

Lee County Board of County Commissioners
Agenda Item Summary

Blue Sheet No. 20061299-UTL

1. Action Requested/Purpose:

Consider and approve Lee County Utilities' staff determination that providing water and wastewater utility services to the Lee County portion of "Area 6" (Babcock Ranch) does not serve a Regional purpose or benefit to Lee County Utilities. Town and Country Utilities (Babcock Ranch) holds a FPSC franchise for water service to the Babcock Ranch "Reserved Development Area" (Area 6) and has applied to the FPSC for a Wastewater Services Certificate to serve the Development Area.

2. What Action Accomplishes:

Provides direction to staff with respect to the entity that will be providing water and wastewater services to the Babcock Ranch Development in Area 6 and the Ranch. Provides guidance with respect to the 1999 Memorandum of Agreement with Town and Country Utilities for water service (copy attached).

3. Management Recommendation:

Approve.

4. Departmental Category: 10 -

WO #3

5. Meeting Date:

10-10-2006

6. Agenda:

- Consent
- Administrative
- Appeals
- Public
- Walk-On

7. Requirement/Purpose (specify)

- Statute
 - Ordinance
 - Admin. Code
 - Other
- Approval

8. Request Initiated:

Commissioner _____
 Department Public Works
 Division Utilities
 By: Douglas L. Meurer 10-9-2006
 Douglas L. Meurer, P.E., Director

9. Background:

Lee County Utilities received a copy of Town and Country Utilities' Application for Original Wastewater Certificate to review. The Lee County Utilities staff has reviewed the certificate and met to determine the viability of providing service to the Lee County segment. The following are a synopsis of the meetings:

1. The Babcock Ranch development within the Lee County boundaries is outside the Lee County Utilities future service area up to 2020 as mandated by the Lee County Comprehensive Use Plan (LCCUP).
2. The LCCUP would need to be amended to consider LCU service to the area.
3. The Public Service Commission will approve and regulate the Town and Country Utilities Company.
4. LCU would need to demonstrate significant benefit in providing water service as compared to T&C Utilities Co. before the PSC.

(CONT'D ON PAGE 2)

10. Review for Scheduling

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager / P.W. Director
					Analyst	Risk	Grants	Mgr.	
<u>J. Lavender</u> Date: 10/9/06	N/A Date:	N/A Date:	N/A Date:	<u>D. Owen</u> Date: 10/9/06	<u>ekw</u> 10-9-06	<u>WS</u> 10/9/06	<u>KN</u> 10/9/06	<u>JK</u> 10/9/06	<u>J. Lavender</u> Date: 10.9.06

11. Commission Action:

- Approved AFTER DISC
- Deferred 4-1 Judah Descending
- Denied A/S
- Other

RECEIVED BY COUNTY ADMIN:
 10/9/06 2:13 mp.
 COUNTY ADMIN FORWARDED TO:
 10/9/06
 J. Am

Synopsis of Meetings (Cont'd):

5. There is no regional benefit to Lee County Utilities in extending service to the Babcock Ranch Development.
6. Lee County Utilities could provide water through a bulk service agreement. This is because the water infrastructure within the development boundaries may not meet LCU specifications.
7. LCU had previously provided Johnson Engineering, a consultant to Town and Country, a letter stating availability of water to serve an ultimate requirement of .7 MGD for the Lee County portion of the Babcock Ranch.
8. The developer of T&C Utilities would be required to pay for the LCU water main extension to the property, a set rate per thousand gallons of water used and a connection fee for each connection.
9. The contributed assets (line extension) would be approximately \$1,000,000. The bulk rate revenues (today's rate, but based on ultimate build-out) would be approximately \$600,000 per year. The connection fee generated through build-out at today's connection fees would be approximately \$3,000,000.

Attachment(s): Application for Original Wastewater Certificate
Copy of 1999 Memorandum of Agreement
Memo from County Attorney

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

DATE: October 9, 2006

To:

Libby Walker, Director

Public Resources

Molly Schweers

Public Resources

FROM:

David M. Owen

Electronically Signed to Expedite

David M. Owen
County Attorney

RE: **Bluesheet No. 20061299; Walk-On #3, Regular Board Meeting of 10/10/06; "Utility Service to the Lee County Portion of Babcock Ranch Area 6"**

Ladies;

The above referenced BlueSheet must be "walked on" tomorrow, October 10, due to a FPSC deadline of Wednesday, October 11, 2006 for a response relative to any objections to Town & Country Utilities application for wastewater service being provided to the Babcock "Area 6" Development when constructed.

Thanks.

DMO/sch

Xc: Jim Lavender, Director, Public Works
Doug Meurer, Director, Utilities
Ivan Velez, Deputy Director, Utilities
Scott Coover, Assistant County Attorney
Lisa Pierce, Minutes Department

RECEIVED-FPSC

06 SEP 11 PM 2:40

COMMISSION
CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of)
Town and Country Utilities Company for)
original wastewater certificate)
in Lee and Charlotte Counties, Florida.)

APPLICATION FOR ORIGINAL WASTEWATER CERTIFICATE

Town and Country Utilities Company ("Town and Country") or ("Applicant"), by and through its undersigned counsel and pursuant to Sections 367.031 and 367.045, Florida Statutes, and Rule 25-30.033, Florida Administrative Code, hereby applies for an original certificate authorizing Applicant to provide wastewater service in Lee County and Charlotte Counties, Florida, and in support submits the following information:

1. The full name and address of the Applicant:

Town and Country Utilities Company
17837 Murdock Circle
Port Charlotte, Florida 33948

2. The name, address, telephone number, facsimile number and email address of Applicant's counsel are:

John R. Jenkins, Esq.
William E. Sundstrom, Esq.
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301
Phone: (850) 877-6555
Fax: (850) 656-4029
jjenkins@rsbattorneys.com
wes@rsbattorneys.com

A. REQUEST TO BIFURCATE CERTIFICATION AND RATE SETTING

1. Applicant is preparing its application to the Florida Department of Environmental Protection (FDEP) for a permit authorizing construction of new wastewater facilities. Section 367.031, Florida Statutes, establishes the issuance of an original certificate of authorization from the Florida Public Service Commission (FPSC) as a condition precedent to the issuance of such a permit. Accordingly, Applicant requests that the certification and rate setting processes be bifurcated so that the

certificate can be issued within ninety (90) days of the official filing date of the instant application and the Applicant may proceed with its environmental permitting. Such bifurcation procedure has been previously approved by the FPSC, including by Order No. PSC-05-0844-PAA-WS for Central Sumter Utility Company, Inc., in Docket No. 050192-WS.

2. Concurrent with the instant application, the Applicant is submitting its Request for Temporary Rule Waiver seeking to defer the filing of various matters required by Rule 25-30.033, Florida Administrative Code, which pertain to the rate-setting portion of this proceeding, as well as other matters identified therein.

B. APPLICANT INFORMATION

1. The Applicant is a Florida corporation created on May 7, 1998. A certified copy of Applicant's Certificate of Active Status is attached hereto as Exhibit "A." The Applicant has not made an election under Internal Revenue Code Section 1362 to be an S corporation.

2. The Applicant is a wholly owned subsidiary of Babcock Florida Company, a Florida corporation. The officers and directors of the Applicant are as follows:

<u>Name</u>	<u>Title</u>
Sydney W. Kitson	Chairman and CEO
Thomas Hoban	Director, Vice President
Charles DeSanti	Director, President
Richard Brockway	Director, Vice President
John Buza	Vice President
Michael Quinn	Vice President
Michael Leeder	Secretary

The business address of each of the foregoing is 17837 Murdock Circle, Port Charlotte, Florida 33948.

C. BACKGROUND

1. Pursuant to FPSC Certificate 613-W, Applicant is authorized to provide water service to an area known as the Babcock Ranch in Charlotte and Lee Counties. The Ranch is 91,362 acres in total size of which approximately 81,499 acres are located in Charlotte County and approximately 9,863 acres are located in Lee County. The Ranch contains one of the largest undeveloped tracts of land remaining in the State of Florida.

2. In July 2005, Babcock Florida Company, the parent company of the Applicant, entered into an Agreement to merge with MSKP III, Inc. (the "Buyer"), with Babcock Florida Company as the surviving entity, and resulting in the Buyer's acquisition of The Ranch, and the Applicant. On July 27, 2006, the Buyer filed an application pursuant to Section 367.071, Florida Statutes, and Rule 25-30.037(3), Florida Administrative Code, seeking FPSC approval of the transfer of majority organizational control of the Applicant in connection with said merger. That Application is being processed by the FPSC in Docket No. 0605020. On July 31, 2006, the Merger was closed.

3. In November 2005, the Buyer entered into an Agreement for Sale and Purchase with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, the Florida Fish and Wildlife Conservation Commission, the Florida Department of Agriculture and Consumer Services, and Lee County, as purchasers of approximately 73,400 acres of The Ranch (5,620 in Lee County to be acquired by the County) for preservation purposes. This acquisition represents the single largest expenditure of State funds for acquisition of preservation lands in the history of the State of Florida. On July 31, 2006, this transaction was also closed. On August 3, 2006, an application was submitted to the FPSC for approval of the transfer of water facilities located within said 73,400 acres to the State of Florida and Lee County, pursuant to Section 367.071, Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code. The effect of that transfer, upon PSC approval, would be the deletion of said 73,400 acres from the Applicant's certificated water territory.

4. Thereafter, the Parent Company and/or its affiliates retained ownership of approximately 18,200 acres in the southwest portion of The Ranch, known as "Area 6," for development purposes. The development is in the planning stages. At this time it is expected to include approximately 19,500 residential units; 6 million square feet of nonresidential space; (including hotel, office and retail) and golf course development (the "Project"). Project planning is currently underway and permitting will be initiated soon after the closing of the aforementioned purchases and sales, with an estimated demand for utility service of June, 2010.

5. The purpose of the instant Application is to secure a companion original wastewater certificate to complement the Applicant's current water certificate thereby ensuring the Applicant's authority to provide water and wastewater service to "Area 6."

6. The instant application is an essential element of the foregoing transactions and their associated applications to the PSC. The aforesaid merger, and the acquisition by the State and Lee County of preservations lands, would not have been possible without water and wastewater service being provided by the Applicant.

D. NEED FOR SERVICE

1. Future development within Area 6 is in the planning stages. At this time, it is expected to include 19,500 residential units; approximately 6 million square feet of nonresidential space (including hotel, office and retail) and golf course development (the

"Project"). Project planning is currently underway and permitting will be initiated shortly with an estimated demand date for utility service of June, 2010.

2. A letter expressing the need for service to the Project is attached hereto as Exhibit "B" and incorporated herein by reference.

E. OTHER AREA UTILITIES

1. The Applicant is the only utility within its certificated water territory. Because the Ranch has been a vast, largely undeveloped area, no utility infrastructure other than the Applicant's is located in close proximity to the Project. The Project, to be located in Area 6 of the Ranch, will isolate that portion of the Ranch to be developed to avoid urban sprawl, and to secure the vast majority of the Ranch property for preservation purposes.

2. Until the decision by the Babcock family to sell the Ranch, no large scale development planning for any portion of the Ranch property had occurred. Therefore, no utility infrastructure had been planned in the area by either local government or private utility service providers. However, the provision of service to the Project by the Applicant is an integral part of the development planning by the Buyer. The certification of the Applicant to provide wastewater service, and the development of the necessary infrastructure for water and wastewater service, are key elements to the Project upon which the Buyer is relying for the success of the entire acquisition.

3. A discussion of the wastewater utilities located nearest the Project is as follows:

- Charlotte County – Of the approximately 18,200 acres which will comprise the Project in Area 6, all but about 4,100 are located within Charlotte County. Charlotte County Utilities is not in a position to provide utility service to the Project. Representatives of the Applicant have had extensive discussions with representatives of Charlotte County regarding Project development. The County development approvals are based on the provision of water and wastewater utility service by the Applicant.
- Lee County – A small portion of the Project is located in Lee County. The most efficient provision of utility services to the Project would come from a single service provider. The nearest component of Lee County's water system is several miles from the Project, and it does not have a central wastewater plant or service in the area. The County is unlikely to construct a wastewater facility in this area any time in the foreseeable future.
- Investor Owned Utilities – There are no private utilities in the vicinity of the Project that are in a position to serve based on location, capacity, or interest, nor would they be in a position to serve as efficiently or cost-effectively as the Applicant.

F. CONSISTENCY WITH COMPREHENSIVE PLAN

1. As a condition of the Buyer's acquisition of the Babcock Ranch, and subsequent sale of 73,400 to the State and Lee County, the Buyer has required certain preliminary development approvals from Charlotte County. Charlotte County has adopted overlay amendments to its Comprehensive Plan and Land Development Code which will allow for a development of the Project. On April 4, 2006, the Charlotte County Board of County Commissioners voted to adopt a Large Scale Plan Amendment to the Future Land Use Element of the County Comprehensive Plan to allow the Project to move forward, to create new policies for the Babcock Ranch Mixed Use Overlay District, to amend the Future Land Use Maps Series to incorporate a new map designation, and to create a new Special Urban Service Boundary, and modifying Comprehensive Plan elements to accommodate the Project. Information provided by the Buyer formed the basis for the Comprehensive Plan amendments including identification of the Applicant as the water and wastewater utility service provider for the Project.

2. To the best of the Applicant's knowledge, the Applicant's provision of wastewater service to the small portion of the proposed service area located in Lee County is consistent with the wastewater section of the Lee County local comprehensive plan as approved by the Department of Community Affairs at the time the instant application is filed.

G. ABILITY TO SERVE

1. The Applicant has the financial ability to provide service to the proposed service area. The Applicant's PSC Annual Reports are on file with the Commission as to its water operations. The Annual Reports include a detailed statement (balance sheet) of the financial condition of Applicant showing its assets and liabilities.

2. Following the acquisition of the Babcock Ranch pursuant to the Merger Agreement, Babcock Florida Company, the Applicant's parent, and its affiliates, as the developer of the Project, will provide necessary start-up funding, as well as funds sufficient to cover revenue deficiencies, during Applicant's initial years of operation as a combined water and wastewater utility. Attached as Exhibit "C" is a letter from Babcock Florida Company committing to the necessary financial support. Financial statement(s) of the entities providing the financial funding to the Applicant will be made available for inspection by the Staff of the FPSC at the offices of the undersigned counsel for Applicant.

3. The Applicant intends to finance the construction of its combined water and wastewater utility system with funds from the following sources:

a. Equity

- b. Debt Financing – Either through conventional borrowing or issuance of tax exempt bond financing.
- c. CIAC collections – The Applicant will collect main extension charges and other service availability charges for water and wastewater service.
- d. Loans from its affiliates - The Applicant’s parent and/or other affiliates will provide financial assistance to the Applicant in order for the Applicant to be able to expand and otherwise meet its financial obligations.

More detail in this regard will be submitted in the rate-setting portion of this docket.

4. The Applicant will hire FDEP-certified utility system operators to operate and maintain the utility system. The Applicant has also retained the services of Johnson Engineering, Inc. and CH2MHill, to provide utility master planning engineering services; Cronin, Jackson, Nixon and Wilson, CPAs, to provide regulatory accounting services; and the law firm of Rose, Sundstrom & Bentley, LLP, as regulatory counsel. The Applicant will therefore have the technical ability to provide service to the proposed service area.

H. SYSTEM INFORMATION

1. The Applicant proposes to provide central wastewater service.

2. Exhibit "D" is a letter from Babcock Property Holdings, L.L.C. which after the Merger became the owner of land to be developed into the Project, (including the future wastewater utility facilities sites), stating that the necessary utility sites will be conveyed to the Applicant. Once the exact location of such sites is determined through the master planning process, the Applicant will submit either a contract by which the Applicant will acquire the real estate upon which the facilities will be located, or a long-term (99-year) lease ensuring the continuous availability of those sites to the Applicant.

3. Area 6, that portion of The Ranch to be developed, consists of approximately 18,100 acres. At this time, while the development phasing is under review, the following are the planning parameters for the Project:

Land Use Type and Dwelling Unit Count

Residential

Single-family	12,852
Multi-family	<u>6,648</u>
Total residential	19,500

Non Residential

Commercial/retail square feet	2,925,000
A. Office square feet	
i. General Office	1,400,200
ii. Medical Office	500,000
B. Industrial	664,100
C. Hospital Beds	177
D. Civic	150,000

4. Applicant intends to construct a wastewater treatment plant and reclamation facility with capacity staged as follows (one wastewater ERC is currently defined as 225 gallons per day):

<u>Phase</u>	<u>Year</u>	<u>Cumulative Capacity (mgd)</u>	<u>Cumulative ERCs</u>
1	2009	1.75	7,778
2a	2016	3.5	15,556
2b	2020	5.25	23,333
3	2024	7.0	31,111

Such phasing will occur as needed to meet the needs of the community. The treatment processes will ensure that each phase of the facility will meet EPA Class One Reliability standards. Each interim phase will include oversized plant components and yard and process piping to allow for easy expansion in subsequent phases. A backbone force main transmission system will convey wastewater from local neighborhood collection systems to the plant through a series of lift stations. The treatment process will allow for the use of the effluent as irrigation water to supplement the irrigation needs of golf courses, residences, and open areas and act as a disposal method. A deep injection well and Aquifer Storage and Recovery system will be utilized for wet weather storage and/or disposal of any excess effluent. Irrigation lakes and/or above ground reservoirs located throughout the community may also be utilized for storage and distribution needs. This facility and associated components are key to efficient use of the water resource.

5. "Backbone" wastewater transmission mains within Phase I will consist of approximately six miles of various sized PVC force main. The wastewater transmission mains will be over lengthened to facilitate future connections as additional phases are constructed. A system of wastewater pumping stations along the "backbone" transmission mains will convey wastewater from the individual collection systems to the wastewater treatment facility. Irrigation water distribution and potable water distribution piping will also be installed as "backbone" systems.

The primary disposal method of the treated effluent will be through open-access irrigation. An oversized 30-inch reclaimed water main approximately three miles in length will convey reclaimed water from the wastewater treatment facility to a centralized

irrigation distribution center. The irrigation distribution pumping station will distribute the reclaimed water to end users for public access irrigation. At this time it is also planned to utilize an Aquifer Storage and Recovery (ASR) system to store excess reclaimed water. This stored reclaimed water will be recovered during periods when irrigation demands exceed the reclaimed water supply. The backup disposal method as a last resort will be via deep well injection.

I. TERRITORIAL DESCRIPTION AND MAPS

1. Attached as Exhibit "E" is an accurate description of the territory to be served, using township, range and section references.

2. One copy of the territorial maps has been submitted directly to FPSC Staff as Exhibit "F."

J. NOTICE OF APPLICATION AND FILING FEE

1. Attached as Exhibit "G" is a copy of the Applicant's Notice of Application.

2. An affidavit that the foregoing notice was given in accordance with Section 367.045(1)(a), Florida Statutes, and Rule 25-30.030, Florida Administrative Code, to the required governmental authorities and certificated utilities will be late-filed as Exhibit "H."

3. An Affidavit that the foregoing will be given to each current water customer of the system and will be late-filed as Exhibit "I." There are currently no wastewater customers and the only property owner within the proposed service area is a related party.

4. A copy of affidavits of publication that the foregoing notice was published once in newspapers of general circulation in the proposed territory in accordance with Rule 25-30.030, Florida Administrative Code will be late-filed as Exhibit "J."


5. The Applicant intends to serve more than 4,000 ERCs for wastewater service. Accordingly, a check made payable to the Florida Public Service Commission in the amount of \$3,000 accompanies this application.

WHEREFORE, Town and Country Utilities Company requests that the Commission grant:

- (a) It's request to bifurcate this proceeding;
- (b) It's application for an original wastewater certificate; and
- (c) Such other relief as is just and reasonable.

Respectfully submitted this
11th day of September, 2006, by:

ROSE, SUNDSTROM & BENTLEY, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301
(850) 877-6555
(850) 656-4029 FAX



John R. Jenkins, Esq.
FL Bar ID No. 435546
Attorneys for
Town and Country Utilities Company

LIST OF EXHIBITS

- A. Certificate of Active Status
- B. Request for Service
- C. Letter of Assurance of Financial Support
- D. Letter of Assurance regarding Plant Sites
- E. Legal Description of Territory to be Served
- F. Territorial Map (Furnished directly to FPSC Staff – Attn: R. Redemann)
- G. Legal Notice for Application for Original Wastewater Certificate
- H. Affidavit of Notice (To be late-filed)
- I. Affidavit of Notice to Customers (To be late-filed)
- J. Affidavits of Publication (To be late-filed)

EXHIBIT "A"

Certificate of Active Status

State of Florida



Department of State

I certify from the records of this office that TOWN AND COUNTRY UTILITIES COMPANY is a corporation organized under the laws of the State of Florida, filed on May 7, 1998.

The document number of this corporation is P98000041499.

I further certify that said corporation has paid all fees due this office through December 31, 2006, that its most recent annual report/uniform business report was filed on April 24, 2006, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Eighth day of September, 2006



CR2EO22 (01-06)

Sue M. Cobb
Sue M. Cobb
Secretary of State

EXHIBIT "B"

Request for Service

BABCOCK PROPERTY HOLDINGS, L.L.C.
17837 Murdock Circle
Port Charlotte, Florida 33948

Town and Country Utilities Company
17837 Murdock Circle
Port Charlotte, Florida 33948

RE: Request for Central Water and Wastewater Service

To whom it may concern:

We intend to develop a mixed use sustainable community consisting of 19,500 residential units and approximately 6,000,000 square feet of non-residential throughout the Babcock Ranch Community (Area 6) portion of the Babcock Ranch property. A legal description of that property is attached. The residences and non-residential uses to be located therein will require central water and wastewater services. Service will be needed on or before June, 2010. The current absorption schedule for development is attached for your review. Accordingly, we formally request Town and Country Utilities Company to provide water and wastewater services to the property consistent with that need for service.

BABCOCK PROPERTY HOLDINGS, L.L.C.

By: Babcock Florida Company

By: 

Charles W. DeSanti
President

EXHIBIT "C"

Letter of Assurance of Financial Support

BABCOCK PROPERTY HOLDINGS, L.L.C.
17837 Murdock Circle
Port Charlotte, Florida 33948

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

RE: Town and Country Utilities Company

To whom it may concern:

Town and Country Utilities Company is filing its application for original wastewater certificate in Charlotte and Lee Counties, Florida. Town and Country Utilities Company is a wholly owned subsidiary of Babcock Florida Company.

Babcock Property Holdings, L.L.C., an affiliate of Babcock Florida Company, will develop the Babcock Ranch Community (Area 6) to which Town and Country Utilities Company is proposing to provide water and wastewater utility services. The target commencement service date is on or before June, 2010. Those facilities will be developed in phases, and will serve an estimated residential population of 50,000, as well as commercial customers, with build-out anticipated in approximately twenty years.

The purpose of this letter is to inform you that Babcock Property Holdings, L.L.C., or one of its affiliates, will make the financial and operating commitment necessary for Town and Country Utilities Company to be successful in its endeavor to provide water and wastewater services to the residents of and business within the Babcock Ranch Community, which is the Town and Country Utilities Company proposed service territory. Babcock Property Holdings, L.L.C. and its affiliates have the ability to provide the financial support necessary for Town and Country Utilities Company to be successful.

Thank you for your attention.

BABCOCK PROPERTY HOLDINGS, L.L.C.

By: Babcock Florida Company


By: 
Charles W. DeSanti
President

EXHIBIT "D"

Letter of Assurance regarding Plant Sites

BABCOCK PROPERTY HOLDINGS, L.L.C.
17837 Murdock Circle
Port Charlotte, Florida 33948

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

RE: Town and Country Utilities Company

To whom it may concern:

Babcock Property Holdings, L.L.C., an affiliate of Babcock Florida Company, and its wholly-owned subsidiary, Town and Country Utilities Company, is the owner of record of the property described in the attached legal description, i.e., the Babcock Ranch Community. The Babcock Ranch Community is the contemplated future water and wastewater service area for Town and Country Utilities Company.

The specific location of Town and Country Utilities Company's future water and wastewater facilities has not been determined since planning for these facilities has not been completed. Such facilities will be located within Town and Country Utilities Company's service area. Babcock Property Holdings, L.L.C. will either convey title to Town and Country Utilities Company of all land necessary for the water and wastewater treatment plants and appurtenant facilities, or enter into a long-term (99-year) lease with Town and Country Utilities Company for such sites to ensure their continued availability for service.

Thank you for your attention to this matter.

BABCOCK PROPERTY HOLDINGS, L.L.C.

By: Babcock Florida Company

By: 

Charles W. DeSanti
President

EXHIBIT "E"

Legal Description of
Territory to be Served

Area 6 Description

CHARLOTTE COUNTY PARCEL:

A parcel of land lying within Sections 28, 29, 31 through 33, Township 41 South, Range 26 East, AND, Sections 4 through 10, Sections 15 through 17 and Sections 19 through 36, Township 42 South, Range 26 East, Charlotte County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Section 31, Township 42 South, Range 26 East and run S89°41'45"E, along the South line of said Section 31, a distance of 350.01 feet to the Point of Beginning of the parcel of land herein described; Thence along a line 300.00 feet East of, and parallel with, the East right-of-way line for State Road No. 31, the following courses and distances: N00°36'46"E a distance of 5336.09 feet, N00°26'10"E a distance of 5282.78 feet and N00°31'45"E a distance of 4197.65 feet; Thence S77°54'41"E a distance of 707.35 feet; Thence N81°38'00"E a distance of 5168.06 feet; Thence N82°12'01"E a distance of 711.51 feet; Thence N62°45'03"E a distance of 4638.50 feet; Thence N28°10'55"W a distance of 1272.65 feet; Thence N69°50'23"E a distance of 1104.32 feet; Thence S45°00'57"E a distance of 266.61 feet; Thence N71°59'01"E a distance of 448.55 feet; Thence N12°51'59"W a distance of 1862.42 feet; Thence N13°56'09"E a distance of 1953.99 feet; Thence N50°03'22"W a distance of 2565.68 feet; Thence S63°01'21"W a distance of 1215.04 feet; Thence N70°04'12"W a distance of 1843.56 feet; Thence N57°46'34"W a distance of 530.23 feet; Thence N24°01'11"W a distance of 975.16 feet; Thence N86°25'58"W a distance of 385.81 feet; Thence N38°10'48"W a distance of 551.49 feet; Thence S59°20'29"W a distance of 577.78 feet; Thence N73°15'18"W a distance of 661.18 feet; Thence N09°11'59"E a distance of 1325.91 feet; Thence N16°46'15"W a distance of 1740.31 feet; Thence N00°01'22"W a distance of 2084.14 feet; Thence N89°25'59"W a distance of 3804.51 feet to a point lying 300.00 feet East of the East right-of-way line for State Road No. 31; Thence along a line 300.00 feet East of, and parallel with, the East right-of-way line for State Road No. 31, the following courses and distances: N00°34'01"E a distance of 789.90 feet and N00°48'43"W a distance of 2979.88 feet; Thence N89°11'17"E a distance of 5661.25 feet; Thence N00°00'03"W a distance of 2799.47 feet; Thence N89°59'57"E a distance of 3566.96 feet; Thence S41°13'25"E a distance of 2825.30 feet; Thence S00°00'00"W a distance of 1967.31 feet; Thence S89°59'52"E a distance of 688.23 feet; Thence S00°00'29"E a distance of 324.64 feet; Thence S39°50'11"E a distance of 190.87 feet; Thence S00°00'03"E a distance of 1218.43 feet; Thence S89°51'42"E a distance of 67.91 feet; Thence S01°26'06"E a distance of 897.46 feet; Thence S74°19'19"E a distance of 1689.13 feet; Thence N79°06'55"E a distance of 475.22 feet; Thence S26°13'22"E a distance of 802.17 feet; Thence S19°47'08"E a distance of 527.22 feet; Thence S05°04'15"E a distance of 1832.85 feet; Thence S32°40'01"E a distance of 186.12 feet; Thence S13°05'30"W a distance of 201.97 feet; Thence

S07°19'37"E a distance of 171.40 feet; Thence S42°54'55"E a distance of 643.22 feet; Thence S25°12'33"E a distance of 261.14 feet; Thence S00°28'20"W a distance of 674.54 feet; Thence S03°43'40"W a distance of 687.25 feet; Thence S08°01'21"E a distance of 493.34 feet; Thence S19°48'25"E a distance of 366.26 feet; Thence N78°50'16"E a distance of 687.98 feet; Thence S13°36'57"E a distance of 2507.44 feet; Thence S52°37'55"W a distance of 867.79 feet; Thence S21°59'06"E a distance of 1739.24 feet; Thence S55°42'26"W a distance of 195.73 feet; Thence S22°47'49"W a distance of 5491.07 feet; Thence S05°03'05"W a distance of 533.38 feet; Thence S20°54'51"E a distance of 336.88 feet; Thence S80°06'18"E a distance of 334.86 feet; Thence N89°59'33"E a distance of 307.21 feet; Thence N62°56'46"E a distance of 516.44 feet; Thence N52°01'16"E a distance of 818.38 feet; Thence S42°01'35"E a distance of 1162.99 feet; Thence S39°20'59"E a distance of 1779.24 feet; Thence S04°14'12"W a distance of 1329.65 feet; Thence S51°39'36"E a distance of 782.57 feet; Thence N89°45'02"E a distance of 4154.67 feet; Thence N00°18'50"W a distance of 1309.98 feet; Thence S74°38'25"W a distance of 1635.76 feet; Thence N20°29'11"W a distance of 1376.98 feet; Thence N21°08'17"E a distance of 865.48 feet; Thence N69°00'57"E a distance of 1518.26 feet; Thence S49°18'31"E a distance of 2362.36 feet; Thence N72°42'44"E a distance of 1430.88 feet; Thence S70°02'41"E a distance of 1332.47 feet; Thence S30°17'33"E a distance of 1686.70 feet; Thence N83°12'47"E a distance of 1373.39 feet; Thence S66°40'38"E a distance of 200.63 feet; Thence S05°46'23"W a distance of 1058.61 feet; Thence S00°00'40"E a distance of 10185.99 feet to a point on the South line of Section 36, Township 42 South, Range 26 East; Thence N89°35'44"W a distance of 3430.81 feet to the Southwest corner of said Section 36; Thence N89°35'44"W a distance of 5294.84 feet to the Southeast corner of Section 34, Township 42 South, Range 26 East; Thence N89°35'44"W a distance of 5294.83 feet to the Southwest corner of said Section 34; Thence N89°37'16"W a distance of 5289.35 feet to the Southeast corner of Section 32, Township 42 South, Range 26 East; Thence N89°41'45"W a distance of 5306.31 feet to the Southwest corner of said Section 32; Thence N89°41'45"W, along the South line of Section 31, Township 42 South, Range 26 East, a distance of 4889.98 feet to the Point of Beginning. Containing 13,503.84 acres, more or less.

Bearings hereinabove mentioned are based on the South line of Section 31, Township 42 South, Range 26 East to bear S89°41'45"E. Dimensions and acreage is in Ground Values.

LEE COUNTY PARCEL:

A parcel of land lying within Sections 1 through 7 and Section 9, Township 43 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Section 31, Township 42 South, Range 26 East and run S89°41'45"E, along the South line of said Section 31, a distance of 350.01 feet to the Point of Beginning of the parcel of land herein described; Thence continue S89°41'45"E a distance of 4889.98 feet to the Northeast corner of Section 6, Township 43 South, Range 26 East; Thence S89°41'45"E a distance of 5306.31 feet to the Northeast corner of Section 5, Township 43 South, Range 26 East; Thence S89°37'16"E a distance of 5289.35 feet to the Northeast corner of Section 4, Township 43 South, Range 26 East; Thence S89°35'44"E a distance of 5294.83 feet to the Northeast corner of Section 3, Township 43 South, Range 26 East; Thence S89°35'44"E a distance of 5294.84 feet to the Northeast corner of Section 2, Township 43 South, Range 26 East; Thence S89°35'44"E, along the North line of Section 1, Township 43 South, Range 26 East, a distance of 155.77 feet; Thence S09°58'52"W a distance of 4668.17 feet; Thence S04°10'14"W a distance of 283.53 feet; Thence S03°53'19"E a distance of 515.34 feet to a point on the South line of Section 2, Township 43 South, Range 26 East (said point being 558.43 feet West of the Southeast corner of said Section 2); Thence N88°38'22"W a distance of 2084.17 feet to the South one-quarter corner of said Section 2; Thence N88°38'42"W a distance of 2642.18 feet to the Southwest corner of said Section 2; Thence N89°51'49"W a distance of 5300.33 feet to the Southwest corner of Section 3, Township 43 South, Range 26 East; Thence N89°51'54"W a distance of 2650.21 feet to the South one-quarter corner of Section 4, Township 43 South, Range 26 East; Thence S00°23'25"W a distance of 1330.71 feet to the Southwest corner of the North one-half of the Northeast one-quarter of Section 9, Township 43 South, Range 26 East; Thence S06°02'41"E a distance of 1338.42 feet to a point on the North line of the Southeast one-quarter of said Section 9 (said point being 150.00 feet East of the Northwest corner of the Southeast one-quarter of said Section 9); Thence S00°22'58"W, parallel with and 150.00 feet East of the West line of the Southeast one-quarter of said Section 9, a distance of 2611.68 feet to a point on the North right-of-way line of County Road No. 78; Thence along said right-of-way line the following courses and distances, N89°54'54"W a distance of 150.27 feet and N89°54'44"W a distance of 2649.07 feet to a point on the West line of said Section 9; Thence N00°22'31"E a distance of 2612.14 feet to the West one-quarter corner of said Section 9; Thence N00°21'56"E a distance of 2663.25 feet to the Southeast corner of Section 5, Township 43 South, Range 26 East; Thence N89°52'00"W a distance of 2666.82 feet to the South one-quarter corner of said Section 5; Thence N89°50'47"W a distance of 2667.54 feet to the Southwest corner of said Section 5; Thence S00°23'16"W, along the East line of Section 7, Township 43 South, Range 26 East, a distance of 5294.24 feet to a point on the North right-of-way line of County Road No. 78; Thence Westerly

along the curved right-of-way line, (said curve being curved concave to the North, having a delta angle of $00^{\circ}53'52''$ and a radius of 11339.17 feet, with a chord bearing of $N89^{\circ}19'12''W$ and a chord length of 177.69 feet) a distance of 177.69 feet to the end of the curve; Thence $N88^{\circ}52'16''W$, along said North right-of-way line, a distance of 4406.54 feet to the beginning of a curve to the right; Thence along the arc of the curved right-of-way line, (said curve being curved concave to the Northeast, having a delta angle of $24^{\circ}26'20''$ and a radius of 522.96 feet, with a chord bearing of $N76^{\circ}39'06''W$ and a chord length of 221.39 feet) a distance of 223.07 feet to a point that is 300.00 feet East of the East right-of-way line of State Road No. 31; Thence along a line 300.00 feet East of, and parallel with, the East right-of-way line for State Road No. 31, the following courses and distances, $N00^{\circ}19'49''E$ a distance of 5249.36 feet, $N00^{\circ}18'54''E$ a distance of 5312.90 feet and $N00^{\circ}36'46''E$ a distance of 0.97 feet to the Point of Beginning. Containing 4085.77 acres, more or less.

Bearings hereinabove mentioned are based on the North line of Section 6, Township 43 South, Range 26 East to bear $S89^{\circ}41'45''E$. Dimensions and acreage is in Ground Values.

AND

A parcel of land lying within Sections 4, 8, 9 & 10, Township 42 South, Range 26 East, Charlotte County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Section 31, Township 42 South, Range 26 East and run $S89^{\circ}41'45''E$, along the South line of said Section 31, a distance of 350.01 feet; Thence along a line 300.00 feet East of, and parallel with, the East right-of-way line for State Road No. 31, the following courses and distances: $N00^{\circ}36'46''E$ a distance of 5336.09 feet, $N00^{\circ}26'10''E$ a distance of 5282.78 feet and $N00^{\circ}31'45''E$ a distance of 4197.65 feet; Thence $S77^{\circ}54'41''E$ a distance of 707.35 feet; Thence $N81^{\circ}38'00''E$ a distance of 5168.06 feet; Thence $N82^{\circ}12'01''E$ a distance of 711.51 feet; Thence $N62^{\circ}45'03''E$ a distance of 4638.50 feet; Thence $N28^{\circ}10'55''W$ a distance of 1272.65 feet; Thence $N69^{\circ}50'23''E$ a distance of 1104.32 feet; Thence $S45^{\circ}00'57''E$ a distance of 266.61 feet; Thence $N71^{\circ}59'01''E$ a distance of 448.55 feet; Thence $N12^{\circ}51'59''W$ a distance of 1862.42 feet; Thence $N13^{\circ}56'09''E$ a distance of 1953.99 feet to the Point of Beginning of the parcel of land herein described; Thence $N50^{\circ}03'22''W$ a distance of 2565.68 feet; Thence $N16^{\circ}06'21''W$ a distance of 112.93 feet; Thence $N55^{\circ}51'49''E$ a distance of 407.98 feet; Thence $N07^{\circ}18'40''E$ a distance of 92.81 feet; Thence $N59^{\circ}39'35''W$ a distance of 303.72 feet; Thence $N25^{\circ}19'30''W$ a distance of 193.22 feet; Thence $N06^{\circ}58'19''E$ a distance of 214.01 feet; Thence $N32^{\circ}43'18''E$ a distance of 166.27 feet; Thence $N47^{\circ}58'33''E$ a distance of 193.91 feet; Thence $N19^{\circ}42'31''W$ a distance of 203.08 feet; Thence $N00^{\circ}17'17''E$ a distance of 475.31 feet; Thence $N81^{\circ}25'09''E$ a distance of 126.58 feet; Thence $S73^{\circ}44'02''E$ a distance of 396.05 feet; Thence $N81^{\circ}17'38''E$ a distance of 296.24 feet; Thence $N71^{\circ}01'06''E$ a distance of 384.58

feet; Thence S68°56'49"E a distance of 749.00 feet; Thence S79°30'38"E a distance of 582.04 feet; Thence N83°32'12"E a distance of 356.49 feet; Thence N74°00'02"E a distance of 299.71 feet; Thence N05°19'34"E a distance of 1022.72 feet; Thence N64°11'27"E a distance of 243.96 feet; Thence S71°07'35"E a distance of 400.11 feet; Thence N81°41'37"E a distance of 1263.06 feet; Thence S07°19'37"E a distance of 171.40 feet; Thence S42°54'55"E a distance of 643.22 feet; Thence S25°12'33"E a distance of 261.14 feet; Thence S00°28'20"W a distance of 674.54 feet; Thence S03°43'40"W a distance of 687.25 feet; Thence S08°01'21"E a distance of 493.34 feet; Thence S19°48'25"E a distance of 366.26 feet; Thence S74°08'41"W a distance of 89.82 feet; Thence S12°32'01"W a distance of 248.66 feet; Thence S00°00'00"E a distance of 66.39 feet; Thence N88°10'57"W a distance of 130.84 feet; Thence N61°14'03"W a distance of 168.13 feet; Thence N53°45'35"W a distance of 270.23 feet; Thence N32°26'31"W a distance of 208.95 feet; Thence N02°18'52"W a distance of 205.56 feet; Thence N06°00'44"W a distance of 396.36 feet; Thence N47°18'30"W a distance of 73.43 feet; Thence S87°56'18"W a distance of 754.49 feet; Thence S11°43'23"E a distance of 572.09 feet; Thence S83°57'27"W a distance of 432.85 feet; Thence N69°09'26"W a distance of 226.56 feet; Thence N11°02'12"W a distance of 683.05 feet; Thence S71°52'39"W a distance of 867.08 feet; Thence S41°21'09"W a distance of 724.50 feet; Thence S32°33'19"W a distance of 330.66 feet; Thence S52°25'04"W a distance of 263.67 feet; Thence S76°22'12"W a distance of 363.38 feet; Thence S20°26'14"E a distance of 1069.45 feet to the Point of Beginning.

Containing 302.34 acres, more or less.

Bearings hereinabove mentioned are based on the North line of Section 6, Township 43 South, Range 26 East to bear S89°41'45"E. Dimensions and acreage is in Ground Values.

300' STRIP:

The East 300.00 feet of the West 350.00 feet of Section 31, Township 41 South, Range 26 East, Charlotte County, Florida. Less the North 2,420.17 feet thereof.

AND,

The East 300.00 feet of the West 350.00 feet of Sections 6, 7, 18, 19, 30 and 31, Township 42 South, Range 26 East, Charlotte County, Florida.

AND,

The East 300.00 feet of the West 350.00 feet of Sections 6 and 7, Township 43 South, Range 26 East, Lee County, Florida.

Containing 366.2 acres, more or less.

EXHIBIT "F"

Territorial Map

(Furnished directly to FPSC Staff
Attn: R. Redemann)

EXHIBIT "G"

LEGAL NOTICE FOR APPLICATION FOR ORIGINAL
WASTEWATER CERTIFICATE

LEGAL NOTICE

Notice is hereby given on (date) , pursuant to Section 367.045, Florida Statutes, of the application of Town and Country Utilities Company to operate a wastewater utility to provide service to the following described territory in Charlotte County, Florida:

The proposed franchise area is composed of approximately 18,000 acres the majority being located in Charlotte County, Florida, and the remainder immediately adjacent to the south in Lee County, Florida. The area is approximately bounded on the west by State Route 31, on the south by Lee County Route 78, on the east side by Telegraph Swamp, and on the north side by Tuckers Grade, a paved road on private property.

Any objection to the said application must be made in writing and filed with the Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within thirty (30) days from the date of this notice. At the same time, a copy of said objection should be mailed to counsel for the Applicant whose address is set forth below. The objection must state the grounds for the objection with particularity.

JOHN R. JENKINS
ROSE, SUNDSTROM & BENTLEY, LLP
ATTORNEYS FOR TOWN AND COUNTRY UTILITIES COMPANY
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

EXHIBIT "H"

Affidavit of Notice
(To be late-filed)

EXHIBIT "I"

Affidavit of Notice to Customers
(To be late-filed)

EXHIBIT "J"

Affidavits of Publication
(To be late-filed)

MEMORANDUM OF AGREEMENT

COME NOW, on this 25th day of May, 1999, Town and Country Utilities Company (hereinafter "Town and Country" or "Utility"), a Florida corporation, and Lee County, Florida (hereinafter the "County"), a political subdivision of the State of Florida, collectively the "Parties", and enter into this Memorandum of Agreement, and in support thereof state as follows:

WHEREAS, Town and Country has filed an Application with the Florida Public Service Commission (hereinafter the "Commission") for a certificate to operate a water utility in Lee and Charlotte Counties, Florida; and,

WHEREAS, the County has filed a timely objection with the Commission to the proposed certification of the Utility lying within Lee County; and,

WHEREAS, the Parties now wish to enter into an Agreement which will allow Town and Country to move forward with its proposed certification of a water utility in Lee County, to include development by the Utility of water resources which may enable it to provide bulk, raw fresh water service to the County, while at the same time insuring that the County will be provided the opportunity to provide potable water services in the County's portion of the proposed service territory of Town and Country as those needs arise therein.

NOW THEREFORE, in consideration of the mutual Agreements and undertakings outlined herein, the Parties agree as follows:

1. The County will withdraw its Objection to Certification of Town and Country as a water utility by the Florida Public Service Commission within fourteen (14) business days from execution of this Agreement by both Parties.
2. Town and Country will proceed with the permitting, testing and analyses

necessary to determine its ability to deliver bulk, raw fresh water to the County of sufficient quantity and quality as may be further determined and agreed upon by the Parties. It is the intention of the Parties to evaluate whether Town and Country can make available for a reasonable consideration, sufficient quantities and quality of bulk, raw fresh water from within Lee County to satisfy the County's need for such service, as such needs may arise. To enable the County to receive such services, and at the County's sole election, the Parties may undertake negotiations for a formal Agreement for the provision of such services upon notice from the utility of its completion of the preliminary testing and analyses which will analyze and determine such availability to the County.

3. The County and the Utility agree that as the need for central potable water service arises within the certificated service territory of the Utility, the Parties will investigate cooperatively to determine whether the Utility or the County is in the best position to provide such service in the public's interest. To the extent that it is determined that the County is in a better position to provide such potable water services to County customers within the proposed Town and Country service area, Town and Country agrees to file an Application with the Commission to amend its certificated service area to remove those areas where the County is in a better position to provide such services.

WHEREFORE, Town and Country Utilities Company and Lee County enter into this Agreement in order to memorialize the Parties' responsibilities, obligations and intentions with regard to one another and for the provision of potable and non-potable water service(s) in and around the proposed water service territory of Town and Country Utilities Company.

TOWN AND COUNTRY UTILITIES COMPANY

(Corporate Seal)

By: Richard S. Cuda
Richard S. Cuda, President

STATE OF ~~FLORIDA~~) (Connecticut)
COUNTY OF ~~LEE~~) (Hartford)

The foregoing instrument was acknowledged before me this 26th day of May, 1999, by Richard S. Cuda, President of Town and Country Utilities Company, a Florida corporation, on behalf of the corporation. He is personally known to me or has produced Himself as identification.

Joyce L'Esperance
Print Name Joyce L'Esperance
Notary Public
State of ~~Florida~~ at Large (Connecticut)
My Commission Expires

JOYCE L'ESPERANCE
NOTARY PUBLIC
MY COMMISSION EXPIRES DEC. 31, 2003

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: Patricia Turner
Deputy Clerk

By: Ray Judal
Chairman

APPROVED AS TO FORM:

By: [Signature]
Office of the County Attorney