over that ten-year
23 period that I quoted a decline in roughly 9,000 acres of
24 production.

25 We currently have -- all of the different

1 groves that we currently own have infected trees in them
2 now with greening, and greening is an incurable disease
3 and how rapidly it will kill the trees is not known. We
4 are using every scientific effort possible to defer that
5 as long as possible and keep that from spreading to
6 whatever trees are not yet infected.

7 Q. And I forget the exhibit number, I believe it
8 is 42. If you could turn your attention -- it's labeled
9 Figure 3A, and we have been referencing it throughout
10 the proceedings. I believe it is to your right on one
11 of the boards.

12 A. Okay.

13 Q. Do you have Exhibit 42 with you?

14 A. I do.

15 Q. Thank you. If you could look at the parcels
16 labeled ID 5, ID 2, and ID 8, which are in the
17 northwestern grouping of the united parcels for
18 certification.

19 A. Yes.

20 Q. We will start with -- let's just go
21 through those three parcels that are of interest to me.
22 ID 8, how long has it been since that parcel has been in
23 citrus production?

24 A. It has probably been 15 or 20 years.

25 Q. And since citrus production ceased 15 or

1 20 years ago, what has been going on in that parcel?

2 A. Cattle pasture, and at one time interim in
3 there, there was pine trees.

4 Q. So you found alternate uses besides citrus for
5 that parcel?

6 A. Yes.

7 Q. How about ID 5, how long has that parcel been
8 out of citrus production?

9 A. Probably the same time.

10 Q. And -- excuse me, I don't mean to talk over
11 you. I'll let you finish, I'm sorry.

12 A. Twenty years.

13 Q. In those 20 years, what has that parcel been
14 used for?

15 A. Pine trees or cattle pasture.

16 Q. So, again, an alternative use was found. And
17 I won't go on forever on this. ID 2, is that a similar
18 set of circumstances?

19 A. No. I don't -- there is an alternative use.
20 It's not an acceptable alternative use when all of the
21 rest of your income producing properties go out of
22 business or are not producing, you can't carry ones that
23 are not producing anymore than what cattle pasture are,
24 so that is how that affects. They may have been
25 acceptable to just sit on them for a period of time as

1 only cattle pasture, but that can't last when your other
2 sources of revenue go away.

3 **Q.** Do you consider water a crop?

4 **A.** It could be.

5 **Q.** So you could consider water could be farmed?

6 **A.** Water farming is a concept. Water is
7 something that is a beneficial use to the property. We
8 can't necessarily say what beneficial use it's applied
9 to, per se, without getting a permit, but water --

10 **Q.** Is that a proper -- excuse me. Sorry, go
11 ahead.

12 **A.** Let me finish my answer. Water could be
13 diverted from the crop to some other use if it were
14 permissible and of beneficial use.

15 **Q.** I wasn't speaking of diversion, but I was
16 asking you directly, does Evans Property intend to sell
17 water as a crop?

18 **A.** We do intend to see if there is a way. That's
19 why we are doing the certificates with the utility and
20 we are looking at different alternatives on how that may
21 be done. Most of the likely things that we see are in
22 the other two areas that we are certificating where we
23 may build reservoirs or water cleansing reservoirs and
24 that's possibly appropriate here, too, but it is
25 probably a more difficult thing to actually do here.

1 **Q.** So a fair assessment of these properties is
2 possibly a range of interconnected water farms?

3 **A.** Repeat that again.

4 **Q.** A fair labeling or assessment of these
5 properties would be a series of interconnected water
6 forms basically?

7 **A.** No, I wouldn't characterize it --

8 **Q.** Well, you just told me water is a crop.

9 **A.** Water is a necessary part of utilizing the
10 land. It is an important aspect of any --

11 **Q.** That's not what you said. We can have it read
12 back. You said water is a crop.

13 **A.** Well, you are saying it, not me.

14 **MR. WHARTON:** Objection.

15 **COMMISSIONER SKOP:** All right. One person at
16 a time. To the objection.

17 **MR. McATEER:** I think he's trying to change
18 his testimony. He said water is a crop. I then asked
19 if he considered it a farm. I think my point is clear.
20 I don't care if the objection is overruled or not,
21 sustained or not, I'm not worried about it. I'm going
22 to move on.

23 **COMMISSIONER SKOP:** Okay. All right. Why
24 don't we just move on, and, Mr. Wharton, I hope will
25 withdraw the objection on that.

1 **MR. WHARTON:** I withdraw the objection.

2 **COMMISSIONER SKOP:** All right. Thank you.

3 **BY MR. McATEER:**

4 **Q.** You talked about bulk sales, and it is my
5 understanding that the only party that you have had
6 conversations with is Hernando County, is that correct?

7 **A.** Well, your Mr. Radacky was also present there
8 at the same time.

9 **Q.** Okay. It's not my Mr. Radacky.

10 **A.** Well, Brooksville's Mr. Radacky.

11 **Q.** Sure. Whatever you want to call it. But my
12 point of that question is what other entities in
13 Skyland's or Evans' business plan would be potential
14 targets for sales of bulk water?

15 **A.** Are you talking about the other two utilities
16 or are you talking about this utility?

17 **Q.** Any utility within the practical business
18 range of the properties illustrated on Figure 3A,
19 Exhibit 42.

20 **A.** Well, we had a public meeting yesterday in St.
21 Lucie County with the -- that was sponsored by the South
22 Florida Water Management District and the St. Johns
23 Water Management District who arranged the meeting and
24 helped with the invitation list of all of the
25 municipalities in the upper east coast water planning

1 area potentially regarding a reservoir that we may build
2 if we are successful in the certification process that
3 would potentially take water that goes to tide in the
4 Indian River lagoon and is considered a pollutant at
5 that point because of too much fresh water, save that
6 excess water and sell it as a potential alternative
7 water source to the various municipalities and/or to the
8 agricultural entities in that area, or to the South
9 Florida Water Management District, or to St. Johns.

10 Q. So these sales to St. Lucie County and
11 entities in that area, this is water that would be
12 generated from the properties, the exhibit on Figure 3A,
13 Exhibit 42, and I guess reservoired and then sold?

14 A. None of the water that I just described in
15 that was anything to do with water that --

16 Q. Okay. Well, that is what confused me. That
17 seems like a long way away, so I was little bit --

18 MR. WHARTON: Could I ask counsel if he would
19 not interrupt the witness. It has happened several
20 times.

21 COMMISSIONER SKOP: All right. It's getting
22 late in the day, and let's lay down some ground rules.
23 Let's try and be collegial, and if you could just
24 refrain from interrupting the witness and let the
25 witness respond. But, again, the witness -- it would

1 also be beneficial if yes or no and a brief explanation,
2 because some of the explanations have been pretty
3 lengthy on some of the witnesses. So let's just move
4 forward and see if we can get this through in an
5 amicable manner.

6 **MR. McATEER:** Well, my intention was not to
7 interrupt. My intention was to explain perhaps my
8 misunderstanding of what his answer was. At any rate, I
9 will narrow my question.

10 **BY MR. McATEER:**

11 **Q.** Do you have any business plan, any intention
12 to make bulk water sales to any entity, exempt or
13 nonexempt, in Hillsborough County?

14 **A.** No.

15 **Q.** Pasco County?

16 **A.** Possibly.

17 **Q.** Which would be which ones?

18 **A.** I mean, I would be willing to make the same
19 offer to Pasco County that I made to Hernando that if we
20 sold any water that originated in their area it would go
21 through them. If you have worries about us selling
22 water to some -- as was Mr. Radacky's testimony that we
23 might be selling to Tampa, Hillsborough, Orlando, which
24 is, you know, I feel it's a virtually impossible thing
25 that that could happen with the permitting that would be

1 required in it. Hernando and Pasco are the most likely
2 customers for bulk sales of water and their related
3 utilities in those local communities, and those would be
4 the places that we would be most likely to serve and
5 that we could be beneficial with our utility and our
6 capability in the water that we have.

7 I mean, I heard Mr. Stapf's testimony when we
8 were here together on the 7th and 8th that you need to
9 move your well field to the east. We might be a source
10 of water for you there. Or that was Hernando County's
11 water well field, not Brooksville.

12 Q. So you are willing to represent to everyone
13 here today that the only two entities that you would
14 consider selling bulk water to are Hernando County and
15 Pasco County?

16 A. Well, I would make that offer if we were to
17 have agreed on certification. I mean, since I don't
18 have to make it now, I will sell water to somebody that
19 would buy it and could be permitted as a beneficial user
20 and would pass all of the regulatory requirements, and I
21 think that would be very difficult to do anywhere other
22 than Pasco or Hernando County.

23 Q. Difficult to do, but not impossible?

24 A. Anything is possible, I guess, sir.

25 Q. Okay. Have you ever worked for a utility?

1 **A.** I have not.

2 **Q.** Have you ever -- that answers the rest of my
3 questions really. So you are president of every entity
4 that's involved in this certification, and you have
5 never worked for a utility in any way or managed a
6 utility in any manner?

7 **A.** That is correct.

8 **MR. McATEER:** No further questions.

9 **COMMISSIONER SKOP:** Thank you, Mr. Kirk. I'm
10 sorry. Thank you, Mr. McAteer. It's getting late and
11 my eyes are not functioning as they were earlier. All
12 right. So that takes us to Mr. Rehwinkel.

13 **MR. REHWINKEL:** Thank you, Mr. Chairman.

14 **CROSS EXAMINATION**

15 **BY MR. REHWINKEL:**

16 **Q.** Good afternoon.

17 **A.** Good afternoon.

18 **Q.** I hope I don't call you Evans. I was writing
19 questions and the E -- so if I call you Mr. Evans, I
20 don't mean --

21 **A.** I get that all the time. I wish I were
22 adopted (inaudible).

23 **Q.** Part of your rebuttal testimony purpose is to
24 support the application that's filed, isn't that
25 correct?

1 **A.** That's correct.

2 **Q.** Can you show me on Exhibit 3A, or tell me on
3 Exhibit 42, Figure 3A, which parcel contains the house
4 and/or the barn that we have heard that is where the
5 need comes from?

6 **A.** I believe it's in Parcel 9.

7 **Q.** Where is it?

8 **A.** Where, you say?

9 **Q.** Oh, I see it. It's the yellow one.

10 **A.** Yes.

11 **Q.** Okay. So it is in Pasco County?

12 **A.** In Pasco County.

13 **Q.** All right. Ms. Hollimon asked you about
14 parcels in that area. Can you tell me, to your
15 knowledge, does any member of the Evans family, or the
16 owners of Evans Properties own any other property other
17 than what is shown in the colored parcels on Exhibit 42?

18 **A.** Own it where; in what's covered by this map
19 right here?

20 **Q.** Yes, sir.

21 **A.** There are no other parcels in that area. We
22 own other land in Pasco County.

23 **Q.** Okay. But nothing that shows up on this page?

24 **A.** No.

25 **Q.** Okay. And would that same answer apply, too,

1 if I asked you if any member had an interest in any land
2 that shows up on this?

3 A. I think -- I believe that a member of that
4 family does own a small piece of land in Hernando County
5 that they inherited that isn't shown on here.

6 Q. Okay. But not part of the --

7 A. Not part of this. It is off of Powell Road,
8 but I'm not even sure if this covers Powell Road. I'm
9 looking whether it goes that far.

10 Q. Okay. And somewhat halfway in the middle of
11 Exhibit 42 there is a wavy line running through that;
12 that's I-75?

13 A. Yes.

14 Q. Part of your testimony is to express to the
15 Commission how your application is in the public
16 interest, is that correct?

17 A. Yes.

18 Q. And isn't it true that the public interest is
19 more than just the private interest of Evans Properties,
20 correct?

21 A. That's correct.

22 Q. And isn't Evans Properties considering at
23 least some areas of divestiture of the land assets that
24 are shown on Exhibit 42?

25 A. We are not considering to divest of the land,

1 but I would say that for a price anything is for sale.
2 But we are looking at ways to maximize the value of
3 these properties. We would rather lease them than sell
4 them, but it's not say we couldn't sell it.

5 Q. So if Mr. Hartman testified that you were
6 considering divestiture of land in his deposition, that
7 would be incorrect?

8 A. I guess you'd have to define considering
9 divestiture. We are looking at a host of ways that we
10 can add value to these properties, or find other uses,
11 and whether that included if somebody wanted to buy one
12 of them for some purpose, that would be something we
13 would consider. We are not -- we do not have anything
14 listed for sale and we are not seeking to sell it.

15 Q. Okay. So when referring to -- when he was
16 asked the question is there any intention of Evans
17 Properties to divest itself of ownership of any of the
18 parcels, or any parts of these parcels as part of the
19 development process, and he said they may, and then
20 later said they are considering that option, would that
21 not be accurate?

22 A. That would be an option. The ones that were
23 for development, we may sell them to someone to finish
24 the development, per se. We may only do the entitlement
25 and sell it to a developer, or we may sell it ourself,

1 which would still be disposing of it if you sell the
2 individual lot to a final user.

3 Q. But you wouldn't consider a lease to be a
4 divestiture, would you?

5 A. No, I would not.

6 Q. Okay. You are also here to provide sworn
7 testimony to the Commission regarding the funding and
8 lease arrangements between Evans Properties and Skyland
9 Utilities, correct?

10 A. Correct.

11 Q. Evans Properties has never been a real estate
12 developer of residential property, have they?

13 A. Evans Properties has not.

14 Q. And have never been?

15 A. Never.

16 Q. And would the same apply to commercial
17 development?

18 A. That's correct.

19 Q. Okay. And has Evans Properties ever been
20 involved in the home construction business?

21 A. Evans Properties has not itself, but we have a
22 sister company that is in the development business.

23 Q. What is the name of that company?

24 A. Skyland Development.

25 Q. Is that the entity that would develop property

1 within the bounds of what is shown on Exhibit 42?

2 A. It's possible. It could be one that did.

3 Q. Has Skyland Development constructed
4 residential property, residential dwellings in the past?

5 A. It has done the horizontal development. It
6 has not done the actual building of a house.

7 Q. What is horizontal development, what do you
8 mean by that?

9 A. Roads, sewer, golf courses, that sort of
10 thing.

11 Q. Okay. Are you familiar with the configuration
12 of Groveland and Bluefield properties?

13 A. Yes.

14 Q. Are they similarly carved up or checkerboarded
15 like what is shown on Exhibit 42?

16 A. They are.

17 Q. I think Mr. Hollimon asked you if you were
18 president of Skyland Utilities. I think your testimony
19 says you are the manager. Is there any difference?

20 A. Well, it is an LLC. It is a single member
21 LLC, and I am the manager, which you could elect an
22 officer or be president. It's the same thing.

23 Q. Okay.

24 A. I'm the chief person in charge of that
25 particular entity.

1 Q. I understand. You are the executive that --

2 A. Right.

3 Q. And if anyone knows the plans of Evans
4 Properties and Skyland Utilities, it would be you?

5 A. That is correct.

6 Q. Page 4 of your rebuttal testimony, Lines 14 --
7 well, before I ask you about that, you signed the -- I
8 think Mr. Kirk asked you about your -- on Page 11 of
9 what was filed of the application, you signed the
10 affidavit attesting to the veracity and accuracy of the
11 application, correct?

12 A. I did.

13 Q. Is there anything within the application that
14 has changed in any material way since the time you
15 signed that?

16 A. Nothing I can think of.

17 Q. Okay. I wasn't suggesting there was, it's
18 just kind of a checklist question I think we ask these
19 days at the Commission.

20 A. Uh-huh.

21 Q. Okay. On Page 4, Lines 14 through 23, you
22 reference on Line 16 the phrase a variety of ventures.
23 Do you see that?

24 A. I do.

25 Q. Is the reference to a variety of ventures what

1 you testify about in the ensuing pages with respect to
2 how you would work in concert with public entities,
3 et cetera?

4 A. Yes.

5 Q. Okay. That doesn't refer to something
6 separate and apart from what follows in your testimony,
7 does it?

8 A. No.

9 Q. Mr. Hollimon asked you if the company was
10 closely held, and you said yes, correct?

11 A. Yes.

12 Q. And is there a member of the family that owns
13 more, that owns a greater interest than any of the other
14 members?

15 A. Yes.

16 Q. Who would that be?

17 A. I'm trying to remember which one actually.
18 Probably Emmitt Evans, III.

19 Q. Would he be considered the patriarch?

20 A. No. He's the son of the patriarch's son.

21 Q. Okay.

22 A. The patriarch is dead now.

23 Q. Okay. So his father is still in the business?

24 A. He is.

25 Q. Okay. But Emmitt Evans, III, would be the

1 member of the family that own the greatest percentage of
2 shares in the company, is that correct?

3 A. I believe so. I don't remember the exact
4 shareholdings off the top of my head.

5 Q. Now, in your testimony you make some
6 representations about the intention of Evans Properties
7 with respect to providing utility service, especially on
8 Pages 9 and 10. The phrase is, especially on Page 10 of
9 continuing intention, committed to the continuing
10 stewardship of the land, continued commitment. Is this
11 testimony on Page 9, Line 19 through the end, and on
12 Page 10, Line 1 through 15, is that intended to convey
13 to the Public Service Commission Evans Properties'
14 commitment to provide services in the applicant
15 certificated territory?

16 A. Let me re-read it again real quickly and I'll
17 answer.

18 Q. Yes, sir.

19 A. We're saying here that, or I'm saying that we
20 plan to continue to -- what we do is going to be
21 continue the stewardship of the land in any way that we
22 operate the utility to provide these services. We are
23 concerned about preserving the land. We have had it for
24 over 50 years, and we want to continue to take care of
25 it in whatever way we do.

1 **Q.** Is it fair to say that that is the current
2 business plan or intention of Evans Properties, Inc., is
3 that correct?

4 **A.** That is correct.

5 **Q.** Now, is it also true that intentions can
6 change and family relationships and dynamics can change
7 in a family-owned business?

8 **A.** In any business.

9 **Q.** Is there any mechanism, whether it's a legal
10 instrument or some other device, that would prevent the
11 heirs of the patriarch, Mr. Evans, from changing that
12 business plan?

13 **A.** No.

14 **Q.** Or selling assets including land?

15 **A.** Nothing to preclude that.

16 **Q.** Or selling utility assets to unrelated
17 parties?

18 **A.** They could be sold.

19 **Q.** And if such event hypothetically were to
20 occur, and Evans divested itself of the utility and/or
21 the development properties, the funding agreement and
22 lease arrangements would not necessarily continue with
23 respect to the divested utility operations, would they?

24 **A.** I suspect that if you had to sell them that
25 whoever bought them would negotiate how that funding

1 agreement's continuation would affect that utility in
2 the future. That would have a big effect on what you
3 could sell it for.

4 Q. So it would be likely that those arrangements
5 would not continue if a divestiture of utility assets
6 occurred, correct?

7 A. That is purely speculation on how a particular
8 deal would be structured.

9 Q. Now, I think in the application -- I want to
10 say it's at Roman Numeral VIII-XVI there is a
11 description of Skyland as an LLC, and that it does not
12 pay income taxes, either state or federal. Are you
13 familiar with that?

14 A. Yes.

15 Q. And so to that extent, because of that
16 arrangement, there would not be in the cost of service
17 for end users of the utility, there would not be an
18 income tax, a state or a federal income tax cost
19 component, correct?

20 A. That's correct.

21 Q. Okay. But if you divested the utility
22 services, the new owner might not continue such an
23 arrangement, correct?

24 A. It would depend on that owner's particular tax
25 structure and his intentions.

1 **Q.** And the tax structure that you have for --
2 that is established, that I guess Evans Utilities
3 established for Skyland Utilities is based on the
4 corporate needs of Evans Properties, correct?

5 **A.** That is correct.

6 **Q.** Are you familiar with the financial statements
7 that are contained in the Confidential Exhibit 14?

8 **A.** I am.

9 **MR. REHWINKEL:** Okay. Mr. Chairman, I want to
10 ask him questions about an exhibit that's confidential,
11 and my initial effort will be to ask questions in a way
12 that we do not have to get the exhibit out and go
13 through and discuss confidential information in the
14 hearing, so I'm going to try it that way.

15 **COMMISSIONER SKOP:** All right. Proceed.

16 **BY MR. REHWINKEL:**

17 **Q.** Are you familiar with what the single largest
18 revenue item for the Evans Properties was in 2008?

19 **A.** Say that again, please.

20 **Q.** Are you familiar with what the single largest
21 revenue item shown in those financial statements was for
22 the year 2008?

23 **MR. WHARTON:** At this point I just want to
24 interject that I think -- Commissioner Skop, let's give
25 Mr. Evans (sic) the latitude to say I do consider that

1 question confidential, to indicate that to you, sir,
2 because I don't really know. I'm all for proceeding,
3 but for all I know that question is --

4 **COMMISSIONER SKOP:** Okay. Why don't we do
5 this, why don't we hand out the confidential document.
6 That way the Commissioners can look at it and the
7 witness, if it's confidential, he can say it's
8 confidential, but at least everyone can be looking at
9 the information. It seems to me that would be the most
10 expedient way.

11 **MR. WHARTON:** Let me just -- I am willing to
12 retry. I am just concerned that --

13 **MR. REHWINKEL:** If I could talk to Mr. Wharton
14 real quick.

15 **COMMISSIONER SKOP:** All right. Well, why
16 don't we take a brief five-minute break and that would
17 be good for everyone, I think.

18 (Brief recess.)

19 **COMMISSIONER SKOP:** At this point we will go
20 back on the record.

21 Mr. Rehwinkel, you're recognized.

22 **MR. REHWINKEL:** Thank you.

23 **BY MR. REHWINKEL:**

24 Q. Okay. Mr. Edwards, can you tell me what was
25 the single largest revenue item for Evans Properties in

1 2008?

2 A. It was a sale of land to the South Florida
3 Water Management District.

4 Q. And how many acres, and can you tell me what
5 the sales price was?

6 A. It was approximately 1700 acres, and the total
7 price was 52,496,000.

8 Q. Thank you. On Page 5 of your rebuttal
9 testimony, on Line 20 you start off and you state we
10 have a present and real intention to provide water and
11 wastewater service to the public as described in our
12 application and in my testimony, as well as a present
13 intention to meet additional needs with the provision of
14 such water and wastewater service as they arise. Do you
15 see that?

16 A. Yes.

17 Q. Is that statement -- or that testimony is not
18 a commitment by Evans Properties to provide water and
19 wastewater service for a defined period of time, is it?

20 A. No.

21 Q. If you were to divest portions of the service
22 of the land that is contained in the proposed service
23 territories, you could divest it all or in smaller
24 pieces, parcel by parcel, correct?

25 A. You could.

1 **Q.** And is it your testimony here that you have no
2 current plans to divest of any of the parcels that are
3 contained on exhibit -- or shown on Exhibit 42?

4 **A.** The only plan I would say is to the extent
5 that we are able to develop the properties that we have
6 indicated as far as residential, that in order to
7 actually execute that you would have to sell it to
8 someone. That would not mean that the utility would be
9 sold. That would continue to serve the property.

10 **Q.** Okay. On Pages 9 -- well, actually, on Page
11 11, if I could ask you -- on Page 11, starting on Line
12 11 and continuing on to Page 13, by my count you used
13 the term financial commitment or something similar in
14 concept about seven times in the last three pages of
15 your testimony. For example, on Lines 15 and 16 you say
16 financial commitment; on Line 17, financial commitment;
17 on Line 22, financial commitment.

18 **A.** Yes.

19 **Q.** On Page 12, Line 8, you say fully committed to
20 provide capital; Line 25 of Page 12, you reference the
21 financial ability to fulfill its commitment, and then on
22 Page 13 you state that Evans Properties continues to
23 stand by its commitments therein. Do you see that?

24 **A.** Actually, I'm missing Page 12 and 13 here on
25 my copy, but I recall those, yes.

1 Q. Okay. You could state today that that is the
2 commitment as circumstances exist right now, correct?

3 A. Yes.

4 Q. But you cannot assure the Commission that
5 there is any time frame over which those financial
6 commitments will be honored, is that correct?

7 A. I guess anything could change. If we start to
8 do something, then we are going to honor our financial
9 commitments to do it.

10 Q. But as we discussed earlier, the business plan
11 of the company could change, correct?

12 A. It could, as any company.

13 Q. The intentions of the controlling shareholders
14 could change?

15 A. They could, as any controlling shareholders
16 can change their mind, or a municipality.

17 Q. Yes, sir.

18 **MR. REHWINKEL:** Mr. Chairman, I have an
19 exhibit that I would like to pass out. It is not
20 necessarily or definitely not needed to be entered into
21 the record. It is purely for convenience, and I have
22 excerpted the two lease agreements and the funding
23 agreement to put it in a document that would be easier
24 to reference.

25 **COMMISSIONER SKOP:** Okay. Thank you, Mr.

1 Rehwinkel.

2 And for clarity of the record, even though it
3 may not be ultimately entered into the record, let's go
4 ahead and mark it as Exhibit 46, and if you have a short
5 title?

6 **MR. REHWINKEL:** It would be Lease and Funding
7 Agreement.

8 **COMMISSIONER SKOP:** All right. Thank you.

9 **MR. REHWINKEL:** And that would be 46?

10 **COMMISSIONER SKOP:** Yes. And you may proceed.

11 **MR. REHWINKEL:** Thank you.

12 (Exhibit Number 46 marked for identification.)

13 **BY MR. REHWINKEL:**

14 **Q.** Mr. Edwards, are you familiar with these three
15 documents?

16 **A.** Reasonably so.

17 **Q.** Okay. There's a water lease agreement, and
18 then on the 12th page of that water lease agreement you
19 have signed it as lessor and lessee, is that correct?

20 **A.** That is correct.

21 **Q.** And that is your signature, and it is
22 witnessed and then notarized on the next page, correct?

23 **A.** Yes.

24 **Q.** And then there is -- a few pages back after
25 the appendix there is a -- actually, if you see at the

1 very bottom it says OPC Exhibit -- there's a numbering
2 at the very bottom right-hand corner. On Page 23 is the
3 wastewater lease agreement, do you see that?

4 A. Yes.

5 Q. And it is, like the water agreement, dated
6 October 1, 2009, correct?

7 A. Yes.

8 Q. And on Page 11 it shows your signature as both
9 lessor and lessee, correct?

10 A. Yes.

11 Q. And it is also witnessed and notarized,
12 correct?

13 A. Yes.

14 Q. And then on Pages 37 and 38 of this exhibit is
15 the funding agreement dated October 1st, 2009, and
16 signed by you on behalf of Evans Properties, and also by
17 Skyland Utilities, correct?

18 A. Correct.

19 Q. Now, this document is not notarized or
20 witnessed, correct?

21 A. It is not.

22 Q. First of all, with respect to the lease
23 agreements, isn't it correct that this, the water and
24 wastewater lease agreements are the assurance that
25 Skyland and Evans Properties is submitting to the

1 Commission that the land underlying the water and
2 wastewater plants will be available to the utility for
3 as long as needed to service customers, is that correct?

4 A. Yes.

5 Q. Are you familiar that the Commission
6 ordinarily requires a 99-year lease, if not fee simple
7 for the land underlying a utility?

8 A. Yes, I have become aware of that. I probably
9 didn't know it at the time that we signed this, but we
10 have agreed subsequently to amend it to that, to at
11 least the five-year continuing options.

12 Q. Okay. But the documents that were filed as
13 part of the application don't have that in it, which is
14 what is in this Exhibit 46?

15 A. They do not.

16 Q. Okay. Now, I don't mean to be flippant about
17 this, but would it be correct to say that you negotiated
18 this lease with yourself?

19 A. You could say that.

20 Q. Okay. Would that be true?

21 A. Yes.

22 Q. Okay. And would it also be true that this is
23 not an arm's-length transaction, that negotiation of
24 this lease?

25 A. No, it is not.

1 Q. Okay. Now, the term of this lease is for
2 20 years, correct?

3 A. Yes.

4 Q. The pricing provision of this lease is for
5 three years, though, correct?

6 A. I don't recall. I'll have to look and see.

7 Q. Okay. If I could direct you to Exhibit Page
8 2, Paragraph 7D, and ask you to review that?

9 A. Yes, it has a three-year price.

10 Q. Now, this requires the parties, you and you,
11 to renegotiate this agreement every three years,
12 correct?

13 A. It does.

14 Q. Okay. There are also three other provisions
15 in this agreement where the pricing can be changed,
16 correct? If I could get you to turn to Exhibit Page 3,
17 Subparagraph F.

18 A. A3?

19 Q. I'm sorry, Exhibit Page 3, or the same as
20 lease Page 3. This is just provision 7F, as in Frank,
21 effect of restrictions?

22 A. Okay.

23 Q. This provision requires renegotiation of the
24 pricing of this lease if there are any regulations or
25 any other requirements that diminish the value of the

1 land as a result of the withdrawals of water, is that
2 correct?

3 A. Yes.

4 Q. So that is a second avenue for repricing of
5 the terms of this lease, correct?

6 A. Yes.

7 Q. And then if I ask you to turn to the fourth
8 page, Paragraph 11, force majeure, there's a requirement
9 in this paragraph that any costs that are imposed on the
10 lessor as a result of force majeure can cause a
11 renegotiation of the lease agreement pricing, correct?

12 A. Yes.

13 Q. And then finally -- actually, Paragraph
14 10 above that, if there is a need to relocate wells,
15 there's a provision there that the royalty shall be
16 renegotiated based on the cost of such renegotiation
17 efforts, correct?

18 A. Yes.

19 Q. Okay. Are there any other provisions of this
20 lease agreement that would allow Evans Properties to
21 change the pricing that you are aware of?

22 A. I don't believe so.

23 Q. Okay. Now, if there is renegotiation
24 required, if renegotiation occurs and there is not an
25 agreement among the parties, there is a provision in

1 this agreement, is there not, for resolution of impasse,
2 that would be in 7E on Page 2 and 3, is that correct?

3 A. Yes.

4 Q. Okay. Now, again, if you didn't agree with
5 yourself about the rate, you would go to an appraiser,
6 or maybe a second appraiser if you still didn't agree,
7 is that correct?

8 A. That's what the terms of the contract
9 indicate.

10 Q. I mean, is that realistic that that would
11 happen?

12 A. To my understanding, this agreement was
13 modeled after the agreements that have been accepted by
14 the Public Service Commission in the past, and we were
15 trying to be compliant with what the PSC requires. If
16 you have two entities that are contracting with each
17 other that are free-standing corporate entities, how
18 else would you do it?

19 Q. Yes. But you're both the people, right?

20 A. I am.

21 Q. Both the parties?

22 A. The staff of the PSC also reviews this, and
23 it's my understanding that they are and will review it
24 and generally have some changes that they would require
25 or suggest before they actually granted certification.

1 Q. Now, this document, I think at the beginning
2 we established that it was executed and notarized and
3 witnessed, correct?

4 A. Yes.

5 Q. Is it your understanding as you are dealing
6 with real estate that that allows this -- that that is
7 required because it's a land transaction?

8 A. I believe that's why it was done.

9 Q. And would you record this lease?

10 A. You could. I don't see that it would be
11 necessary, but it could be.

12 Q. But as it's executed the way it is, it would
13 be -- it would be able to be recorded, correct, as a
14 conveyance of land?

15 A. To my knowledge it would.

16 Q. All right. Now, is there any realistic way
17 there could ever be a dispute, a genuine dispute under
18 this agreement, this lease agreement?

19 A. Well, ultimately the rate that could be
20 charged to customers by the utility would dictate
21 whether or not the utility could pay an increase or a
22 decrease or whatever. If they can't pass it on in a
23 rate base, it's a mute point that they can't pay Evans
24 Properties or whoever the lessor is. So it would have
25 to be practical and considered that it would be able to

1 be passed through or it couldn't occur.

2 Q. Now, the rates that are contained in here,
3 they are not based on precedent by the Commission that
4 said a certain level was okay, but above this is not
5 okay and has been disallowed by the Commission, is that
6 right?

7 A. My understanding of these rates were rates
8 similar in other similar transactions or certifications
9 that these had been acceptable.

10 Q. But whatever those transactions were, they are
11 not part of the record here?

12 A. They are not.

13 Q. Okay. Now, if Evans Properties wanted to just
14 cancel this lease, what would prevent them from doing
15 that?

16 A. Since they do own the other company, I'm not
17 sure that practically they could.

18 Q. So I understand --

19 A. It would be possible. The two entities are
20 going to agree, since they both are controlled by the
21 same person.

22 Q. For example, you, Ronald Edwards, manager of
23 Skyland, could not sue yourself in court to enforce this
24 agreement against Evans Properties, Ronald Evans,
25 correct?

1 **A.** I don't know if I could or not.

2 **Q.** Okay. You can't imagine that a court would
3 allow that, would you?

4 **A.** Probably not.

5 **Q.** Okay. Just so I understand, you agree that
6 Evans could unilaterally abrogate this lease agreement,
7 if they wanted to?

8 **A.** Evans couldn't unilaterally, but the two
9 entities could agree, and since they are both controlled
10 by the same one, that would be -- the essence would be
11 that the contract could be changed or canceled.

12 **Q.** Okay. If the utility were to be divested by
13 Evans Properties, this lease would not likely be
14 assigned in its current form to the new utility, the
15 unrelated utility owner, would it?

16 **A.** It would depend on who that was.

17 **Q.** Okay. The funding agreement, and the same
18 would apply, the same ability to abrogate the lease
19 agreement that we discussed with respect to the water
20 agreement, that would apply to the wastewater lease
21 agreement, as well, correct?

22 **A.** It would.

23 **Q.** And the wastewater lease agreement is
24 essentially the same as the water lease agreement except
25 that it does not have a royalty payment and the related

1 well leasing arrangements, correct?

2 A. Yes.

3 Q. So if I could get you to turn to the funding
4 agreement. You have been involved with Evans Properties
5 for how long?

6 A. Twenty-three years.

7 Q. And as part of your duties with Evans
8 Properties, including as a CEO for how long?

9 A. Fifteen, 17 years, I don't recall exactly.

10 Q. Okay. But in your roles with Evans, including
11 at least 15 years as CEO, you have dealt with land
12 transactions and legal documents as part of -- a big
13 part of your duties, correct?

14 A. Yes.

15 Q. Okay. Now, would you consider the funding
16 agreement to be a legally binding document that is
17 enforceable by Skyland Utilities against Evans
18 Properties?

19 A. I don't know. Again, this document was
20 represented to be the standard that the Commission had
21 accepted under other certification cases, and that's the
22 document that was acceptable, so that's the way we did
23 it.

24 Q. Is there anything about this that would be
25 enforceable in a court of law?

1 **MR. WHARTON:** I object, that calls for a legal
2 conclusion.

3 **COMMISSIONER SKOP:** To the objection.

4 **MR. REHWINKEL:** I want to know if he knows. I
5 mean, I think we did establish he does deal with legal
6 documents and land transactions.

7 **COMMISSIONER SKOP:** All right. The foundation
8 has been laid. The objection is overruled. The
9 question will be asked, and the witness in his lay
10 opinion, not in a legal opinion, will be able to provide
11 the response if he has knowledge.

12 **THE WITNESS:** I don't know.

13 **BY MR. REHWINKEL:**

14 **Q.** All right. I somehow thought that was going
15 to be your answer.

16 In the second line of this funding agreement
17 it says by and among Evans Properties and Skyland
18 Utilities. What does by and among mean with respect to
19 this document?

20 **A.** That is a legal term, I presume, or a legal
21 catch phrase.

22 **Q.** All right. And we have established that Evans
23 owns Skyland 100 percent, correct?

24 **A.** Yes.

25 **Q.** On Paragraph 4 in the recitals it says as an

1 inducement to the utility to operate the utility system,
2 what does that mean?

3 A. Which page, again?

4 Q. I'm sorry, this is on Exhibit Page 37.

5 A. Of which agreement?

6 Q. Oh. I'm in the funding agreement. I
7 apologize.

8 A. Okay.

9 COMMISSIONER SKOP: Mr. Rehwinkel, your Bates
10 numbers down at the bottom of the page are getting
11 increasingly smaller.

12 MR. REHWINKEL: This is an eye test calculated
13 to this part of the day.

14 THE WITNESS: Okay.

15 BY MR. REHWINKEL:

16 Q. Okay. And Paragraph 4, as an inducement to
17 the utility to operate the utility system. What does
18 that mean with respect to Skyland?

19 A. I guess that would be the consideration.

20 Q. Well, I mean, does the utility have any need
21 to be induced to do something that the owner wants it to
22 do?

23 A. The language that you're parsing was reviewed
24 by our attorneys, and the utility experts that we had
25 engaged indicated that this was an acceptable format for

1 this kind of document with the Commission. I have not
2 challenged that or researched it one way or the other.
3 I accepted their opinion on that.

4 Q. Okay. And were you shown any kind of a
5 decision by the Commission that you needed that kind of
6 language in an agreement, funding agreement?

7 A. I wasn't shown anything. I was just told that
8 this is what has been accepted in the past in other
9 cases that our experts were involved in.

10 Q. Now, this funding agreement does not have any
11 terms and conditions with respect to what types of rates
12 that Skyland would have to pay to Evans if funds were
13 advanced or loaned to it, correct?

14 A. It doesn't.

15 Q. And so whatever terms and conditions of
16 funding that Evans were to provide for Skyland, that
17 would be at Evans' discretion, correct?

18 A. Yes.

19 Q. Okay. So the funding agreement only says that
20 you are willing to make an infusion of capital
21 reasonable and necessary to allow the utility to build
22 and operate the system, correct?

23 A. That's correct.

24 Q. And whatever terms and conditions that Evans
25 is willing to advance funds to Skyland under can be

1 unilaterally changed at any time by Evans if they so
2 chose, correct?

3 **A.** It could be. But, again, as in the case of
4 the lease terms, or any of those, that we understand
5 what the rates of return that are allowable for the
6 utility company to earn and potentially the rates that
7 it could charge. So there would be no practical reason
8 why, if you asked for an unreasonable consideration for
9 your funding, the entity would not be able to pay it, so
10 it wouldn't accomplish anything.

11 **Q.** But there is no -- at this point in time,
12 whatever the upper limit that will be allowable by the
13 Commission is not part of what you are submitting to the
14 Commission for purposes of setting rates, is that
15 correct?

16 **A.** Well, we have a rate study that indicates what
17 the -- and we know what the Commission's published
18 formula for what an acceptable equity return is.

19 **Q.** So do you have the maximum amount of that
20 included in your cost study?

21 **A.** We have the formula that was in effect at that
22 time. It's a little over 9 percent if I recall on a 100
23 percent equity basis, 11 something on a 60/40, or
24 40 percent.

25 **Q.** Okay. Do you know who the electric company is

1 that serves the properties that are contained on Exhibit
2 42?

3 A. There are several. It would be depend on
4 which specific parcel.

5 Q. What are the companies that you know of?

6 A. Primarily it is Withlacoochee Co-op and
7 Florida Progress.

8 Q. Okay. Now, I think in your application it
9 refers to Florida Power and Light, correct?

10 A. It does.

11 Q. And that's incorrect?

12 A. It's incorrect that they service this area. I
13 think they used Florida Power and Light as a default.
14 They were considered the most expensive statewide, and
15 if we used their cost for providing the lines that that
16 would be a conservative approach to building the cost
17 structure.

18 Q. Okay. Now, was Withlacoochee actually
19 approached about whether they would be willing to extend
20 facilities to the proposed utility sites at their own
21 expense?

22 A. One of Mr. Hartman's departments discussed
23 with Withlacoochee their willingness and ability to
24 serve and on what basis they would tell you that. I
25 think it was -- I'm speaking now, I did not do it, but I

1 think that they said in some cases depending on how much
2 power you are using, the specific -- what the growth
3 potential is that many times they provide the service
4 for free for the potential business they are going to
5 earn, but they want a specific application with specific
6 instances of what the service would be in order to give
7 a quotation, per se.

8 So the Florida Power and Light number was used
9 as a proxy for considering that it was probably going to
10 be higher. When we corrected the original one where we
11 did not include the cost of running the wires to the
12 pumps.

13 Q. Okay. But you don't -- since you don't
14 project much growth in the next five to six years here,
15 you could not give the electric company any assurance
16 that you would have any significant power usage at these
17 facilities, correct?

18 A. We didn't attempt to. That's why we used the
19 Florida Power and Light. We re-ran the cost structure
20 study with the Florida Power and Light more expensive
21 rates, and they made a few cents difference, 40 or 60
22 cents, something like that, on an annual basis, or on a
23 monthly bill. I believe that's in the corrected
24 interrogatory that was sent to the Commission.

25 MR. REHWINKEL: Okay. I have no further

1 questions. Thank you.

2 **THE WITNESS:** Thank you.

3 **COMMISSIONER SKOP:** Thank you, Mr. Rehwinkel.
4 Staff.

5 **MS. BENNETT:** I just two questions.

6 **CROSS EXAMINATION**

7 **BY MS. BENNETT:**

8 **Q.** My name is Lisa Bennett. And, Mr. Edwards,
9 first of all, why did Evans Properties decide to form
10 three utilities, and I think that is Skyland, Bluefield,
11 and Groveland, instead of one or even two utilities?

12 **A.** We felt it would be -- we wanted to manage it
13 geographically in those specific areas, those properties
14 that were more similar. It's similar to the way we
15 manage the properties today, the way our divisional set
16 up is.

17 **Q.** Can you talk to me about what the benefits are
18 to Evans Properties to have three separate utilities?

19 **A.** I don't know that there is a specific benefit
20 one way or the other. It was not specifically
21 considered a benefit or a cost to do it this way.

22 **MS. BENNETT:** That's all the questions I have.

23 **COMMISSIONER SKOP:** All right. Thank you.
24 Questions from the bench?

25 Commissioner Graham, you're recognized.

1 **COMMISSIONER GRAHAM:** Thank you through the
2 Chair.

3 Mr. Edwards, welcome. I have a couple of
4 quick questions for you. The first one is about
5 greening. Explain to me a little bit what exactly that
6 is. I guess what I heard is it's some kind of disease
7 that kills the citrus trees. Does it kill any other
8 vegetation?

9 **THE WITNESS:** No, it doesn't. None that I'm
10 aware of. There are a lot of other plants that the
11 vector that spreads it are able to feed on and can also
12 harbor the disease to transfer it. But greening is a
13 disease that originated in India and China. The name
14 there is Huanglongbing. It was introduced in Florida,
15 it was first found here about, I think, five years ago,
16 around 2005 or '06, I think when we first discovered it.

17 It is a disease that may have been here for a
18 long time, but it is transmitted from tree to tree by an
19 insect called a psyllid. The psyllid was not native to
20 Florida and that insect was brought into Florida by one
21 of the hurricanes, or a tourist from Brazil or
22 somewhere, and that insect spread across Florida, and
23 now has become a very effective vector of spreading that
24 disease.

25 And it started in the southern part of Florida

1 where many of our groves are at in St. Lucie, Indian
2 River, and Martin County. It was one of the hot spots
3 where it has developed. But it is a worldwide disease.
4 That's why there is very little citrus that had been
5 grown in China and India. It is now also in Brazil, but
6 the psyllid population that spreads it is especially
7 high in Florida, the highest of anywhere that the
8 disease occurs.

9 So a lot of research is being devoted to
10 trying to control this disease. The citrus industry
11 assesses itself an advertising tax to market the
12 product, and we have diverted over a third of that
13 collection to research to fund an attempt at finding a
14 cure for it. But there is no cure, and it appears that
15 there is no rapid cure that will be able to come about.
16 It probably will be something like genetically
17 engineering a resistant tree which would not do anything
18 for the existing population of trees. They would have
19 to be replanted and it would take years to come back
20 into production.

21 **COMMISSIONER GRAHAM:** So economically this
22 greening is definitely affecting Evans Properties?

23 **THE WITNESS:** Absolutely. And not only us, it
24 is the entire industry. Depending on where your groves
25 are geographically, it is more advanced in certain

1 geographies than others, but every county that has
2 citrus in the state has infected trees that have been
3 identified.

4 **COMMISSIONER GRAHAM:** So that on top of the
5 fact that nationwide economically we have a slowdown
6 going, you guys are feeling the pinch?

7 **THE WITNESS:** Absolutely.

8 **COMMISSIONER GRAHAM:** So part of this -- and
9 I'm guessing, but part of this application is to open
10 options for you guys in the future?

11 **THE WITNESS:** Absolutely. We have
12 43,000 acres of land in Florida, and a great deal of it
13 has been, for 50 years, dedicated to the production of
14 citrus. And we are now, along with a lot of other
15 people, looking for an option for other things that we
16 can do.

17 And you can't just go grow any other crop,
18 and, besides, everyone else is attempting to look for
19 that. So if everyone moves into the same one at the
20 same time, you have killed the market. So things like
21 energy crops are potentially some of the biggest markets
22 that this much acreage could be switched over to
23 something like that, and we are looking at many of
24 those.

25 That is where we are focusing our efforts on,

1 eucalyptus, castor, algae, oil crops, sugarcane,
2 whatever. Many things won't grow just anywhere, so you
3 have got a lot of variables. But those things coupled
4 with the unknowns, you say why don't we know exactly
5 what we are about to do with this land or how we are
6 going to go about it. We are at a time in a deep
7 economic situation, which everyone understand with a
8 recession, but there's a very large potential change
9 about to happen in the country and the state's energy
10 policy, and whether or not they adopt a carbon credit or
11 a energy renewable energy policy which would make some
12 of these crops a lot more valuable if utilities were
13 required to buy them to produce power and could pass
14 that on to their ratepayers. You guys, I'm sure, have
15 been involved in this situation on the energy policy.
16 But that makes a big difference about which crop we
17 would potentially do and how we would do it.

18 Also, the EPA currently has the -- what do you
19 call it? I lost my -- the nutrient, a numeric nutrient
20 restrictions on imposing how much phosphorus and
21 nitrogen can be in the discharge water from agriculture,
22 municipalities, or whatever. That potentially makes a
23 huge differences in agriculture as well as in
24 municipalities.

25 We think this is, you know, going to be a very

1 big negative for us, but it could also be an opportunity
2 if we were to be able to use our land as a way to
3 process and clean water for municipalities or other
4 agricultural interests. We have large land, where a
5 smaller farmer wouldn't be able to build a reservoir and
6 handle that on his property. So these things are all in
7 the mix now as to what is going to be the best strategy
8 and where the best opportunity is, and that is why it is
9 difficult to tell you exactly what we are going to do.
10 We are exploring all of these things at one time.

11 We are running test crops to see what will
12 grow where, what kind of yields they return, and we
13 don't know how fast the citrus will actually go down
14 itself. If it can be drug out for a few more years that
15 makes a big differences in how long you have cash flow.
16 So that's a long answer, but it's a complicated
17 situation.

18 **COMMISSIONER GRAHAM:** In your role as head of
19 Evans Properties, Evans Utilities, and Skyland
20 Utilities, do you see in the foreseeable future Evans
21 Properties coming forward with any land use change on
22 any piece of these properties?

23 **THE WITNESS:** I would presume we would
24 eventually, when we figure out which one of these things
25 is the best thing for us to do. There may be land use

1 changes required, but there also -- many of them can
2 probably be done with the land use that is in place
3 today.

4 **COMMISSIONER GRAHAM:** Well, your application
5 is basically based on current land use?

6 **THE WITNESS:** Yes. And we don't anticipate
7 that we have to change it for most of what we have got
8 in here.

9 **COMMISSIONER GRAHAM:** I mean, the whole reason
10 why we've got the comp plan amendment process is so you
11 guys can make those changes if you find it necessary.

12 One last question. Somebody asked earlier
13 about your consultant, Mr. Hartman, which one of the
14 three entities he worked for, and you said you kind of
15 work for all three of them. I guess the easy question I
16 had, and this is more curiosity than anything else,
17 which paycheck book did you write out of it?

18 **THE WITNESS:** Well, the paychecks are written
19 out of Evans Properties, Inc.

20 **COMMISSIONER GRAHAM:** Okay. That's all I had.
21 Thank you.

22 **COMMISSIONER SKOP:** Thank you.

23 Commissioner Brisé.

24 **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.

25 I have a couple of questions in terms of the

1 structure of the three separate entities. How many
2 employees does Evans Properties have?

3 **THE WITNESS:** Evans Properties has about 120
4 year-round employees, and employs up to 600 seasonal
5 employees during the harvest period.

6 **COMMISSIONER BRISÉ:** Okay. How about Evans
7 Utilities?

8 **THE WITNESS:** Evans Utilities, nor any of the
9 currently noncertificated utilities have any employees.

10 **COMMISSIONER BRISÉ:** Okay. Will Skyland at
11 some point, if it grows, have a separate and distinct
12 manager to then be able to act separately from the other
13 entities?

14 **THE WITNESS:** I would anticipate it would as
15 it grows. We would staff it appropriately for the size
16 and complexity of the operation.

17 **COMMISSIONER BRISÉ:** Okay. My final question.
18 So then I guess I can assume that Evans Properties and
19 Evans Utilities and Skyland LLC, the way they are
20 structured right now with the same executive across the
21 board is a result of circumstance rather than business
22 model?

23 **THE WITNESS:** Yes. Circumstance meaning when
24 you form a new company, I may stay as the chief
25 executive officer of all of them, even though we hire a

1 manager specifically to run the day-to-day operation.
2 But that doesn't change my answer to you about how the
3 company would be operated, or would it have additional
4 employees, or managers. Or it may have a combination of
5 employees and contract employees to operate these,
6 depending on how complex and just exactly what the
7 specifics of the operation turn out to be.

8 **COMMISSIONER BRISÉ:** One follow-up. That
9 takes me one step back. If, in essence, it was
10 circumstance that caused the three to be created to have
11 the same executive, and I'm going to back to a question
12 that was brought forth by the Office of Public Counsel,
13 that if I'm negotiating versus myself, then the
14 challenge is true negotiation, particularly when you get
15 to the point where you may have ratepayers at play.

16 So if Skyland grows, will there be an
17 opportunity for real negotiations between two entities
18 if you have the same individual who's the executive who
19 signs the lease as the lessee and signs the lease as the
20 lessor, and that's where I'm getting to.

21 **THE WITNESS:** I think that if you are looking
22 for protection of the ratepayer by Evans or one of those
23 entities imposing an unfair or abusive charge for some
24 service, we are only able to -- we own all of them, so
25 it's like playing with left hand and right hand. If we

1 can't get a rate through the Public Service Commission
2 that allows that entity to pay us the rate that we
3 decided to charge it for water, or for the tax rate, or
4 for whatever, the Commission's rate-setting ability is
5 the safeguard for the ratepayers. There's no reason to
6 charge something when it can't pay it.

7 **COMMISSIONER BRISE:** Follow up?

8 **COMMISSIONER SKOP:** Yes.

9 **COMMISSIONER BRISE:** So then from your
10 perspective, the current structure would be fine in
11 perpetuity?

12 **THE WITNESS:** Yes, it would.

13 **COMMISSIONER BRISE:** Okay.

14 **COMMISSIONER SKOP:** Thank you. Any additional
15 questions?

16 I have one, Mr. Edwards. I will try to make
17 this brief. If I could get you to refer to what has
18 been marked as Exhibit 42, which is Figure 3A, please.

19 **THE WITNESS:** Okay.

20 **COMMISSIONER SKOP:** And in response to some
21 questions that were presented to you, I believe, by Mr.
22 Rehwinkel -- actually, no, I think it was Mr. McAteer
23 regarding the citrus operations on some of those
24 parcels. I believe it was Parcel ID 8, and 5, and 2.
25 And you indicated that the citrus operations have since

1 been discontinued, in some instances over 20 years ago,
2 on those parcels, is that correct?

3 **THE WITNESS:** That is correct.

4 **COMMISSIONER SKOP:** Okay. In relation to the
5 parcels identified on Figure 3A, you indicated that the
6 company is currently looking at other agribusiness
7 opportunities for those parcels, is that correct?

8 **THE WITNESS:** That is correct.

9 **COMMISSIONER SKOP:** And I believe you
10 mentioned some of the examples that you gave was castor,
11 algae, sugarcane, other crops, pine trees?

12 **THE WITNESS:** For these particular areas here,
13 sugarcane would not be an option. I think castor or
14 eucalyptus are real options.

15 **COMMISSIONER SKOP:** Okay. And if those
16 properties are considered to be used, or investigated to
17 be used for agribusiness, would you agree that it would
18 not be necessary to create a utility to serve those
19 agribusiness operations to the extent that the cost
20 structure for a utility would likely be prohibitive and
21 the transaction costs in creating the entities would
22 factor into that?

23 **THE WITNESS:** If everything were to just be
24 planted and there was no processing requirement and we
25 did it all ourselves, that is a possibility that you

1 would not require a utility. However, we anticipate
2 that we may lease these lands in order to attract others
3 to help do the capital investment that it would take to
4 plant these other types of crops, or to plant crops of
5 conventional vegetable or whatever, and providing water
6 relative to the requirements of those entities, they may
7 need additional processing.

8 We may have multiple lessees that we would be
9 providing water to from the various wells or operations
10 that are in there. We would still, I believe, not be
11 able to sell water in that manner if we were not a
12 utility, even if we have multiple lessors. And we also
13 would -- they may have processing or packaging
14 requirements or they may have requirements that they
15 build housing for their employees for harvest, and all
16 of those things would require a utility, in order to
17 make sure that we could provide those services out in
18 that area where I don't believe anyone else is actually
19 going to, in order to attract them to be involved in
20 this.

21 Replanting many of these crops requires
22 special knowledge and a lot of capital to do it, and to
23 do it -- if you were to do it fast. So to spread our
24 risk, we may not try to do all of this ourself.

25 **COMMISSIONER SKOP:** Okay. With respect to the

1 agribusiness and the leasing of lands, would a utility
2 have to be formed, if you know, for somebody that has a
3 land lease to use the existing wells on the property for
4 irrigation?

5 **THE WITNESS:** Well, how the land gets leased
6 out may not include the well that is specifically where
7 the well is at on a given piece of property. We do not
8 know what the configuration of how we may lease this
9 land out, and the wells are not uniformly across the
10 entire thing, and how much water there is there to do
11 it, nor where processing facilities or housing
12 facilities may have to be built.

13 **COMMISSIONER SKOP:** Okay. And a couple of
14 follow-up questions in relation to exemptions related to
15 water use, and whether a utility would be required, and
16 I guess the statutory provision I'm looking at is
17 367.022, which are exemptions under the water and
18 wastewater systems chapter of the Florida Statutes.

19 With respect to the sale of bulk water, would
20 you agree that if you were selling bulk water to a
21 governmental entity, such as Hernando County or Pasco
22 County, that you would not need to have a utility to do
23 so according to exemption --

24 **THE WITNESS:** I'm not an expert in that area,
25 but I believe I do understand that. However, being a

1 utility is part of the reason that we would be able to
2 sell water like that. Not because we wouldn't be in a
3 position, we wouldn't have the facilities that we were
4 selling to others to have -- we wouldn't have that
5 sitting there being able to do it to Hernando. It is
6 not a jurisdictional requirement, but unless we were in
7 the utility business and serving the other aspects of
8 what a utility would require, you wouldn't be in a
9 position to consider that kind of thing. So it's --

10 **COMMISSIONER SKOP:** I just wanted to get your
11 opinion. And, again, I am looking at the exemption
12 under the statute for the sale of bulk water to
13 government utilities, and the exemption indicates that
14 it's not -- you're not subject to regulation by the
15 Commission as a utility, nor are they subject to
16 provisions of the chapter, so it would seem to me that,
17 you know, if it was the intent to sell bulk water and
18 you had a situation where you could, you know, either
19 choose to be regulated by the Commission or be exempt
20 from regulation and sell bulk to a governmental entity,
21 you know, there's pro and con, I think, with either
22 thing. But I was just trying to better understand the
23 reasoning behind the agribusiness arguments that were
24 being made, and there is exemption from manufacturers on
25 their operations in that section, too.

1 **THE WITNESS:** Only if I was the manufacturer,
2 not if somebody else was the manufacturer, some other
3 entity if I didn't own it.

4 **COMMISSIONER SKOP:** It says manufacturers
5 providing service solely in connection with their
6 operations, so I don't think it really gets that
7 specific. I don't know, but I'm not here to interpret
8 law, I'm just trying to ask some questions.

9 In a nutshell, is it more reasonable based on
10 3A to suggest that the more likely use of the parcels is
11 going to be residential development, is that the more
12 likely scenario?

13 **THE WITNESS:** Certainly some of the parcels
14 will be, and they will be done sooner than later, but
15 over time any of these parcels could be involved in
16 residential development.

17 **COMMISSIONER SKOP:** And just on 3A, is there a
18 reason for the parcels which are identified in 3A that
19 Skyland is seeking to certificate all the parcels
20 depicted there as opposed to just starting with, you
21 know, one or two and then seeking to expand their
22 certificate at a later point when development occurs?

23 **THE WITNESS:** We figured while we were going
24 after a certificate we should go ahead and put all of
25 the things that we thought were appropriate and had a

1 potential requirement of a certificated utility in there
2 at the same time.

3 **COMMISSIONER SKOP:** And you would agree that
4 the only reason that the Commission has jurisdiction in
5 this case is that the area sought to be certificated
6 crosses county lines or has multi-county --

7 **THE WITNESS:** Has multi-county, yes.

8 **COMMISSIONER SKOP:** Okay. And you testified
9 that you have had some discussions, I think, with Pasco
10 County about bulk water sales or some discussions to
11 reach a settlement, is that correct?

12 **THE WITNESS:** I had a discussion with Hernando
13 County, not Pasco.

14 **COMMISSIONER SKOP:** I'm sorry. Okay. And
15 from Skyland's perspective, is it reasonable to consider
16 the position of the intervenors that they may, you know,
17 take exception to the proposed certificate on the basis
18 that from a local perspective it seeks to divest them of
19 jurisdiction? Has Skyland considered that from their
20 perspective?

21 **THE WITNESS:** I understand that they have that
22 feeling about it. I don't believe that we are really
23 taking anything away from their operation. In many
24 cases I think we could help them.

25 **COMMISSIONER SKOP:** Okay. And then a last

1 question. The application for certificate, as I
2 understand, the Commission has jurisdiction because,
3 again, it across counties, but Skyland is proposing
4 construction of a system and proposes to provide water
5 or wastewater service to the public for consumption, is
6 that correct?

7 **THE WITNESS:** That's correct.

8 **COMMISSIONER SKOP:** Okay. And that's your
9 understanding that that would be consistent with the
10 statutory definition for a utility?

11 **THE WITNESS:** Yes.

12 **COMMISSIONER SKOP:** All right. I don't
13 believe I have any additional questions. Any other
14 questions from the bench? Okay. All right.

15 Mr. Wharton for redirect.

16 **MR. WHARTON:** May we take a five-minute break?

17 **COMMISSIONER SKOP:** We may. We will come back
18 at thirty after the hour.

19 (Recess.)

20 **COMMISSIONER SKOP:** All right. Where we were
21 at when we left off? Redirect. Okay. Mr. Wharton.

22 **REDIRECT EXAMINATION**

23 **BY MR. WHARTON:**

24 Q. Mr. Edwards, let me try to start with some of
25 the questions that you have just gotten from the bench.

1 Is it your understanding that Evans Properties
2 could, for instance, sell water to Orlando without a PSC
3 certificate?

4 A. Yes.

5 Q. Do you have any intention of doing -- of
6 selling water, say, to OUA or anyone at such a distance?

7 A. No.

8 Q. And, in fact, you have come in requesting that
9 the Commission regulate Skyland?

10 A. Yes, we have.

11 Q. Take a look -- do you have Exhibit 42 up
12 there?

13 A. Yes.

14 Q. Commissioner Skop asked you a question about
15 how the local jurisdictions might see this. You are
16 very familiar with this acreage, right?

17 A. Yes.

18 Q. Wouldn't you say that three-quarters or more
19 of this land is in Pasco County?

20 A. Yes.

21 Q. Do you know whether Pasco County is a county
22 that is already jurisdictional to the PSC?

23 A. Pasco, I believe, is jurisdictional with the
24 PSC.

25 Q. Okay. Commissioner Brisé asked you some

1 questions about the circumstances of the personnel.

2 Would Skyland retain the experts and the employees that
3 it needed to operate as and when needed if it gets the
4 certificate?

5 A. Absolutely. We're going to contract or employ
6 the best, as we believe we are doing right now in the
7 certification process, those that will have the skills
8 and the experience to manage and operate any utility
9 that we are involved with.

10 Q. Does Mr. Hartman have expertise in water and
11 wastewater matters?

12 A. He does indeed.

13 Q. Is that one of the reasons that you retained
14 him to assist you to this point?

15 A. It is. After looking at the different people
16 that are in it, Mr. Hartman's name came up many times as
17 being, representing some of the best utilities and large
18 landowners in similar situations all across the state,
19 and nationally, actually.

20 Q. Commissioner Graham asked you some questions
21 and you talked about the Environmental Protection
22 Agency's imposition of the numeric nutrient criteria.
23 Do you recall that?

24 A. Yes.

25 Q. Do you understand that that might require the

1 provision or might provide an opportunity for Skyland to
2 provide wastewater services?

3 **A.** We believe that it may well involve an
4 opportunity for us, and we're exploring how land can be
5 used along with algae and other naturally occurring
6 plants in a system that can run the water through there
7 and clean out the excess nitrogen and phosphorus, and
8 that could be a lot cheaper way to accomplish that than
9 building bricks and mortar, steel, the conventional
10 thought of what a wastewater processing plant is.

11 **Q.** Just to make sure the record is clear in that
12 regard, are you talking about a process that would
13 involve the provision of wastewater services to elements
14 of the public for compensation, but that wouldn't have a
15 traditional wastewater plant?

16 **A.** That's correct. You know, certainly it is
17 going to depend on exactly how these regulations come
18 out, but the projections that have been made as many of
19 the municipalities have gotten together to protest and
20 lodge their complaints with the EPA as well as there
21 have been estimates of agricultures impact of over
22 \$3 billion just in agriculture, and I believe that the
23 projections to meet the criteria that were originally
24 proposed, the municipalities in Florida would
25 potentially have to double the rates that they charge

1 for wastewater processing if it were done with
2 conventional processing capabilities.

3 So a way to accomplish that with land or
4 credits for having done it is something that I believe
5 is on the cutting edge and is coming. I serve on the
6 Commission for a Sustainable Florida, the Century
7 Commission, which has done quite a bit of study in the
8 area of water and energy over the last three or four
9 years that I have been on it, and I have really come to
10 believe that the water issue, whether it's alternative
11 water storage or cleaning of water, is going to be one
12 of the limiting factors in whatever happens in this
13 state over the next many years, and that we want to be
14 in a position to be able to properly manage
15 strategically the water and the land that we currently
16 own.

17 Q. In response to some of Commissioner Graham's
18 further questions, you gave a list of the activities
19 that Evans is currently investigating whether or not
20 they intend to engage in those activities. Do you
21 recall that?

22 A. Yes.

23 Q. Is it your understanding that some of those
24 activities might require the provision of either potable
25 water or wastewater service?

1 **A.** Many of them especially in the processing
2 area, if we are doing biodiesel processing or cellulosic
3 ethanol, which is the processing of some of these crops
4 into energy, they require a significant amount of water
5 and they have to be close to where the products are
6 grown because they are bulky and they cannot be shipped
7 long distances, so these processing facilities have to
8 be near where the product is grown.

9 **Q.** Does the potential exist that even for some of
10 the agricultural activities that you have talked about,
11 that there might be a need to house workers on the
12 properties who would require water and wastewater
13 services?

14 **A.** Absolutely. That's another one of the big
15 unknowns in the agricultural area today. Obviously
16 immigration policy is very much in the news and up in
17 the air about what is the immigration policy going to
18 be. There are currently 10 or 12 million illegal aliens
19 in the United States, many of which work in the
20 agricultural area. And if rules are changed and
21 something like the current H2A program that requires
22 that housing be provided, that transportation be
23 provided to and from the farm country that workers are
24 brought in from, it will be required almost of every
25 agricultural employer to find a way to provide the

1 housing for whatever labor he needs in order to harvest
2 the crops and do the other growing functions that must
3 occur.

4 Q. And as we sit here today, does the provision
5 of residential service as was talked about in the
6 application and in the testimony in this case continue
7 to be a part of that mix?

8 A. Absolutely. Residential is one of the many
9 things that we believe will be a part of what we do in
10 the future.

11 Q. Let's talk about a couple of things about
12 Exhibit 42. Put that in front of you, if you will.
13 First of all, let me ask you, there has been a lot of
14 questions of you and of other witnesses in this case
15 about whether the property is contiguous or not. Do you
16 recall those?

17 A. Yes.

18 Q. And you are fairly familiar with how the
19 acreage is distributed throughout the parcel as
20 displayed on Exhibit 42?

21 A. Yes.

22 Q. Would you say that approximately two-thirds of
23 the total acres here are, in fact, on a contiguous piece
24 of land, that being the large piece of land up in the
25 top right-hand corner of the map?

1 **A.** Certainly out of the roughly 43 or 4400 acres
2 here that that large parcel there is close to 2700 in
3 its own, by itself.

4 **Q.** Let me ask you something else. You were
5 personally asked questions about the utility service
6 being carved up or checker board, and I know you have
7 heard that phrase other times in this case, is that
8 correct?

9 **A.** Yes, I have.

10 **Q.** Take a look at Exhibit 42. Do you see the
11 pink indication up in the right hand corner that says
12 Hernando County Water and Sewer?

13 **A.** Yes, I do.

14 **Q.** And do you see the piece in the middle that
15 says Pasco County Utilities?

16 **A.** I do.

17 **Q.** Do you see the piece on the bottom that says
18 Dade City Utilities?

19 **A.** Yes.

20 **Q.** Do you consider that utility service to be
21 carved up or checkerboard as you have heard that phrase
22 used in this case?

23 **A.** It would very much seem to, and I know that
24 Pasco has, as Mr. Kennedy described, they have a couple
25 of remote locations in the Trilby area, and one other

1 one, so they have a checkerboard of service as well. It
2 is not a contiguous continuous -- and I suspect that
3 probably pretty much all the utilities are that way.

4 Q. And what is being shown here on Exhibit 42 is
5 actually the provision of service by three different
6 utilities, correct?

7 A. Yes.

8 Q. Okay. That is as depicted in the color pink?

9 A. Brooksville would probably be a fourth.

10 Q. All right. You were asked questions by Mr.
11 Rehwinkel about the transfer of the facility and whether
12 or not you could speak for what Evans might do in the
13 future. Do you recall that?

14 A. I do.

15 Q. Do you know whether transfer of a certificated
16 utility takes Commission approval?

17 A. I believe it does.

18 Q. Setting aside the intention of Evans with
19 regard to the property, with regard to Skyland, is there
20 any present intention to sell the utility after
21 certification?

22 A. There is not.

23 Q. Or to divest your ownership of it?

24 A. No.

25 Q. Or to transfer a part of it?

1 A. No.

2 Q. Or abandon part of it?

3 A. No.

4 Q. All right. You were asked several questions
5 about -- and I'm sorry, Commissioner Skop, this was
6 Exhibit 46, does that sound right?

7 **COMMISSIONER SKOP:** Yes, Exhibit 46.

8 **BY MR. WHARTON:**

9 Q. It was identified as Exhibit 46. It is
10 actually part, I think, of other documents that were put
11 out in this case. Let me ask you a couple of general
12 questions about that. First of all, did you cause --
13 well, you had attorneys and consultants working for you
14 in putting together this application, right?

15 A. Right.

16 Q. Do you know whether they came over to the
17 Commission and had a preapplication meeting with the
18 staff so that they could discuss the types of documents
19 that they could include in the application?

20 A. Yes, they did.

21 Q. Do you know whether in putting together the
22 lease and funding agreement, and I apologize, you may
23 have testified about this earlier, that your consultants
24 relied upon forms that had been received favorably at
25 the Commission in the past?

1 A. Yes, and I did testify to that.

2 Q. All right. You relied on your attorneys and
3 your consultants in putting together these documents, is
4 that right?

5 A. I did.

6 Q. Now, with regard to the lease, is Skyland
7 willing to execute the lease in a length that is
8 acceptable to the staff if, in fact, the utility is
9 certificated?

10 A. We are.

11 Q. Now, do the entities who have entered into
12 these two documents, the lease and funding agreement,
13 stand by their commitments?

14 A. They do.

15 Q. All right. And you said you didn't know
16 whether the funding agreement, because it was signed by
17 related parties was enforceable, do you recall that, in
18 a court of law?

19 A. Yes.

20 Q. Whether or not it is enforceable in a court of
21 law, does it embody the commitment of Evans Properties,
22 Evans Utility, and Skyland Utility as we sit here today?

23 A. Definitely.

24 Q. Well, we talked a bit about settlement, which
25 is a little unusual, but since we talked about it, let's

1 talk about it.

2 Did you cause individuals on your behalf to
3 initiate discussions about the possibility of settlement
4 since this trial broke and in between that date and
5 today with Pasco County?

6 A. Not with Pasco County, but with Hernando
7 County.

8 Q. Okay. Do you know if Brooksville was there?

9 A. Brooksville was there, as well.

10 Q. And did it result in an agreement?

11 A. It did not.

12 Q. But Evans Properties initiated those
13 discussions?

14 A. We did.

15 MR. KIRK: Mr. Chairman, Hernando wishes to
16 preserve its -- settlement discussions are inherently
17 confidential in nature. Hernando has no control over
18 this witness. If Mr. Wharton wishes to pursue, Hernando
19 does not wish to waive any of its rights to object to
20 confidentiality as to its witness.

21 MR. WHARTON: Well, first of all, I'm done.
22 Second of all, I notice that now there's a problem with
23 it. It was already discussed. I'm done anyway.

24 COMMISSIONER SKOP: All right. So if you are
25 done, it makes it moot.

1 **MR. WHARTON:** I'm done. I will move on.

2 **MR. McATEER:** Mr. Chairman.

3 **COMMISSIONER SKOP:** Yes.

4 **MR. McATEER:** Mr. Chairman, Darryl McAteer
5 for the City of Brooksvillle. I just want to note for
6 the record he is alluding to a meeting in which he
7 suggested a city employee was present. To my knowledge,
8 counsel for the city was not present at that meeting. I
9 would object, also object to the extent relevant to the
10 city of settlement discussions. I think we talked
11 around it, but we never got into the depth of it. I
12 think that is where the counsel for Hernando is coming
13 from is that there's talk -- was there some discussions,
14 yes. What were they, that's different. So I would
15 agree with counsel from Hernando, and I also want to
16 make that notation that it was kind of suggested that
17 the city was somehow playing both sides of the card and
18 we are not.

19 **COMMISSIONER SKOP:** The objection is noted for
20 the record. I believe Mr. Wharton has indicated that he
21 is going to withdraw the question and move on.

22 **BY MR. WHARTON:**

23 **Q.** Commissioner Skop had asked you some questions
24 about activities that under particular circumstances
25 might not be jurisdictional to the Commission, is that

1 right?

2 A. He did.

3 Q. Is it your belief, based on the discussions
4 that you have had with the district that you have talked
5 about and the types of activities that you have said
6 that the entities are weighing and exploring whether to
7 engage in, that if Skyland is up and running it might
8 engage in a mixture of activities which are
9 jurisdictional and nonjurisdictional?

10 A. That is my belief. That is probably the most
11 likely scenario that may come from having a certificate.

12 Q. And do you think that the creation of Skyland
13 such that it would be in a position to engage in those
14 activities is in the public interest?

15 A. Absolutely.

16 Q. You were asked what documents you reviewed in
17 the preparation for your rebuttal testimony. Do you
18 recall that?

19 A. Yes.

20 Q. Now, you didn't necessarily list every
21 document you've reviewed throughout the entirety of the
22 case in that response, did you?

23 A. No.

24 Q. For instance, have you read the application?

25 A. I have.

1 Q. And does it fairly represent the capabilities
2 and commitment of Evans Properties and Evans Utilities
3 and Skyland Utilities?

4 A. Yes, I believe it does.

5 Q. Now, you represent Evans Properties, correct?

6 A. Yes.

7 Q. And you represent Skyland Utilities?

8 A. Yes.

9 Q. And you represent Evans Utilities?

10 A. Yes.

11 Q. And you are authorized to speak for all three,
12 correct?

13 A. I am.

14 Q. Now, based on your authority, and the fact
15 that -- well, first of all, have you heard all of
16 Mr. Hartman's testimony?

17 A. I have.

18 Q. Is Mr. Hartman also authorized to speak on
19 behalf of those entities for the purpose of this
20 proceeding?

21 A. He is.

22 Q. Based on the fact that you heard Mr. Hartman's
23 testimony and your authority with regard to those three
24 entities, do you affirm his testimony or do you have any
25 problems or concerns with it?

1 **A.** I would affirm his testimony.

2 **Q.** Now, there has been -- there were some
3 questions asked of you of whether or not any of the
4 contaminated wells that we have heard so much about in
5 this case were actually located in the certificated
6 territory, do you recall that?

7 **A.** Yes.

8 **Q.** Would Skyland be willing to work with a local
9 government and/or landowners to assist in a solution to
10 the contaminated well problem?

11 **A.** Yes, we would. If we become certificated we
12 would very much do that.

13 **MR. WHARTON:** I'm trying, Mr. Skop, to
14 eliminate some.

15 **BY MR. WHARTON:**

16 **Q.** Is it the intention of Evans Properties to
17 continue to explore all the potential uses for the
18 properties in addition to the residential uses that are
19 mentioned in the application?

20 **A.** Yes, indeed.

21 **Q.** When was the last time that you had an
22 intergovernmental meeting with regard to the type of
23 activities that you might be willing to engage in?

24 **A.** As I mentioned earlier, we had a meeting
25 yesterday in St. Lucie County. It was not regarding

1 these particular properties, but it is similar type
2 things where we were engaged with both the South Florida
3 Water Management District and the St. Johns Water
4 Management District where they understood the proposal
5 that we were making to basically build a reservoir that
6 is on their planning horizon, but they are currently
7 unable to fund because of their commitments to the sugar
8 purchases in South Florida and other commitments that
9 they have in the current recession and the other
10 utilities that are in that area that may have
11 requirements for alternative water sources in the
12 future.

13 Q. Do you recall when the last time a similar
14 such meeting took place before we had the first part of
15 this hearing down in Brooksville?

16 A. We met with the Southwest Florida Water
17 Management District the day before we had the first
18 hearing on this in Brooksville. I guess that must have
19 been July the 6th if we met on the 7th. We met with a
20 number of the top executives in the water management
21 district and told them of our efforts to certificate
22 these properties in this area and our willingness to
23 cooperate with them in trying to do some of the same
24 things that we were talking to South Florida and St.
25 Johns if they fit their particular objectives, and if

1 these properties up here were able to serve in that type
2 of a situation. And they were very receptive, and we
3 agreed to set up some additional meetings to explore how
4 this might fit specifically with their plans and
5 objectives in the future.

6 **MR. HOLLIMON:** Mr. Chairman, excuse me. May I
7 be recognized for a question?

8 **COMMISSIONER SKOP:** You may.

9 **MR. HOLLIMON:** I don't want to make an
10 objection if it's not kind of appropriate in the
11 practice here, so I am just -- my question is what is
12 the scope of redirect?

13 **COMMISSIONER SKOP:** Typically it allows them
14 to address matters that have been brought up on cross
15 examination. So if the matter has been raised or the
16 door has been opened by some of the questions either of
17 the intervening parties, staff, or from the bench, they
18 are typically afforded latitude to address those
19 questions.

20 **MR. HOLLIMON:** Thank you.

21 **BY MR. WHARTON:**

22 **Q.** You were asked about the use of the
23 application of the allowed residential densities, do you
24 recall that?

25 **A.** Yes.

1 **Q.** Is it fair to say that the application
2 proposed the allowed residential densities because that
3 was the most quantifiable of the needs for the utility?

4 **A.** Yes, and that's exactly why it was used. And
5 it is the norm that the Public Service Commission
6 usually reviews in a certification process.

7 **Q.** Will Evans avail itself of the processes that
8 are in place to increase densities on the property if it
9 decides that market conditions and other considerations
10 are favorable?

11 **A.** If we thought it was something that could be
12 done, and that the local comprehensive plan could be
13 amended to accomplish that and was supported by DCA and
14 there was a market for it, we would consider it.

15 **MR. WHARTON:** If you will just give me one
16 moment. (Pause.) That's all we have. Thank you.

17 **COMMISSIONER SKOP:** At this point we will take
18 up exhibits, and I believe you have Exhibit 40.

19 **MR. WHARTON:** I will move the exhibit.

20 **COMMISSIONER SKOP:** Any objection to entering
21 Exhibit 40 into the record? Hearing none, show Exhibit
22 40 entered.

23 (Exhibit Number 40 admitted into the record.)

24 **COMMISSIONER SKOP:** And, Mr. Rehwinkel, is it
25 correct to understand that you will not seek to move

1 Exhibit 46?

2 **MR. REHWINKEL:** Yes, Mr. Chairman, just as
3 long as it is recognized that all I did was copy this
4 document out of the application. As long as there is no
5 objections to citation of what's in Exhibit 46 as if it
6 is contained in the application itself.

7 **MR. WHARTON:** I would not objection to its
8 admission just so that there is no confusion. So,
9 either way.

10 **MR. REHWINKEL:** Okay. I will move it then.

11 **COMMISSIONER SKOP:** Any objection? Hearing
12 none, show it entered.

13 (Exhibit Number 46 admitted into the record.)

14 **MR. REHWINKEL:** Thank you, Mr. Wharton.

15 **COMMISSIONER SKOP:** Thank you. Mr. Edwards,
16 you are free to step down. And what we are going to do
17 for planning purposes is take a brief five-minute break
18 and then we will go with surrebuttal.

19 **MR. WHARTON:** And I do have one other matter
20 before we rest.

21 **COMMISSIONER SKOP:** Okay. Go ahead, you're
22 recognized.

23 **MR. WHARTON:** You want me to go ahead?

24 **COMMISSIONER SKOP:** Yes.

25 **MR. WHARTON:** Okay. We might as well get to

1 this. I would like to have the small version of the map
2 of the contaminated wells marked for identification and
3 then I will argue for its admission.

4 **COMMISSIONER SKOP:** Okay. Which is that? Is
5 that the one that was handed out this morning?

6 **MR. WHARTON:** It is the one marked draft.

7 **COMMISSIONER SKOP:** Draft. Okay. Why don't
8 we give that Exhibit Number 47, and that is the small
9 version, or a short title would be the figure marked
10 draft. Okay. Help me out here.

11 **MR. WHARTON:** And I hate to make an argument
12 that I say up front that I don't care if you overrule my
13 argument or not, but there has been a lot of reference
14 to this map, and I think it's going to be a little
15 confusing on the record without it. And we certainly
16 would have no objection if it doesn't come in for the
17 truth of the matter asserted with regard to anything
18 that hasn't come out of a witness's mouth. In other
19 words, we won't argue later that this particular well up
20 here, if nobody has testified to that. I just think it
21 is going to be difficult, because there has been a lot
22 of discussion and a lot of questions about it.

23 **COMMISSIONER SKOP:** If you could be so kind as
24 to give me a short title, and then we will deal with
25 the --

1 **MR. WHARTON:** Figure 3A with contaminated
2 wells.

3 (Exhibit 47 marked for identification.)

4 **COMMISSIONER SKOP:** Okay. And do you intend
5 to move that into the record at this time?

6 **MR. WHARTON:** We would so move.

7 **COMMISSIONER SKOP:** Okay. Is there
8 objections?

9 **MR. KIRK:** Hernando would like, perhaps as a
10 middle ground, because Mr. Hartman testified that he
11 took a document that he had -- the maps that his company
12 has prepared, he had taken some data that he had
13 obtained and attempted to overlay it. So if the
14 understanding is that this is kind of an approximation
15 of where some of the wells that had been identified by
16 FDEP is, but it may not be exactly accurate, we would
17 stipulate to its admission.

18 **COMMISSIONER SKOP:** Okay. And I have a --
19 before we get to the next objection, Mr. Wharton, on
20 short title, taking that into account, would you be
21 comfortable with the short title for the Exhibit Figure
22 3A Showing the Approximate Location of Contaminated
23 Wells?

24 **MR. WHARTON:** I would not have a problem.

25 **COMMISSIONER SKOP:** All right.

1 **MR. WHARTON:** I mean, I think the testimony
2 still speaks for itself, but as to the exhibit, no.

3 **COMMISSIONER SKOP:** All right. So the exhibit
4 still has the same title. Any other objections?

5 **MR. McATEER:** Yes. The City of Brooksville
6 would object to this, and I'd like to note that this is
7 what I was concerned about when I objected to this
8 exhibit in Brooksville, to it constantly being referred
9 to. And I renewed my objection today; the objection was
10 overruled. But this is what I was afraid of; they
11 figured that if they used it enough they would
12 eventually get it in, and that is exactly what they did.

13 No predicate has been properly laid. The
14 individuals at DEP from which this data purportedly
15 originated could have been called as witnesses. There
16 are some folks in Tallahassee right now, or wherever
17 these folks are, whichever DEP office they are working
18 in, they could have been called as witnesses in this
19 proceeding. They never were. That criticism has been
20 laid on Brooksville for not calling witnesses, I am
21 laying that criticism on Skyland.

22 There should have been DEP folks here about
23 those wells. They didn't bring them, and they should
24 not be allowed in. They just shouldn't be. I've been
25 saying that -- this is my third time at bat, and maybe

1 third strike I'm out, but this is the third time now
2 I've been saying this is going to happen. They'll keep
3 using it and using it and they'll say, okay, it should
4 come in now because we have talked about it so much, and
5 that shouldn't be the case.

6 **COMMISSIONER SKOP:** Any other objections, Mr.
7 Rehwinkel?

8 **MR. REHWINKEL:** No.

9 **MR. WHARTON:** Briefly, Commissioner Skop.

10 **COMMISSIONER SKOP:** Briefly.

11 **MR. WHARTON:** If I may, I will say for the
12 record and in all candor, I think the biggest problem
13 with the exhibit is that it wasn't prefiled. It was
14 brought to the prehearing conference, it was what was
15 required for demonstratives. To my mind the foundation
16 has been laid if it was not for the requirement of the
17 prefiling, so the question whether anyone is prejudiced
18 by that, it is the kind of information that experts
19 normally rely upon under the evidence rules which have a
20 residual effect in this proceeding in matters like this
21 without the production of the underlying data.

22 **COMMISSIONER SKOP:** My ruling is going to be
23 the objection is going to be sustained. The basis for
24 denying entering what has been marked for identification
25 as Exhibit 47 into the record is that the presiding

1 officer previously ruled that the figure in question
2 would be used for demonstrative purposes only, and now
3 we are trying to move it in. And there is a question as
4 to the accuracy of the data on that figure, which is why
5 it was not previously admitted. So Exhibit 47 will not
6 be entered into the record.

7 **MR. WHARTON:** Thank you.

8 **COMMISSIONER SKOP:** Any other matters before
9 we take a brief five-minute break?

10 **MR. MCATEER:** Yes, Mr. Chairman. The City of
11 Brooksville does not anticipate as to the rest of the
12 witnesses having any unfriendly cross, and so I don't
13 plan on continuing -- unless there is an objection from
14 the panel or counsel, in which case I would stay, I will
15 get off the City of Brooksville's dime and leave unless
16 there is an objection, because I have no -- I would have
17 no cross-examination for these witnesses.

18 I am aware of the requirements in the agenda.
19 I have stated all the points I wish to raise and for the
20 record, and I know the deadlines which are stated in the
21 agenda. I am aware of them. I have a copy of it. And
22 if the panel or counsel has any questions of me, I would
23 be happy to quickly take them. Otherwise, I really
24 don't have anything else to add to the proceeding this
25 evening.

1 **COMMISSIONER SKOP:** Okay. Staff, do you see
2 any reason why Mr. McAteer should not be able to be
3 excused, noting that he is still responsible for any
4 controlling dates?

5 **MS. KLANCKE:** We do not.

6 **COMMISSIONER SKOP:** Okay. Mr. McAteer, your
7 request is granted. You may be excused.

8 **MR. McATEER:** Thank you, sir.

9 **MR. WHARTON:** We'll stipulate to all of them
10 leaving.

11 (Laughter.)

12 **COMMISSIONER SKOP:** I don't think we are going
13 to get that lucky. Hope springs eternal. All right.
14 Commissioners, we are going to take a five-minute break
15 and we will return at ten after the hour.

16 (Recess.)

17 **COMMISSIONER SKOP:** Okay. At this point we
18 will go back on the record, and that brings us to
19 surrebuttal testimony. And our next witness, if I can
20 find my sheet, will be Mr. Stapf. So, Hernando, you are
21 recognized to call your witness.

22 **JOSEPH STAPF**

23 was called as a surrebuttal witness on behalf of
24 Hernando, and having been duly sworn, testified as
25 follows:

DIRECT EXAMINATION**BY MR. KIRK:**

Q. Please state your name for the record.

A. My name is Joseph Stapf.

Q. And where are you employed?

A. I'm employed by Hernando County.

Q. And what is your title?

A. My title is Utilities Director.

Q. Did you file or prepare surrebuttal in this matter?

A. Yes, I did.

Q. And have you read it today?

A. Yes, I have.

Q. And is there any changes to it?

A. No, sir.

Q. And it accurately reflects your opinions?

A. Yes, it does.

MR. KIRK: Hernando is prepared to waive -- in the interest of time, Hernando is prepared to waive summary and ask that the surrebuttal testimony of Mr. Joseph Stapf be admitted into evidence as if read in its entirety, and we tender the witness.

COMMISSIONER SKOP: Very well. The witness summary is waived. The surrebuttal testimony of Witness Stapf will be entered into the record as though read,

1 and tendered for cross-examination.
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SURREBUTTAL TESTIMONY OF JOSEPH STAPF

1 Q. Please state your name.

2 A. Joseph Stapf

3 Q. Have you been given an oath and is your testimony herein sworn?

4 A. I took an oath and all of my testimony herein is sworn.

5 Q. Where are you currently employed?

6 A. Hernando County Utilities Department.

7 Q. What is your employment address?

8 A. Hernando County Utilities Department, 21030 Cortez Blvd., Brooksville, FL 34601
9 Government Center.

10 Q. What is your present position?

11 A. I am the Utilities Director, Hernando County Utilities Department.

12 Q. Did you previously gave Direct Testimony in this matter?

13 A. Yes.

14 Q. In your Direct Testimony, did you summarize your duties as Utilities Director and
15 professional qualifications?

16 A. Yes.

17 Q. For what entities are you providing Surrebuttal Testimony?

18 A. I am providing Surrebuttal Testimony in connection with the petitions filed by Hernando
19 County, Hernando County Water and Sewer District and Hernando County Utility Regulatory
20 Authority in this matter.

21 Q. Have you read the Rebuttal Testimony of Gerald C. Hartman filed in this matter?

22 A. Yes, I have read Gerald Hartman's Rebuttal Testimony.

23 Q First, generally, Gerald Hartman refers to your Direct Testimony in several places within
24 his Rebuttal Testimony, specifically on Pages 20 - 28, do you agree with his representations
25 regarding your Direct Testimony?

SURREBUTTAL TESTIMONY OF JOSEPH STAFF

1 A. No, I do not agree. He has misrepresented or mis-characterized my Direct Testimony
2 and I rebut all of his representations regarding my Direct Testimony.

3 Q. Is any of Gerald Hartman's representations regarding your testimony accurate?

4 A. No.

5 Q. Referring to Gerald Hartman's Rebuttal Testimony, on Page 5, Line 17 thru Page 12,
6 Line 19, he discusses whether the FPSC certification of Skyland Utilities, LLC (Skyland) is in
7 the "public interest." Based upon his Testimony, have you changed any of your positions
8 regarding whether the granting of the requested certificates is in the public interest?

9 A. In my professional opinion and as the County's Utility Director, my position has
10 remained the same. Skyland's request for water and wastewater certificates from the Florida
11 Public Service Commission (FPSC) should not be granted and is NOT in the public interest.

12 Q. On Page 10, beginning of Line 3, of Mr. Hartman's Rebuttal Testimony, he stated that
13 Hernando County has "allowed for the pollution of groundwater through the inducement of
14 saltwater intrusion." Are you aware of any issues related to groundwater intrusion in the area
15 that Skyland is proposing to have certificated?

16 A. No. The area that Skyland is proposing to have certificated is in Southeastern Hernando
17 County and which is not even close to Hernando's coast line or to any saltwater bodies. In this
18 regard, the issue of "saltwater intrusion" is not applicable to the property that is the subject of
19 Skyland's Application nor am I aware of any problems with saltwater being part of the water
20 supply in the subject area.

21 Q. Referring to Gerald Hartman's Rebuttal Testimony, on Page 10, Line 18 thru Page 11,
22 Line 2, he discusses the policy of the State and the Water Management Districts of encouraging
23 the use of water from "local sources first" and that this policy would be promoted if the FPSC
24 granted the requested water and wastewater certificates to Skyland. Do you agree with that
25 assertion?

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1 A. Absolutely not!

2 Q. Why not?

3 A. Mr. Hartman states in his Rebuttal Testimony that: "It is Skyland's intention to seek
4 [consumptive use permits] when the FPSC has granted water utility certifications." (Rebuttal
5 Testimony of Gerald C. Hartman, Page 40, Lines 15 thru 18). Mr. Hartman goes on to state that
6 "Two of the three Evans [water] permits located in Hernando County are within the Weeki
7 Wachee spring shed area as noted on Exhibit PMW-2. Additional groundwater quantities are
8 currently not constrained in this area." (Rebuttal Testimony of Gerald C. Hartman, Page 40,
9 Lines 15 thru 18). Mr. Hartman concludes his Rebuttal Testimony in this area and states: "I
10 agree with Mr. Williams that neither Skyland nor Evans have requested a new, increased, or
11 transferred water use permit at this time. Skyland and Evans will make the appropriate filing
12 necessary to secure water supply for the proposed service area upon FPSC certification."

13 The Direct Testimony of Paul Williams and the Deposition Transcript of Gerald
14 Hartman, both of which I have read, clearly indicate that Skyland can easily satisfy their needs to
15 provide service to the residences Skyland proposes to serve and Skyland can stay within Evans
16 Properties' existing agricultural water use permits from the Southwest Florida Water
17 Management District (SWFWMD). (Deposition of Gerald Hartman, Page 56, Line 24 thru Page
18 59. Line 9; Direct Testimony of Paul Williams, Page 3, Line 20 thru Page 4, Line 15).

19 Accordingly, the only conclusion I can reach for Skyland wanting additional water use
20 permits from SWFWMD is that Skyland intends to bank water rights and/or sell water in bulk
21 outside of Hernando County. The sale of bulk water was expressly mentioned as a proposed use
22 in Skyland's Application (Application, Exhibit A, ¶ 1). This was also confirmed by Ron
23 Edwards, the principal of Skyland Utilities, LLC (Rebuttal Testimony of Ronald Edwards, Page
24 5, Lines 10 thru 14). In either scenario – the banking of water rights or the sale of bulk water by
25 Skyland – should Hernando County need consumptive use permits to draw water in the area

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1 being proposed by Skyland and such water supply has already been committed by SWFWMD to
2 Skyland, then Hernando would have to look elsewhere for its water supply and possibly to more
3 expensive water from alternative sources. If Hernando had to buy more expensive water
4 because Skyland is banking water rights and/or exporting this water supply source for bulk sale
5 or bottling, then this would clearly be against the public interest of Hernando County and the
6 residents and businesses within Hernando County. Moreover, any export of water by Skyland
7 would violate – not promote – the water supply policy of “local sources first.”

8 Finally, such additional consumptive use of the water supply in this area could put
9 Hernando County at risk of meeting the “minimum flow” regulations of the SWFWMD and,
10 again, this would be contrary to the public interest of Hernando County and its residents and
11 local businesses.

12 Q. Referring to Gerald Hartman’s Rebuttal Testimony, on Page 11, Lines 6 thru 17, he
13 asserts that “no other entity but Skyland can as efficiently and effectively serve the customers
14 requiring service within the proposed certificated area.” Do you agree?

15 A. No, I strongly disagree with his assertion. As I stated in my Direct Testimony and
16 Deposition, Hernando County can serve this area. I further stated that neither Skyland, nor
17 Evans Properties, Inc., have ever approached Hernando County Utilities to serve this area and to
18 which Mr. Hartman freely admitted in his Rebuttal Testimony. (Rebuttal Testimony of Gerald
19 Hartman, Page 21, Lines 2 thru 3). Further, in my Direct Testimony and Deposition, I offered
20 my professional opinions regarding economies of scale, efficiency and effectiveness.

21 Q. Referring to the “first” point raised by Gerald Hartman in his Rebuttal Testimony on
22 Page 11, Line 20 thru Page 12, Line 19, he discusses Skyland’s ability to provide service and
23 also discusses Hernando County’s “service area.” Do you agree with any of this discussion?

24 A. No. Hernando County can equally, and more efficiently, provide the same service
25 proposed by Skyland. Moreover, as I have previously testified, the area that Skyland is

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1 proposing to serve is currently within Hernando's service area and, therefore, Skyland is
2 proposing to offer service within the previously established service area of Hernando and which
3 will be duplicative.

4 Q. Referring to the "second" point raised by Gerald Hartman's in his Rebuttal Testimony on
5 Page 12, Line 20 thru Page 14, Line 12, do you agree with any of these statements.

6 A. No, I do not agree with any of his statements as to his third point. Mr. Hartman's
7 reference to the approximately 200 potable wells that the Florida Department of Environmental
8 Resources identified as potentially contaminated is not accurate. These wells are scattered over
9 a extremely large area covering several square miles and none of these well are within any of the
10 properties that Skyland is seeking to have certificated for central water service. Moreover, the
11 majority of these wells are more than a mile from any of the properties in the proposed territory
12 that Skyland is seeking to have certificated.

13 Furthermore, Hernando County did in fact initiate a process to bring central water service
14 to an area identified by the Florida Department of Environmental Protection. Once staff had
15 made a preliminary proposal for service, this matter was set for public hearing before the
16 Hernando County Board of County Commissioners, was advertised, and received coverage by
17 the local media. However, when this matter was actually presented to the Board of County
18 Commissioners the advertised public hearing, there was NO public support. Consequently, the
19 Board of County Commissioners tabled this matter pending a demonstration of future demand.
20 Accordingly, Hernando County did not pursue providing centralized water service to this area
21 because there was absolutely no demand or outcry from the residents of the properties which
22 purportedly had said contaminated wells. Further, the preliminary costs to provide centralized
23 water to this area was well over ten million dollars.

24 Q. In the "third" point raised in Gerald Hartman's Rebuttal Testimony, on Page 14, Line 13
25 thru Page 15, Line 12, Mr. Hartman proceeds to list the twenty items the FPSC requires in

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1 connection with a new application. Mr. Harman then makes the presumptive statement that
2 "there is only one issue fully in dispute and one that is partially in dispute by the intervenors."
3 Do you agree with that statement.

4 A. Absolutely not! Hernando County has raised several issues of dispute including raising
5 deficiencies in Skyland's Application and Skyland's failure to meet key statutory requirements
6 such as demonstrating need for service, avoidance of an existing utility's service area,
7 duplication of existing service and being in the public interest. Further, Mr. Hartman's assertion
8 that Hernando has only one or two issues in dispute is simply not true and which I rebut.

9 Q. Beginning on Page 20, Line 14 thru Page 28, Line 4 of Gerald Hartman's Rebuttal
10 Testimony, Mr. Hartman attempts to rebut your Direct Testimony. Do you agree with any of the
11 statements or assertions made by Mr. Hartman in these eight pages?

12 A. No. Mr. Hartman misrepresents and/or mis-characterizes my prior testimony throughout
13 this portion of his Rebuttal Testimony and, therefore, I deny and rebut his rebuttal. For the
14 reasons stated in my prior Direct Testimony and Deposition, Skyland has not demonstrated a
15 need or demand for centralized water and wastewater service, the granting of the requested
16 certificated territory would infringe upon Hernando County's existing service area and would be
17 duplicative, and the granting of the requested certificates would not be in the public interest for
18 the many reasons I previously testified to.

19 Q. Can you give any specific examples of where Mr. Hartman has misrepresented or mis-
20 characterized your Direct Testimony or where he is inaccurate?

21 A. Specifically, referring to Gerald Hartman's Rebuttal Testimony, on Page 21, Lines 5 thru
22 7, he states that "it would not be possible for the Hernando County Utility Department to provide
23 service." Skyland cannot speak for our Utility Department, especially since neither Skyland,
24 Evans Properties, Inc., or their representatives ever asked us, and, Mr. Hartman even admits the
25 fact that Skyland never made any such request. (Rebuttal Testimony of Gerald Hartman, Page

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21, Lines 2 thru 3). Accordingly, Skyland's statement to this effect is untrue and misleading. On Page 22, Lines 3 thru 5, Mr. Hartman suggests that the use of a small utility systems is "common practice." This statement standing alone is misleading because small utility systems only exist where there are no reasonable or practical alternatives and no other solutions available. Here, there are other solutions to providing service to the subject property besides what is being proposed by Skyland. On Page 23, Lines 2 thru 5, of Mr. Hartman's Rebuttal Testimony, he is making a statement to which he has no knowledge. As I have previously stated, since neither Skyland, Evans Properties, Inc. or their representatives ever asked us what Hernando County Utilities Department could or could not do, to assert otherwise is false and misleading. On Page 23, Line 1 thru 3 of Mr. Hartman's Rebuttal Testimony, he indicated that there has been "several requests from Evans Properties to Skyland." However, the Application and Mr. Hartman, both in his Direct Testimony and Deposition, indicate that there have only been two requests for service which have been made: one request for service was signed by the President of Evans Properties, Inc. and the other request for service was signed by the Vice-President of Evans Properties, Inc. Thus, I do not know how two can become "several." On Page 26, Lines 18 thru 20 of Mr. Hartman's Rebuttal Testimony, he indicated that the County's 2004 Bond Issue did not contemplate Skyland's proposed service area. However, Mr. Hartman has no actual knowledge if the County is currently, or will be considering, future bonds and/or other debt instruments which would pledge future revenue from within the County's utilities service area including the land that Skyland is proposing for certification by the FPSC. The foregoing being a few examples of where Mr. Hartman has mis-characterized or misstated my prior testimony.

Q. Have you read the Rebuttal Testimony of Ron Edwards filed in this matter?

A. Yes, I have read Ron Edward's Rebuttal Testimony.

Q. Referring to Ron Edward's Rebuttal Testimony, on Page7, Lines 9 thru 19, Mr. Edwards states that Skyland "is in the best position to provide certificated water and wastewater services

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1 throughout the proposed certificated service territory in the most efficient and effective manner,
2 and that no other entities can meet the needs for such services in the area, given the economies of
3 scale achieved by having one utility serve all of these areas in two counties” Do you agree
4 with any of these statements?

5 A. I strongly disagree with all of these statements and rebut same. First, neither Skyland,
6 Evans Properties, Inc., or their representatives ever requested such service from the Hernando
7 County Utilities Department and Skyland even freely admits it never made any such request.
8 (Rebuttal Testimony of Gerald Hartman, Page 21, Lines 2 thru 3). Consequently, since Skyland
9 has never asked the question to Hernando County, it is impossible for them to know what
10 Hernando County can or cannot do. Thus, to suggest otherwise and boldly represent that no
11 other entity can meet the needs is a false and misleading statement. Second, as discussed in my
12 Direct Testimony and Deposition, it is my professional opinion that Skyland cannot achieve
13 economies of scale with the few homes they proposed to serve. Third, to suggest that no one
14 entity other than Skyland can serve properties in both Hernando and Pasco Counties is again
15 untrue. It is possible for either Hernando or Pasco County to provide central water or wastewater
16 service in the other county by entering into an interlocal agreement to that effect. In this regard,
17 Mr. Edwards ignores that possibility in his Rebuttal Testimony. Accordingly, I disagree that
18 Skyland can or will be the most effective or efficient provider of central water or wastewater
19 service to single family homes on ten acre lots. On the other hand, if Skyland’s true goal is to
20 bank water rights and/or sell bulk water, then this would be contrary to the stated intentions set
21 forth in Skyland’s Application and would implicate serious “public interest” concerns for
22 Hernando County and its citizens as I have previously discussed in my Surrebuttal Testimony.

23 Q. Referring to Ron Edward’s Rebuttal Testimony, on Page8, Lines 12 thru 13, Mr.
24 Edwards states that Hernando County’s proposal to provide central water service to the general
25 area where Skyland is seeking to have certificated “is on the back burner.” Do you have any

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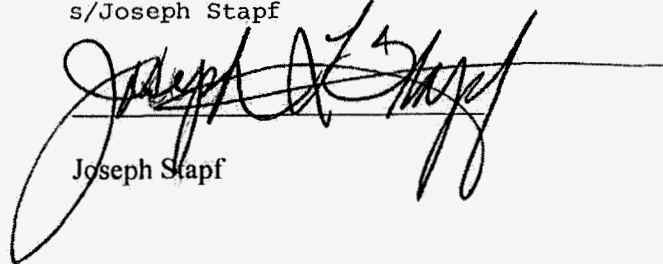
1 opinion about this statement.

2 A. First, I cannot interpret what he means in his statement "is on the back burner." Since
3 he, nor any representative on his companies, has contacted Hernando County Utilities
4 Department about serving his properties or this general area, therefore, he has no idea of what
5 Hernando County's plans are. Moreover, as I stated in my Direct Testimony and Deposition,
6 Hernando County can and will provide service to this area when demand for such service exists.

7 **End of Testimony**

8 Dated this 2nd day of July, 2010

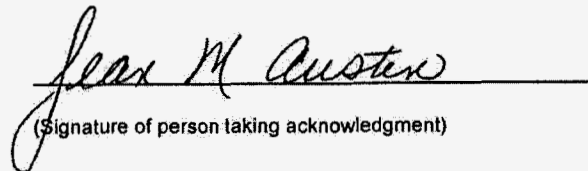
9 s/Joseph Stapf

10 
11 Joseph Stapf

12 STATE OF FLORIDA

13 COUNTY OF HERNANDO

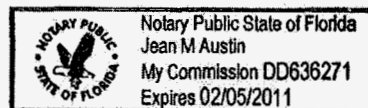
14 The foregoing instrument was sworn to and acknowledged before me this 2nd day of July, 2010, by
15 Joseph Stapf, who is personally known, and who took an oath..

16 
17 (Signature of person taking acknowledgment)

18
19 (Name typed, printed or stamped)

20
21 (Title or rank)

22 (Serial number, if any)



1 **COMMISSIONER SKOP:** So I believe there is no
2 friendly cross from Pasco or Brooksville, which we don't
3 allow. No questions from OPC. So that would be
4 Skyland.

5 Mr. Wharton, you're recognized.

6 **CROSS EXAMINATION**

7 **BY MR. WHARTON:**

8 **Q.** Good evening, Mr. Stapf.

9 **A.** Good evening.

10 **Q.** Have you reviewed your deposition and your
11 direct testimony and the cross-examination which
12 occurred at that time --

13 **A.** Yes.

14 **Q.** -- prior to your testimony here today?

15 **A.** Yes, I have.

16 **Q.** All right. Now, you state at Page 3 of your
17 surrebuttal that Skyland intends to bank water rights
18 and/or sell water in bulk outside Hernando County, is
19 that right?

20 **A.** I stated in there that was my conclusion, yes,
21 sir.

22 **Q.** And you discuss this within the context of the
23 concept local sources first, correct?

24 **A.** Among other things, yes.

25 **Q.** Now, isn't it true that Skyland wouldn't be

1 able to bank water, as you call it, unless the permits
2 which allowed it to do so were issued by the Southwest
3 Florida Water Management District?

4 **A.** That's possible. However, I believe that it
5 is to their advantage to be recognized as a utility to
6 do so.

7 **Q.** But you agree that in order to withdraw ground
8 water to bank water, as you have described it, would
9 take a permit from SWFWMD?

10 **A.** Yes, it would.

11 **Q.** And those permits would have to be applied
12 for, correct?

13 **A.** Yes, they would.

14 **Q.** And the permits would have to be approved by
15 the board after an evaluation by district staff,
16 correct?

17 **A.** Yes.

18 **Q.** And there's an administrative process in place
19 for substantially affected persons to challenge those
20 permits, isn't there?

21 **A.** I'm very well aware of the permitting process
22 through SWFWMD.

23 **Q.** So that's the process that Skyland would have
24 to go through before that happened, correct?

25 **A.** Yes. It is very laborious and very arduous.

1 **Q.** Now, isn't it true no such permits have been
2 filed as we sit here today?

3 **A.** Not to my knowledge.

4 **Q.** And isn't it true that you are not aware of
5 any specific quantifiable intention on the part of Evans
6 Properties, Evans Utilities, or Skyland Utilities to
7 file for such permits as we sit here today?

8 **A.** I am not aware of any quantity, no, sir. I
9 believe that was your question.

10 **Q.** Well, no, I said are you aware of quantifiable
11 intention on the part of those entities?

12 **A.** Oh, I'm sorry. I misheard you. No, I'm not
13 aware of that.

14 **Q.** Thanks, sir. Now, you talk at the bottom of
15 Page 3 about how consumptive use permits which have been
16 granted -- which might theoretically have been granted
17 to Skyland by the water management district could
18 conceivably preclude additional consumptive use permits
19 being granted to Hernando County Utilities, correct?

20 **A.** Yes, sir.

21 **Q.** The County Utilities Department doesn't have
22 any present intention to apply for such permits, does
23 it?

24 **A.** We have our water use permit into SWFWMD right
25 now for renewal, and we are discussing with them

1 additional water withdrawals at this time.

2 Q. Well, if you are going to get additional water
3 withdrawals permitted by SWFWMD in an application that
4 is pending now, you are going to get those before
5 Skyland comes in for additional CUPs, aren't you?

6 A. Well, if you would have attended our last
7 meeting with SWFWMD, I wouldn't say that's for certain.

8 Q. Fair enough. You are speculating, though,
9 aren't you, with regard to the amount of ground water
10 that exists in those areas such that consumptive use
11 permits could be granted if the need was established,
12 isn't that true?

13 A. I am aware that the minimum flows and levels
14 report has been finalized for the Weeki Wachee Spring
15 shed, and it is already identified as being at critical
16 levels, and that any additional ground water withdrawals
17 from within the confines of the Weeki Wachee Spring shed
18 are problematic.

19 Q. So you are not a hydrogeologist, are you?

20 A. I do not claim to be.

21 Q. And isn't it true that as we sit here today
22 you are speculating in your entirety that some
23 hypothetical consumptive use permits granted to Skyland
24 could deprive the county of future permits it applies
25 for?

1 **A.** I would not characterize that statement as
2 such.

3 **Q.** How would you characterize it?

4 **A.** I have had -- we are on our second request for
5 additional with SWFWMD for our water use permit renewal,
6 and we have had discussions along these lines. Now, I
7 don't do the talking. We have hydrogeologists that do
8 the talking for us, but I am very concerned about
9 additional water withdrawals from within the Weeki
10 Wachee Spring shed impacting our future abilities to
11 continue our current, not just future additional, but
12 our current water withdrawals.

13 **Q.** So if there's any ground water that is still
14 to be allocated, you want to make sure it is the county
15 that gets it and no one else, correct?

16 **A.** I'm not sure that there is any ground water to
17 be allocated, quite frankly.

18 **Q.** Fair enough. And in that regard, the
19 consumptive use permits that are already held by Evans
20 Properties on these particular parcels are already
21 considered in all the district models, aren't they?

22 **A.** As an agricultural use, yes, but not for
23 public water supply purposes.

24 **Q.** But it's considered in terms of the way the
25 district looks at how much water is available?

1 **A.** It is a consideration, but it is not
2 one-for-one or equivalent.

3 **Q.** All right. Let me approach the question that
4 I asked you earlier this way. If I was able to
5 hypothecate a particular increase and its consumptive
6 use permits on these parcels in the future, would you be
7 able to tell me exactly how that would affect --

8 **A.** Not right here and now.

9 **Q.** -- the county's ability to get water in the
10 future?

11 **A.** We would have to retain the services of a
12 hydrogeologist to study the issue on our behalf.

13 **Q.** But your answer is no, you wouldn't be able to
14 quantify that right now?

15 **A.** I would not be able to do so right now.

16 **Q.** Okay. If I were to hypothecate an increase in
17 the consumptive use permits on these properties in the
18 future, would you be able to quantify for me, as we sit
19 here today, how that would affect minimum flows and
20 levels in the region?

21 **A.** I would not be able to give you a precise
22 number right here and now, but I would express to you my
23 similar and same concerns, and, once again, based on
24 very recent and continuing discussions with SWFWMD
25 regarding our water use permit renewable for southwest

1 Hernando County.

2 **Q.** But having said all that, you are concerned
3 that hypothetical consumptive use permits by Skyland
4 might adversely affect hypothetical consumptive use
5 permits by Hernando County, right?

6 **A.** We don't have a hypothetical permit, we have a
7 permit, and the quantity of water which we will be
8 allowed to withdraw is dependent upon what's available.
9 Additional water withdrawal in the upper reaches of the
10 spring shed may result in SWFWMD tightening down the
11 amount that we are currently allowed to withdraw. That
12 is my concern.

13 **Q.** You expressed a concern on the top of Page 4
14 of your surrebuttal testimony that under this
15 hypothetical scenario Hernando might have to buy more
16 expensive water. You can't quantify that as we sit here
17 today, can you?

18 **A.** Because I don't know what the permit
19 conditions for our new water use permit are. I don't
20 know where we have to go to get it, I don't know how
21 much we are going to have to go to get, if any.

22 **Q.** In fact, you have attended this proceeding in
23 its entirety, correct?

24 **A.** Today?

25 **Q.** And weren't you also around the first time?

1 **A.** Yes, at SWFWMD. Yes, the two days at SWFWMD;
2 yes, I was.

3 **Q.** Haven't you heard testimony to the effect that
4 the potential exists that wells located on these parcels
5 might actually become a source of water for the Hernando
6 County utility department in the future?

7 **A.** I have heard that testimony.

8 **Q.** And would you be interesting in engaging in
9 such discussions in the future?

10 **A.** I'm always interested in engaging in any
11 conversation regarding water supply.

12 **Q.** Now, you talked about the 200-plus potable
13 wells that DEP has identified as contaminated in that
14 area of the county on Page 5 of your surrebuttal,
15 correct?

16 **A.** Yes.

17 **Q.** And this is something that you and I talked
18 about before, Mr. Stapf, but since you brought it up,
19 again, we will very quickly go over it again. You tried
20 to propose something, didn't you -- by you, I mean the
21 utility department -- where the Hernando County Utility
22 Department would attempt to meet some of the need for
23 central water due to that contamination, but there
24 wasn't any public support, was there?

25 **MR. KIRK:** I object. We're going outside his

1 surrebuttal testimony, and if it has been asked and
2 answered in the past, it's already in the record.

3 **COMMISSIONER SKOP:** To the objection.

4 **MR. WHARTON:** Go ahead. I'm sorry,
5 Commissioner.

6 **COMMISSIONER SKOP:** To the objection.

7 **MR. WHARTON:** Well, first of all, then I move
8 to strike the reference to the 200-plus potable wells.
9 It is redundant, but that is -- you know what, I will
10 withdraw. I will withdraw the point. I've got two new
11 Commissioners here, but they will read the briefs and I
12 will just do it in the briefs.

13 **COMMISSIONER SKOP:** All right. Thank you.

14 **BY MR. WHARTON:**

15 **Q.** Now, you state -- well, here we go again.
16 This is something else we talked about, but he talked
17 about it -- you state at Page 7 of your testimony that
18 Mr. Hartman's indication that the county's 2004 bond
19 issue did not contemplate Skyland's proposed service
20 area is a statement which Mr. Hartman made even though
21 he has no actual knowledge if the county is currently or
22 will be considering future bonds and/or other debt
23 instruments, correct?

24 **A.** If you are quoting from my surrebuttal
25 testimony, yes, I said that.

1 **Q.** Now, setting aside whether or not Mr. Hartman
2 does or does not have any actual knowledge, isn't it
3 true that the county is not currently proposing any
4 future bonds or debt instruments which would pledge
5 future revenues from the areas which Skyland seeks to
6 certificate?

7 **A.** You're asking me if that -- if it is true that
8 we are not?

9 **Q.** Correct. As of today you are not?

10 **A.** Well, as of today I dropped off plans for a
11 new water plant and water supply system in the northern
12 part of our county that will -- if funded by the state
13 revolving fund, will incur new debt to an estimated
14 amount of about \$4 million.

15 **Q.** What about, with all due respect, sir, my
16 question?

17 **A.** I think I answered it. The short answer would
18 be yes, we are contemplating taking on additional debt
19 as of today.

20 **Q.** You pledged revenues?

21 **A.** No, no, no, no.

22 **Q.** That was the question, sir.

23 **A.** I heard your question as that you asked if we
24 were contemplating that.

25 **Q.** I will rephrase the question so the record is

1 clear.

2 A. Thank you.

3 Q. As we sit here today, is the county currently
4 proposing any future bonds or debt instruments which
5 pledge future revenues from the territory Skyland seeks
6 to certificate?

7 A. I can't answer that as a yes or no, given the
8 state of affairs as of this morning. The submittal
9 today was part of an application process that was
10 initiated back last spring, and that whole process
11 would, if drawn to full conclusion, contemplate pledging
12 revenues for future debt service.

13 Q. Well, let me ask you a couple of things.
14 First of all, you are not sure if the answer is yes or
15 no?

16 A. Well, I'm not sure if the answer to your
17 question is yes or no.

18 Q. Okay.

19 A. You're trying to pin me down to something very
20 precise, and I'm not surely I understand the precision
21 of your question.

22 Q. That's what lawyers do in cross-examination,
23 sir. But let me ask you this: Do you agree that if you
24 filed something this morning that pledged future
25 revenues from the land Skyland seeks to certificate that

1 that must mean Hernando County thinks there is a need
2 for service there, which is contrary to the position of
3 your witnesses in this case? You can't have it both
4 ways.

5 A. Any action that pledges revenue has to be
6 finally approved by the County Board of Commissioners.
7 The County Board of Commissioners has not yet considered
8 nor granted that authority.

9 Q. Do you agree that with regard to any of your
10 existing bonds and debt instruments that none of the
11 revenues from the land Skyland seeks to certificate were
12 pledged?

13 A. That I agree with.

14 Q. But you filed this thing this morning and you
15 are not sure whether that calculated revenues from those
16 areas or not?

17 A. I heard your question differently than you are
18 explaining it now.

19 Q. Okay. Then let's focus --

20 A. Your reference, as I heard it, was to revenues
21 for the county, not for revenues from the Skyland
22 Utilities parcel.

23 Q. Well, I'm sorry, because that's what I'm
24 attempting to ask you, and I'm doing a poor -- so let me
25 slow down, because I'm not doing what Commissioner Skop

1 wanted. I'm making it longer by talking fast. So,
2 please listen to me.

3 **A.** I'm listening.

4 **Q.** Is the county proposing any bond instruments
5 or debt instruments in the future which would depend in
6 any way, shape, or form upon utility revenues achieved
7 from the lands Skyland is seeking to certificate?

8 **A.** Not as of this moment.

9 **Q.** Okay. Now, you state in your testimony
10 several times Skyland never approached the county for
11 service, right?

12 **A.** That's correct.

13 **Q.** Isn't it the fact that that would have been a
14 useless act because it is the stated policy of the
15 county that no new private utilities shall exist in the
16 county?

17 **A.** Skyland Utilities never approached us about
18 serving them as a private utility. I'm not sure I
19 understand this question, either.

20 **Q.** So your point was that Skyland never came to
21 the County Utility Department and asked for service from
22 the County Utility Department?

23 **A.** Skyland Utilities never came -- nor any
24 representatives ever came to the utilities department
25 seeking public utility service from the county.

1 Q. But the property that we talked about a few
2 moments ago on which there lie some contaminated wells
3 and which turned out there was not enough support to
4 extend central water out there is actually closer to the
5 county facilities than Skyland's properties, correct?

6 A. Much of it is.

7 Q. Pardon?

8 A. Much of the property is. It encompasses
9 several square miles.

10 Q. And I think you told me in deposition that
11 there were rough cost estimates of 10 to \$15 million
12 just to reach that property?

13 A. That was the estimated cost for running a line
14 down Powell Road about through the center of the
15 contaminated area all the way from U.S. 41 over to State
16 Route 50, and then branching off from there.

17 Q. Now, you talk in your testimony at Page 8
18 about how Mr. Hartman and Mr. Edwards can't know whether
19 or not the county could provide service to those areas,
20 don't you?

21 A. What line are you referring to?

22 Q. Well, take a look at Page 8 of your
23 surrebuttal testimony.

24 A. It would help if you would refer me to the
25 correct line.

1 **Q.** All right. "Consequently, since Skyland has
2 never asked the question to Hernando County, it is
3 impossible for them to know what Hernando County can or
4 cannot do," Page 8, Line 8.

5 **A.** Yes.

6 **Q.** Okay. Isn't it true the county utilities
7 itself has never quantified how service would be
8 rendered to the Skyland parcels, or from what sources,
9 or what plants, or at what cost as we sit here today?

10 **A.** I don't think that's a yes or no answer,
11 either. As I told you at other occasions, we are in the
12 process of updating our master plan for water service
13 throughout the county. The linkage between what we call
14 the west Hernando and the east Hernando systems would
15 run a transmission line through the arsenic well
16 contaminated area and would very likely present some
17 opportunity to provide service to the Skyland Utilities
18 parcels at a significantly lowered cost than what it
19 would be today.

20 **Q.** All right. Then let me just ask you this.
21 Has the county quantified, as we sit here today, how
22 much it would cost to render service to the Skyland
23 parcels?

24 **A.** We have not quantified specifically, because
25 no one has asked us nor have we proceeded with a

1 detailed design evaluation.

2 Q. Have you quantified it generally? You said
3 specifically.

4 A. In the context of evaluating the arsenic well
5 contaminated area, yes, we have, and I told you that was
6 10 to \$15 million.

7 Q. And those were the properties that you said
8 much of that area was actually closer to the county
9 utilities than Skyland, correct?

10 A. Yes.

11 Q. Okay. Final question, sir. You end your
12 surrebuttal testimony by stating you don't know what Mr.
13 Edwards means when he says that Hernando County's
14 proposal to provide water service to the general area
15 where Skyland is seeking a certificate, that is the area
16 with contaminated wells, is on the back burner. Do you
17 recall saying that in your testimony at Page 8?

18 A. Yes.

19 Q. Well, without us having to go through the
20 entire drill, isn't that a direct quote from your
21 deposition that the project was on the back burner?

22 A. I would have to look back at my deposition,
23 but the inference, or what I was intending in the
24 surrebuttal is what did he mean -- what was he meaning
25 in his use of the term regarding his testimony.

1 Q. Okay.

2 A. As far as it being on the back burner, quote,
3 unquote, it is where it was when the board instructed me
4 to continue to monitor and report back if there are any
5 changes, and there have been some as far as the number
6 of wells tested and so forth. And we are continuing to
7 do that. To me that doesn't put it on the back burner
8 in the context of Mr. Edwards' testimony.

9 Q. You would agree with me that if you used that
10 phrase yourself in your deposition that that might be
11 what Mr. Edwards was referring to --

12 A. It's possible.
13 (Simultaneous conversation.)

14 Q. -- in the record.

15 A. I would agree that is possible.

16 Q. One final question. You said that you had
17 additional information. Isn't it a fact that now DEP is
18 actually saying there are more contaminated wells in
19 that area than they did the first time that we held the
20 first part of this hearing?

21 MR. KIRK: I'm going to object for lack of
22 foundation as to additional wells.

23 COMMISSIONER SKOP: To the objection.

24 MR. WHARTON: Well, I'm asking him if he has
25 knowledge that that is true. I'm not sure how that

1 could be a foundation. Foundation usually means is it
2 premature. I don't how the question is premature.

3 **COMMISSIONER SKOP:** Staff to the objection.

4 **MS. CIBULA:** I think the question should be
5 allowed.

6 **COMMISSIONER SKOP:** The objection is
7 overruled. You may proceed.

8 **THE WITNESS:** We have had continuing
9 discussions with the Bureau of Water Facilities
10 Financing about the availability of outside sources of
11 funding, and there have been some very recent changes.
12 We are advised that there is additional money likely to
13 be appropriated for water funding.

14 **MR. WHARTON:** I'll object that this is
15 completely nonresponsive. It's possible -- I know Mr.
16 Stapf, having worked with him several times, I think he
17 didn't understand the question. It's completely
18 nonresponsive.

19 **COMMISSIONER SKOP:** All right. Well, why
20 don't we do this. Why don't you restate the question,
21 and we will see if we get a response.

22 **MR. WHARTON:** Okay.

23 **BY MR. WHARTON:**

24 **Q.** Isn't it true that since the first time that
25 we had the first phase of this hearing, which was in

1 July, that DEP is now reporting additional wells with
2 contamination in that area?

3 A. That's my understanding.

4 MR. WHARTON: That's all we have. Thank you.

5 COMMISSIONER SKOP: Thank you. Staff.

6 MS. KLANCKE: Staff has no questions.

7 COMMISSIONER SKOP: Okay. And I don't believe
8 there is any exhibits for Mr. Stapf, is that correct?

9 MR. KIRK: Hernando has no redirect.

10 COMMISSIONER SKOP: Okay. All right. No
11 redirect. No exhibits. Mr. Stapf, you may step down.

12 And if Hernando would call its next witness,
13 which I believe is Mr. Pianta.

14 MR. KIRK: We call Mr. Ronald Pianta.

15 COMMISSIONER SKOP: Very well.

16 **RONALD F. PIANTA**

17 was called as a surrebuttal witness on behalf of
18 Hernando, and having been duly sworn, testified as
19 follows:

20 **DIRECT EXAMINATION**

21 **BY MR. KIRK:**

22 Q. Please state your name?

23 A. Ronald F. Pianta.

24 Q. And where are you employed, Mr. Pianta?

25 A. Hernando County.

1 Q. And what is your title?

2 A. Planning Director.

3 Q. Did you prepare surrebuttal in this matter?

4 A. I did.

5 Q. Did you have an opportunity to read it today?

6 A. I did.

7 Q. Do you have any changes to that surrebuttal?

8 A. I do not.

9 Q. Do you still stand by your opinion that you
10 stated in your surrebuttal?

11 A. I do.

12 Q. Could you please in five minutes or less
13 summarize your testimony or at least focus on some of
14 the key points?

15 A. I can. My surrebuttal indicated that I
16 disagreed with Mr. Hartman's characterization of my
17 direct testimony and his assertions related to my direct
18 testimony.

19 First, when asked what areas Mr. Hartman was
20 going to provide testimony in this matter, he did not
21 indicate he was going to provide comments relative to
22 the Comprehensive Plan for Hernando County. He has also
23 not provided any expertise or qualifications in land use
24 planning.

25 Second, Mr. Hartman refers to development

1 phases in Skyland's application as meeting the density
2 restrictions of one dwelling unit per ten acres in the
3 Comprehensive Plan for Hernando County. Clearly a
4 development in this density does not require central
5 water and sewer services.

6 Mr. Hartman also seems to indicate that the
7 proposed certificate does not violate Policy 101(b)(6)
8 of the future land use element, because in his
9 estimation this policy only applies to county-provided
10 facilities. I disagree with that assertion. It is
11 taken completely out of context. The policy is
12 two-fold. First, the policy provides that new
13 development in the rural category be consistent with the
14 level of public services provided. Public services are
15 defined in Hernando County land development code as
16 services and facilities regulated or controlled by the
17 county or state with no particular distinction of
18 ownership.

19 In addition, that particular policy must be
20 reviewed in context with other related goals and
21 objectives as well as the comprehensive plan as a whole.
22 Those applicable provisions are in my surrebuttal and
23 also in my testimony.

24 In addition, if you go back to the goal and
25 objective that that policy is related to, it requires

1 coordinated distribution of land use intensities,
2 discourages urban sprawl, and requires compatible and
3 coordinated land use arrangement promoting the retention
4 of agricultural activities, which is not -- this
5 particular area would not be consistent with those
6 policies.

7 Finally, Mr. Hartman seems to imply that
8 private service providers are not required to comply
9 with the comprehensive plan and the granting of a PSC
10 certificate does not trigger any development. First, it
11 is absurd to assert that private providers of service do
12 not have to comply with the comprehensive plan. And
13 while the certificate does not trigger any type of
14 development, the application includes a development
15 schedule to demonstrate a customer base, and Mr. Hartman
16 clearly states that the request for a certificate is to
17 provide for some undefined future development.

18 Finally, in terms of Mr. Edward's testimony,
19 he is also not qualified to testify relative to the
20 issue of urban sprawl. He does express the intent for
21 Skyland to provide services to a variety of ventures,
22 including the potential needs of adjoining property
23 owners and expresses the real intention to provide
24 services to the public. It is my professional opinion
25 that granting the certificate with the express

1 intentions to provide service is currently not
2 contemplated, entails poor planning, promotes or
3 encourages urban sprawl, enables unforeseen development
4 and service opportunities, and would not be in the
5 public interest nor consistent with the comprehensive
6 plan.

7 **MR. KIRK:** Mr. Chairman, at this time I would
8 like to go ahead and move Mr. Pianta's surrebuttal
9 testimony into the record as if read in its entirety and
10 tender the witness for cross.

11 **COMMISSIONER SKOP:** All right. The
12 surrebuttal testimony of Witness Pianta will be entered
13 into the record as though read.

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SURREBUTTAL TESTIMONY OF RONALD A. PIANTA, AICP

1 Q. Please state your name.

2 A. Ronald F. Pianta.

3 Q. Have you been given an oath and is your testimony herein sworn.

4 A. I took an oath and all of my testimony herein is sworn.

5 Q. Where are you currently employed?

6 A. Hernando County, a political subdivision of the State of Florida.

7 Q. What is your employment address?

8 A. Hernando County Government Center, 20 N. Main Street, Brooksville, FL 34601.

9 Q. What is your current position?

10 A. I am the Planning Director for Hernando County.

11 Q. You previously gave Direct Testimony in this matter wherein, among other things, you
12 summarized your duties as Planning Director and professional qualifications.

13 A. That is correct.

14 Q. For what entities are you providing Surrebuttal Testimony?

15 A. I am providing Surrebuttal Testimony in connection with the petitions filed by Hernando
16 County, Hernando County Water and Sewer District and Hernando County Utility Regulatory
17 Authority.

18 Q. Have you read the Rebuttal Testimony of Gerald C. Hartman filed in this matter?

19 A. Yes, I have the Rebuttal Testimony of Gerald C. Hartman.

20 Q. As a general matter, Mr. Hartman refers to your testimony in several places including on
21 Pages 16 thru 20 of his Rebuttal Testimony, do you agree with his characterization of your
22 Direct Testimony.

23 A. I disagree with Mr. Hartman's characterization of my Direct Testimony and his
24 assertions related to my Direct Testimony. First, Mr. Hartman's Rebuttal Testimony is related
25 to my testimony regarding consistency with the Hernando County Comprehensive Plan. When

SURREBUTTAL TESTIMONY OF RONALD A. PIANTA, AICP

1 asked what areas he was going to provide testimony in this matter, Mr. Hartman replied: "In
2 utility management, rate setting, engineering, financial and technical ability and need for service
3 associated with the application of Skyland Utilities, LLC and for the Florida Public Service
4 Commission original water and wastewater certificate." (Direct Testimony of Gerald C.
5 Hartman, Page 1, Line 23 thru Page 2, Line 2). Thus, I did not see where Mr. Hartman has any
6 expertise listed on his resume in land use planning or where he was going to offer such expert
7 testimony on land use planning in this matter. Accordingly, Mr. Hartman is not in a position to
8 offer expert testimony on any land use planning issues in this matter or to otherwise rebut my
9 testimony as filed on May 3, 2010. Secondly, Mr. Hartman refers to the Development Phases in
10 Skyland's application (Figure 3(a) from Appendix I) as meeting the density restrictions of the
11 current Hernando County Comprehensive Plan designation, which is one (1) dwelling unit per
12 ten (10) acres. Clearly, a proposed development density at this level does not require services
13 from a central water and wastewater utility. Thirdly, Mr. Hartman seems to be parroting Mr.
14 Delisi's testimony that the proposed certificate does not violate Future Land Use Policy
15 1.01B(6) because this policy only applies to County provided facilities. This is an assertion that
16 is taken completely out of context. If one were to review the stated County Goal and Objective
17 related to this Policy it is clearly the intent of the County to require the "coordinated distribution
18 of land uses" (Future Land Use Objective 1.01B) and to "discourage the proliferation of urban
19 sprawl" (Future Land Use Goal 1.01). Also, when reviewed in context with other stated Policies
20 in the Plan it becomes clear that it is the intention that Hernando County be the sole
21 provider/frnachiser of water and wastewater services to the unincorporated area (Sanitary Sewer
22 Policy 4.01A5 and Potable Water Policy 4.13A4). Finally, the assertion implies that private
23 property owners and service providers do not have to comply with the County Comprehensive
24 Plan, which is a novel argument at best. Lastly, Mr. Hartman states that the granting of a FPSC
25 Certificate does not trigger any type of development. While this is technically correct, the

SURREBUTTAL TESTIMONY OF RONALD A. Pianta, AICP

1 application includes a proposed schedule of development (Figure 3(a) from Appendix I) which
2 is intended to provide evidence that there is, or will be, a need for the service. As I previously
3 stated, if this is the anticipated level of development, the provision of central water and
4 wastewater is not required. In fact, Mr. Hartman recognizes this fact in his Rebuttal Testimony
5 (page 18, lines 16-19). Not only does Mr. Hartman recognize this fact, but on page 13, line 25
6 and page 14, lines 1-10 Mr. Hartman explicitly states that the request for service is to provide
7 service for some undefined "future development", and expresses a desire to consider providing
8 service for some 200 or so contaminated potable wells south of Brooksville and outside of the
9 proposed service area. Therefore, the granting of a FPSC Certificate will certainly enable
10 unforeseen development and service opportunities that are not consistent with the stated intent of
11 the Hernando County Comprehensive Plan.

12 Q. Beginning on Page 4, Line 12, Mr. Hartman stated that he is not aware of any
13 certification by the Florida Public Service Commission (FPSC) which has led to urban sprawl.
14 Do you agree with that assertion?

15 A. Before being involving in this matter, I had no reason to monitor the actions of the FPSC
16 or whether the FPSC issuance of water/wastewater certificates has led to urban sprawl.
17 However, as I stated in my Direct Testimony and in my deposition, it is my professional
18 planning opinion that when you introduce centralized water and wastewater utilities into a rural
19 area, this would "encourage development that is not compatible with existing land uses in terms
20 of density, intensity and land use type" and will eventually lead to "the premature conversion of
21 agricultural and rural land to suburban and urban uses, thus negatively impacting the character
22 of the area and lifestyle of existing residents." (Direct Testimony of Ronald A. Pianta, Page 6,
23 Lines 12 - 17).

24 Q. As of this time, has your professional opinion changed regarding whether the utility
25 proposed by Skyland Utilities, LLC would promote urban sprawl?

SURREBUTTAL TESTIMONY OF RONALD A. PIANTA, AICP

1 A. No, my professional opinion has not changed, and I submit that urban sprawl is a likely
2 outcome if the FPSC approves the requested certificates.

3 Q. Mr. Hartman, in his Rebuttal Testimony, beginning on Page 5, Line 13, refers to the
4 Testimony of Paul L. Wieczorek, and discusses Mr. Wieczorek more particularly beginning on
5 Pages 19, Line 3 thru Page 20, Line 13. Who is Mr. Wieczorek?

6 A. Paul L. Wieczorek is a Senior Planner in the Hernando County Planning Department.

7 Q. Who does Mr. Wieczorek report to?

8 A. Mr. Wieczorek reports to me as the Planning Director.

9 Q. Do you recognize the qualifications of Mr. Wieczorek in the field of land use planning?

10 A. Yes.

11 Q. Have there ever been an occasion or occasions where you and Mr. Wieczorek disagreed?

12 A. Yes, there will be instances where professional planners disagree on land use planning
13 issues.

14 Q. What would be the outcome of such a disagreements?

15 A. As his supervisor, I am ultimately responsible for making all the final decisions for the
16 Planning Department and will consider the input of the other planners in the office as
17 appropriate.

18 Q. Thus, if Mr. Wieczorek offer testimony that was inconsistent with your testimony,
19 would that concern you?

20 A. No. Mr. Wieczorek is entitled to give his opinion and sometimes professional planners
21 disagree. However, I am aware that Mr. Wieczorek's Direct Testimony in this matter was
22 essentially limited to a review of my own Direct Testimony which he concurred with.
23 Therefore, there should not be any inconsistency.

24 Q. Going back to Mr. Hartman's Rebuttal Testimony, beginning on Page 5, Line 17 thru
25 Page 12, Line 19, he discusses whether the FPSC certification of Skyland Utilities, LLC is in the

SURREBUTTAL TESTIMONY OF RONALD A. PIANTA, AICP

1 "public interest." Based upon his Testimony, have you changed any of your positions regarding
2 whether the granting of the requested certificates is in the public interest?

3 A. No, I have not changed my position. Granting permission for Skyland Utilities, LLC to
4 operate a water and wastewater utility at the location proposed would NOT be in the public
5 interest, as evidenced by the stated goals, objectives and policies that Hernando County has
6 expressly adopted in it's comprehensive plan and their stated intent to provide service to other
7 areas as well.

8 Q. Finally, referring to Mr. Hartmans' Rebuttal Testimony on Page 34, Lines 19 thru 21, he
9 states that "Evans has not applied for permitting with Hernando or Pasco County at this time
10 pending the granting of utility certificates from the FPSC." Is this an accurate statement to your
11 knowledge?

12 A. This is not an accurate statement. In the Fall of last year, Evans Properties, Inc. filed an
13 application with the Hernando County Planning Department requesting that the text of the
14 County Comprehensive Plan and Future Land Use Map be amended to allow a greater
15 residential density than is currently permitted, i.e. more units per gross acre, than what is
16 presently allowed on the same property that is the subject of Skyland's Application in this
17 matter.

18 Q. Did your Department review the Evan's application for an amendment to the
19 Comprehensive Plan?

20 A. Yes.

21 Q. Did the Planning Department complete a review?

22 A. Yes.

23 Q. Did the Planning Department make a staff finding regarding the consistency of the
24 proposed amendment with the Hernando County Comprehensive Plan?

25 A. Yes.

SURREBUTTAL TESTIMONY OF RONALD A. PIANTA, AICP

1 Q. What was that finding?

2 A. That the proposed amendment to the Hernando County Comprehensive Plan requested
3 by Evans Properties, Inc. was inconsistent with the purpose of the Rural Land Use Category, and
4 the proper location of areas designated for new residential development. Objectives and
5 Policies cited to support the finding included Future Land Use Objective 1.01B, and Future
6 Land Use Policies 1.01B(1), 1.01F(10), 1.01T(1), and 1.01T(4).

7 Q. What happened after the Planning Department issued this finding?

8 A. Evans Properties, Inc. withdrew their request shortly before the proposed application for
9 a plan amendment was to be considered by the Hernando County Planning and Zoning
10 Commission on December 12, 2009.

11 Q. How did the Planning Department learn of Evan's intent to withdraw the application?

12 A. On December 8, 2009, the Planning Department received an email from the applicant's
13 representative stating that at the direction of their client, the request for a plan amendment is
14 withdrawn.

15 Q. Have you read the Rebuttal Testimony of Ron Edwards filed in this matter?

16 A. Yes, I have read his Rebuttal Testimony.

17 Q. On pages 9 and 10 of Mr. Edward's Rebuttal Testimony, he discusses land use issues
18 including urban sprawl. Do you agree with any of the statements made by Mr. Edwards within
19 these two pages or elsewhere in his Rebuttal Testimony to the extent dealing with land use
20 planning issues?

21 A. Mr. Edwards does not address, nor is he qualified to address, the concerns about urban
22 sprawl. Instead, Mr. Edwards speaks in general terms about the ownership and stewardship of
23 the properties that Skyland seeks to certificate. While it is understood that Skyland will work
24 with all levels of government as it moves forward, Mr. Edwards expresses a stated intent for
25 Skyland to utilize the services for a variety of ventures, including meeting the potential needs

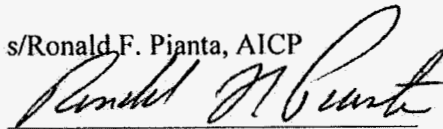
SURREBUTTAL TESTIMONY OF RONALD A. PIANTA, AICP

for water and wastewater services of adjacent landowners on page 4, lines 14-19, and on page 5, lines 20-24 expresses the real intention to provide services to the public, both as described in the application and additional needs as they arise. As I previously stated in my Direct Testimony, Deposition and in my Surrebuttal Testimony herein, it is my professional planning opinion that the granting of the certificate and the expressed intentions of the applicant to provide services to other areas not currently contemplated would promote or encourage urban sprawl and would be contrary to public interest.

End of Testimony

Dated this 2nd day of July, 2010

s/Ronald F. Pianta, AICP

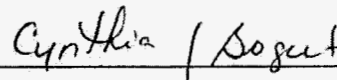


RONALD F. PIANTA, AICP

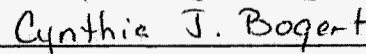
STATE OF FLORIDA

COUNTY OF HERNANDO

The foregoing instrument was sworn to and acknowledged before me this 2nd day of July, 2010, by Ronald F. Pianta, who is personally known, and who took an oath..



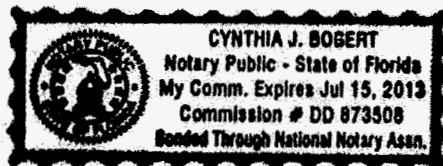
(Signature of person taking acknowledgment)



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(Name typed, printed or stamped)

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(Title or rank)

(Serial number, if any)



1 **COMMISSIONER SKOP:** And we will look to Pasco
2 to see if there are any questions, which I don't suspect
3 there would be.

4 **MR. HOLLIMON:** No.

5 **COMMISSIONER SKOP:** Okay. And, Public
6 Counsel?

7 **MR. REHWINKEL:** All right.

8 **COMMISSIONER SKOP:** All right. Mr. Wharton,
9 you're recognized.

10 **MR. WHARTON:** No questions.

11 **COMMISSIONER SKOP:** None? Okay. Staff.

12 **MS. KLANCKE:** No questions.

13 **COMMISSIONER SKOP:** All right. Redirect,
14 Mr. Kirk.

15 **MR. KIRK:** No redirect.

16 **COMMISSIONER SKOP:** All right. No exhibits.
17 All right. Mr. Pianta, you may step down. And that
18 brings us to our last surrebuttal witness, which is
19 Pasco County Mr. Kennedy. So call your witness.

20 **BRUCE KENNEDY**

21 was called as a surrebuttal witness on behalf of Pasco
22 County, and having been duly sworn, testified as
23 follows:

24 **DIRECT EXAMINATION**

25

1 **BY MR. HOLLIMON:**

2 Q. Good evening, Mr. Kennedy. Would you please
3 state your name and your occupation?

4 A. Bruce Kennedy, Assistant County Administrator
5 for Utilities Services, Pasco County.

6 Q. And were you previously sworn in as a witness?

7 A. Yes, I was.

8 Q. Okay. And have you prefiled surrebuttal
9 testimony in this proceeding?

10 A. Yes.

11 Q. And do you have any changes or corrections to
12 your prefiled surrebuttal testimony?

13 A. Yes.

14 Q. What are those changes?

15 A. As things have moved along with respect to
16 Pasco County's continuing ability to serve the
17 Lacoochee/Trilby area, the U.S. 301 corridor, which is
18 to the east of this area, we have been working on that
19 and have proceeded to complete preliminary assessments
20 of where we might site an expanded wastewater facility,
21 which at this time a tentative site that is
22 approximately within --

23 **MR. DETERDING:** Commissioner, I want to enter
24 an objection. I don't see anywhere where Mr. Kennedy
25 discusses in his surrebuttal testimony anything about

1 the citing of facilities or the service to the Trilby
2 area, much less about the location of a treatment
3 facility. He addresses like three issues, the public
4 interest, the central versus noncentral water and
5 wastewater rates, and Pasco's ability to provide service
6 to Skyland's proposed territory.

7 **COMMISSIONER SKOP:** Mr. Hollimon, to the
8 objection.

9 **MR. HOLLIMON:** Yes. On Page 2, starting on
10 Line 8 of the surrebuttal testimony, Mr. Kennedy is
11 rebutting the testimony from Mr. Hartman regarding
12 Pasco's ability to serve Skyland's proposed service
13 area. What Mr. Kennedy is now referring to is an
14 additional ability to serve that is moving forward in
15 the time since he filed this surrebuttal testimony.

16 **COMMISSIONER SKOP:** All right. The objection
17 is overruled and you may continue.

18 **THE WITNESS:** Again, as part of the ongoing
19 activities to assess how we might begin to serve and
20 meet the needs in the Lacoochee/301 corridor, we have
21 completed preliminary assessments to identify potential
22 sites. And based upon those preliminary sitings which
23 look at available property, suitability for effluent
24 disposal, and those sorts of criteria, we've picked
25 sites that are adjacent to and close to Parcel 11, the

1 larger parcels of 3, and specifically our moving forward
2 with that which would bring potentially wastewater
3 service within approximately half a mile of some of
4 these parcels, particularly Parcel 10 depicted on -- I
5 think it's this common exhibit map, or Figure 3A that
6 has been used throughout --

7 **COMMISSIONER SKOP:** Mr. Kennedy, I believe the
8 originating question is do you have specific changes to
9 your testimony.

10 **THE WITNESS:** This goes to the availability
11 question and our ability to serve, which is part of what
12 I responded to in my surrebuttal testimony.

13 **MR. DETERDING:** And, Commissioner, I will
14 renew my objection. This is not corrections to his
15 testimony, this is additional testimony.

16 **COMMISSIONER SKOP:** Again, that's my concern,
17 Mr. Kennedy, too. I thought that in response to the
18 question you were going to make specific errata changes
19 to your surrebuttal testimony. So unless you have
20 those, perhaps we need to move forward with your summary
21 of your surrebuttal. Mr. Hollimon.

22 **MR. HOLLIMON:** Actually, we are going waive
23 our summary of the surrebuttal. We just want to get his
24 testimony entered into the record as read.

25 **COMMISSIONER SKOP:** All right. Are there

1 specific changes that need to be made in addition to his
2 testimony that is currently before us?

3 **MR. HOLLIMON:** I guess what he has offered is
4 a more complete version, based upon changes in
5 circumstances. But the change is not to change anything
6 that is in the testimony, it is to supplement the
7 testimony to make it more complete.

8 **COMMISSIONER SKOP:** Okay. Why don't we move
9 forward with entering the testimony, if you're going
10 waive summary at this point.

11 **MR. HOLLIMON:** Okay. Well, at this point we
12 would ask this his testimony, his surrebuttal testimony
13 as filed be moved into the record as if read.

14 **COMMISSIONER SKOP:** Okay. The surrebuttal
15 testimony of Witness Kennedy will be entered into the
16 record as though read.

SURREBUTTAL TESTIMONY OF BRUCE KENNEDY

1 Q. Please state your name.

2 A. Bruce Kennedy.

3 Q. Where are you currently employed?

4 A. Pasco County Utilities Department.

5 Q. Are you the same Bruce Kennedy that previously provided testimony in this
6 proceeding?

7 A. Yes.

8 Q. What is the purpose of this testimony?

9 A. To provide surrebuttal testimony in this proceeding.

10 Q. Have you read the Rebuttal Testimony of Gerald C. Hartman filed in this matter?

11 A. Yes, I have read Hartman's Rebuttal Testimony.

12 Q. On page 29, lines 18-24, Hartman discusses the public interest benefit of providing
13 central water and wastewater services. Do you agree with this testimony?

14 A. No, I do not agree. While it is generally true that the provision of central water and
15 wastewater services is preferred over private wells and septic systems, there are important
16 exceptions. For example, in areas of low density of development (e.g., 1 unit per 10 acres as
17 proposed in this proceeding) private wells and septic systems are generally preferred as being
18 much more economical, while providing appropriate environmental protections. There is
19 absolutely no indication that any of the wells in the areas sought to be certificated are
20 contaminated, or that any of the septic systems in these areas are not performing their
21 function safely and effectively. Further, no evidence of any problems with the existing wells
22 and septic systems on the property sought to be certificated has been provided by Skyland;
23 indeed, Skyland has admitted that there are no problems with the water and wastewater
24 services to their existing facilities.

1 Q. On page 30, line 19 through page 31, line 5, Hartman discusses rates. Do you agree
2 with this testimony?

3 A. Absolutely not. First, it is notable that Hartman does not dispute my main contention
4 – i.e., that Skyland's proposed rates are substantially higher than those charged by Pasco
5 County. Second, Hartman essentially argues that since there is only one customer for
6 Skyland (Evans Properties), and because this single customer knows going in what its rates
7 will be, it does not matter that Skyland's rates will be substantially higher than Pasco's rates.

8 Q. On page 31, line 6 through page 32, line 12, Hartman discusses Pasco's ability to
9 serve Skyland's proposed service area. Do you agree with this testimony?

10 A. Absolutely not. Pasco has a history of serving areas that are designated for sufficient
11 density/intensity of development in the comprehensive plan, areas that are contiguous to such
12 areas or otherwise efficiently served because of installed or near-by facilities, areas that have
13 an environmental issue that makes private wells and septic systems unviable, and isolated
14 areas that are outside existing service areas. For example, Pasco County has successfully
15 serviced similar, isolated areas located beyond existing water and wastewater infrastructure
16 by implementing some of the same strategies proposed by Skyland, but with the long term
17 benefit of being part of the county-wide public utility system. A good example of this is
18 Lake Jovita, a residential and golf course community located in east-central Pasco. This
19 development was over three miles from our closest point of connection for water and
20 wastewater service. Pasco County and the and owner established a service agreement to use
21 existing agricultural wells on the property for water supply and to use a small package
22 wastewater treatment plant to address the need for central wastewater services. We were also
23 able to extend reclaimed water service for beneficial reuse by the golf course. Pasco County
24 continues to operate the isolated water supply system, but has extended wastewater

SURREBUTTAL TESTIMONY OF BRUCE KENNEDY

1 transmission facilities to the area and has taken the package plant offline. Thus, Pasco
2 County has a proven record of providing service to isolated areas, when requested, and when
3 appropriate. Pasco County also has direct experience in working with Mr. Charles Coultas,
4 with the FDEP, to find solutions to extending water service infrastructure to address
5 contamination of private wells. In the event any of the parcels in Pasco County that Skyland
6 seeks to certificate fall into one or more of these categories, Pasco's policy would be to
7 provide central services. Further, if such a condition was met, and Pasco provided central
8 services, the rates charged by Pasco would be significantly less than those proposed by
9 Skyland because Pasco's rates are determined on a system wide basis. Thus, even if it is
10 assumed that Skyland could more effectively or efficiently deliver utility services (an
11 assumption with which I do not agree), Skyland's rates would nonetheless be far in excess of
12 rates charged by Pasco.

13 Q. Does that conclude your surrebuttal testimony?

14 A. Yes it does.

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1 **COMMISSIONER SKOP:** And is the witness
2 tendered for cross?

3 **MR. HOLLIMON:** Yes, the witness is tendered
4 for cross.

5 **COMMISSIONER SKOP:** All right. Does Hernando
6 have any questions?

7 **MR. KIRK:** No questions.

8 **COMMISSIONER SKOP:** Okay. Public Counsel?

9 **MR. REHWINKEL:** (Indicating no.)

10 **COMMISSIONER SKOP:** None? All right.
11 Skyland, Mr. Deterding.

12 **MR. DETERDING:** Thank you, Commissioner.

13 **CROSS EXAMINATION**

14 **BY MR. DETERDING:**

15 **Q.** Mr. Kennedy, you note that there is -- in your
16 testimony, your surrebuttal testimony, that there is no
17 indication that any of the wells in the area sought to
18 be served are contaminated, is that correct?

19 **A.** Within Pasco County, that's correct.

20 **Q.** Isn't it true that there are many wells
21 surrounding the proposed area that are contaminated,
22 according to DEP?

23 **MR. HOLLIMON:** Excuse me. I'm going to
24 object. His surrebuttal testimony doesn't deal with
25 contaminated wells whatsoever.

1 **COMMISSIONER SKOP:** Mr. Deterding, to the
2 objection.

3 **MR. DETERDING:** One moment, please. If you
4 will refer to Page 1 of his testimony, Line 18, he
5 states, "There is absolutely no indication that any of
6 the wells sought to be certificated are contaminated or
7 that any of the septic systems in the area are not
8 performing their function safely and efficiently.
9 Further, there is no evidence of any problems with
10 existing wells or septic tanks on the property."

11 **MR. HOLLIMON:** I withdraw my objection.

12 **COMMISSIONER SKOP:** Very well. I was going
13 rule that the objection was overruled. So, you may
14 continue, Mr. Deterding.

15 **BY MR. DETERDING:**

16 **Q.** Did you answer my question?

17 **A.** Repeat the question, please.

18 **Q.** Okay. You indicated that there is no
19 indication of any of the wells in the area sought to be
20 served are contaminated, correct?

21 **A.** Within Pasco County, yes.

22 **Q.** Okay. Isn't it true that there are many wells
23 surrounding the proposed service territory that are
24 individual wells that are contaminated according to DEP?

25 **A.** I don't know that. I have only heard what I

1 have heard at these hearings.

2 Q. Okay. Have you done any investigation of the
3 wells within Skyland's proposed territory?

4 A. No.

5 Q. Isn't it true that the wells within Skyland's
6 territory are deeper than the wells that are
7 contaminated in the adjacent area?

8 A. I don't know that.

9 Q. So you don't know whether they have any
10 arsenic issues with those wells?

11 A. I haven't looked at any water quality data or
12 any information to be specific to any particular wells.

13 Q. Okay. Isn't it true that the depth of the
14 wells that Skyland is proposing to operate are deeper
15 than those within the contaminated areas and the
16 surrounding area?

17 A. I have not looked at any geophysical logs,
18 boring data, well drilling information to make that
19 determination.

20 Q. Isn't it true that the county has eight
21 consent orders from DEP for its water and wastewater
22 systems within the last eight years?

23 A. I haven't kept specific account. We
24 definitely have several consent orders, yes.

25 Q. Six for water and three for wastewater?

1 **MR. HOLLIMON:** Objection. This is outside the
2 scope of his surrebuttal.

3 **MR. DETERDING:** He talks about the county's
4 ability to provide service to this area, and I want to
5 investigate whether or not the county has had issues
6 with service to its existing service territory.

7 **COMMISSIONER SKOP:** Mr. Hollimon, anything
8 briefly before I rule?

9 **MR. HOLLIMON:** Well, his testimony does not
10 deal with consent orders whatsoever.

11 **MR. DETERDING:** I agree.

12 **COMMISSIONER SKOP:** All right. I'm going to
13 overrule the objection. The witness can answer the
14 question to the best of his ability. I think that
15 Mr. Deterding has provided the basis regarding the
16 county's ability to serve, so I think the question is
17 appropriate.

18 **THE WITNESS:** Do you want to repeat the
19 question?

20 **BY MR. DETERDING:**

21 **Q.** You have six water consent orders and three
22 wastewater consent orders within the last eight years,
23 is that not true?

24 **A.** We have had several consent orders. I think
25 with the exception of all consent orders, we simply have

1 one current active consent order.

2 Q. And is the active one the one in which you
3 were assessed a fine of over \$300,000?

4 A. That's correct.

5 MR. DETERDING: That's all I have.

6 COMMISSIONER SKOP: All right. Thank you.
7 Staff.

8 MS. KLANCKE: Staff has no questions.

9 COMMISSIONER SKOP: All right. Mr. Hollimon,
10 redirect.

11 MR. HOLLIMON: No redirect.

12 COMMISSIONER SKOP: All right. Very well.
13 From the bench?

14 Yes, Commissioner Graham.

15 COMMISSIONER GRAHAM: Thank you through the
16 chair.

17 Mr. Kennedy, it is interesting that you talked
18 about a water contamination. I guess the question I
19 have is how can you make the statement that there is
20 absolutely no indication of wells in this area with any
21 contamination if you didn't do any looking or checking?

22 THE WITNESS: The well contamination problem
23 that has been discussed here is through the
24 investigations with the Florida Department of
25 Environmental Protection. Specifically, Mr. Coulter's

1 office who we work with all the time. If there was a
2 problem he would have been in touch with our office in
3 the same manner that he has contacted Hernando County.
4 And, in fact, we have worked with him to extend water
5 service to correct those problems and provide potable
6 water service. There have been no contacts, or
7 dialogue, or information between DEP and our office
8 regarding the specific area of Pasco County that is
9 being proposed for certification by Skyland Utilities.

10 **COMMISSIONER GRAHAM:** Well, since these
11 proceedings have started and they came out with their
12 map that had the indication of the contamination, have
13 you since then contacted DEP to find out if there is any
14 contamination in this area?

15 **THE WITNESS:** It usually comes from DEP. We
16 have not had any reason to make those inquiries because,
17 again, they do the sampling, they make the
18 determinations. I do not regulate or control, you know,
19 private well activity or construction.

20 **COMMISSIONER GRAHAM:** So you have not
21 contacted them?

22 **THE WITNESS:** No.

23 **COMMISSIONER GRAHAM:** Okay.

24 **THE WITNESS:** We do operate a public water
25 supply well within close proximity to these areas and we

1 sample and periodically analyze those. And we have had
2 no indication of any problems in those areas.

3 **COMMISSIONER GRAHAM:** So from everything
4 that's under your control you haven't seen any
5 contamination?

6 **THE WITNESS:** Exactly.

7 **COMMISSIONER GRAHAM:** Okay. I'm just trying
8 to understand your testimony.

9 **COMMISSIONER SKOP:** Any additional questions
10 from the bench?

11 Mr. Hollimon, any redirect?

12 **MR. HOLLIMON:** No.

13 **COMMISSIONER SKOP:** Okay. Very well. Mr.
14 Kennedy, you may -- and Mr. Kennedy has no exhibits,
15 correct?

16 **MR. HOLLIMON:** Correct.

17 **COMMISSIONER SKOP:** All right. Mr. Kennedy,
18 you may step down.

19 And, Staff, are there any other matters that
20 need to be taken up before we close the record?

21 **MS. KLANCKE:** There is a few minor
22 housekeeping matters with regard to post-hearing dates
23 that are coming up. Staff would like to state the
24 transcripts are due on September 30th. Briefs will be
25 due on October 15th. The staff recommendation will be

1 due on December 2nd for the December 14th agenda
2 conference.

3 **COMMISSIONER SKOP:** Okay. Very well. Any
4 additional matters? Mr. Kirk.

5 **MR. KIRK:** A question. During these
6 proceedings, I think a number of both residents and
7 governmental entities and authorities have sent
8 correspondence in and they have been put on the docket
9 in kind of a generalized file. What is the status of
10 the various correspondence? Is it in evidence, or is it
11 proffered, or --

12 **COMMISSIONER SKOP:** Staff, can you explain the
13 correspondence side of the docket, please.

14 **MS. CIBULA:** They are there for informational
15 purposes and they are not part of the record,
16 evidentiary record. But people that came to testify at
17 the service hearing, their testimony is part of the
18 record.

19 **MR. KIRK:** Now, correspondence that was
20 sent -- I know there was at least one piece of
21 correspondence from one of the Commissioners in favor of
22 Skyland. Correspondence that came in from an official
23 governmental agency, is it appropriate for those
24 correspondence to be proffered or to take official
25 recognition of?

1 **COMMISSIONER SKOP:** Staff.

2 **MS. CIBULA:** I don't believe so. I believe
3 they are just, again, in the correspondence side of the
4 docket file unless they, you know, someone offered them
5 into evidence at the hearing, which no one did. So they
6 are there for informational purposes.

7 **MR. KIRK:** Thank you.

8 **COMMISSIONER SKOP:** Any other matters before
9 we close the record?

10 Commissioner Graham.

11 **COMMISSIONER GRAHAM:** Thank you through the
12 chair.

13 I guess I'm just trying to understand the
14 gentleman's question. If there was some documentation
15 that came in and they wanted it into the record, they
16 would have to present it here during the hearing and
17 request it being in the record?

18 **MS. CIBULA:** Correct. Or someone could have
19 come to testify at the service hearing and that would be
20 part of the record.

21 **COMMISSIONER GRAHAM:** Okay. Thank you.

22 **COMMISSIONER SKOP:** Any other questions or
23 matters that need to be addressed before we close the
24 record? Hearing none, the record is closed. And,
25 staff, any other matters before we adjourn?

1 **MS. KLANCKE:** None of which I am aware.

2 **COMMISSIONER SKOP:** All right. At this point
3 we stand adjourned. Thank you.

4 **MR. WHARTON:** Thank you, Commissioners.

5 **MR. KIRK:** Thank you, Commissioners.

6 (The hearing concluded at 6:54 p.m.)
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2 STATE OF FLORIDA)

3 : CERTIFICATE OF REPORTER

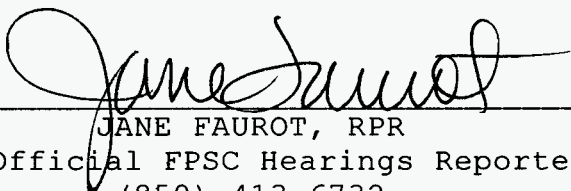
4 COUNTY OF LEON)

5
6 I, JANE FAUROT, RPR, Chief, Hearing Reporter
7 Services Section, FPSC Division of Commission Clerk, do
8 hereby certify that the foregoing proceeding was heard
9 at the time and place herein stated.

10 IT IS FURTHER CERTIFIED that I
11 stenographically reported the said proceedings; that the
12 same has been transcribed under my direct supervision;
13 and that this transcript constitutes a true
14 transcription of my notes of said proceedings.

15 I FURTHER CERTIFY that I am not a relative,
16 employee, attorney or counsel of any of the parties, nor
17 am I a relative or employee of any of the parties'
18 attorney or counsel connected with the action, nor am I
19 financially interested in the action.

20 DATED THIS 30th day of September, 2010.

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24
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JANE FAUROT, RPR
Official FPSC Hearings Reporter
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