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IN RE:)
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PETITION OF CARTWRIGHT)
CREEK, LLC FOR DECLARATORY)
RULING)

DOCKET NO. 19-00061

**PETITION OF CARTWRIGHT CREEK, LLC
FOR DECLARATORY RULING**

Pursuant to T.C.A. §§ 4-5-223 and 65-2-104, Cartwright Creek, LLC (“Cartwright Creek”) petitions the Tennessee Public Utility Commission to issue a declaratory ruling concerning the applicability of T.C.A. § 65-4-201(a) to the circumstances described below.

Cartwright Creek provides wastewater service to parts of Williamson County, Tennessee, including three adjacent developments in the area around Arrington and Triune. A map of the county showing the utility’s Arrington/Triune service area is attached as Exhibit A. A more detailed map of the service area is attached as Exhibit B.

The owner of a 110-acre parcel of land that is surrounded on three sides by the utility’s service area – the Wilson parcel – has requested that Cartwright Creek provide wastewater service to houses that will be built on that parcel.¹ No other utility provides wastewater service to that parcel. Moreover, the utility district that has the right to provide such service has released its right to do so. See Exhibit C, letter from Nolensville/College Grove Utility District.

¹ The Wilson parcel, when developed, will become part of what is now called “Troubadour,” a residential development served by Cartwright Creek pursuant to a certificate issued by the Commission in 2007. The certificate authorizes Cartwright Creek to serve “approximately 500 residences” in that development. See Docket 07-00180. The Wilson parcel will add twenty to twenty-two house to the development. Nevertheless the development has been redesigned and, even with the additional houses on the Wilson parcel, the total number of houses in Troubadour will be only 375, far fewer than the number the Commission found the utility to be capable of serving.

State law requires a public utility to obtain a certificate of public convenience and necessity in order to provide service. T.C.A. § 65-4-201(a). The statute, however, does not require a utility to obtain a certificate for “an extension into territory . . . contiguous to its . . . system” that is not already “receiving service of a like character from another public utility.”

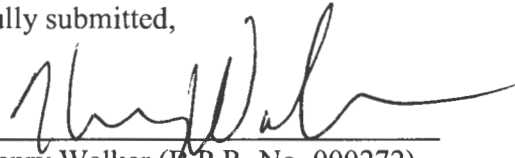
As shown on the maps, Cartwright Creek’s service territory borders the Wilson parcel on the north, west and south. The parcel is “contiguous” on three sides to the utility’s service area. The parcel does not currently have any wastewater service, and the only utility that has a legal right to provide wastewater service to the parcel has relinquished that right. Under these circumstances, the statute expressly states that Section 201(a) “shall not be construed to require” Cartwright Creek “to obtain a certificate for an extension” of service to homes located on this parcel.² Emphasis added.

² The entire text of Section 201(a) reads as follows:

“65-4-201. Certificate required. – (a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system, or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate; provided, however, that this section shall not be construed to require any public utility to obtain a certificate for an extension in or about a municipality or territory where it shall theretofore have lawfully commenced operations, or for an extension into territory, whether within or without a municipality, contiguous to its route, plant, line or system, and not theretofore receiving service of a like character from another public utility, or for substitute or additional facilities in or to territory already served by it.”

Cartwright Creek respectfully asks the Commission to conduct a hearing, if necessary, on an expedited basis and issue a declaratory ruling confirming that the certification requirement of Section 201(a) does not apply to the extension of wastewater service by Cartwright Creek to the contiguous, unserved Wilson parcel.³

Respectfully submitted,

By: 

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Attorneys for Cartwright Creek, LLC

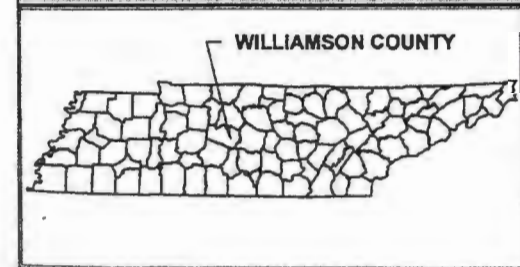
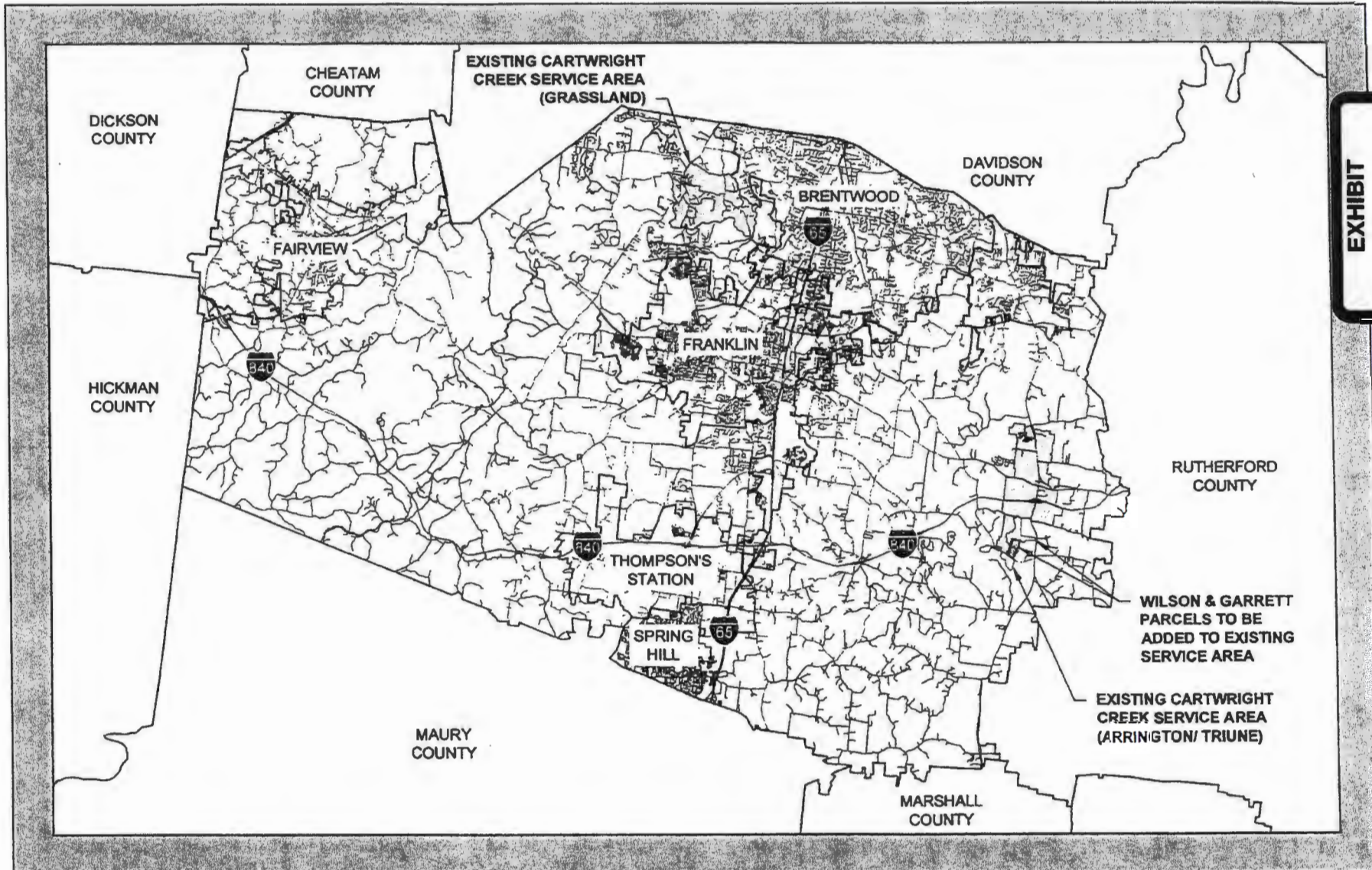
³ Cartwright Creek takes no position as to whether this exception to the certification requirement would apply if the person requesting service owns land that is contiguous to one utility's territory but lies within the certificated service area of another utility that is willing to provide service under reasonable terms and conditions. That is not the case here, and this petition is not intended to raise that issue. No utility other than Cartwright Creek, acting pursuant to the "contiguous" territory provision of Section 201(a), has a legal right to provide wastewater service to the Wilson parcel.

Furthermore, since Cartwright Creek is already authorized to serve substantially more houses in this area than are planned to be built, even with the addition of the Wilson parcel, the Commission should have no concern that granting this petition will create a risk that the utility is expanding its service beyond its financial, technical, or managerial capabilities.

EXHIBIT

A

Labels

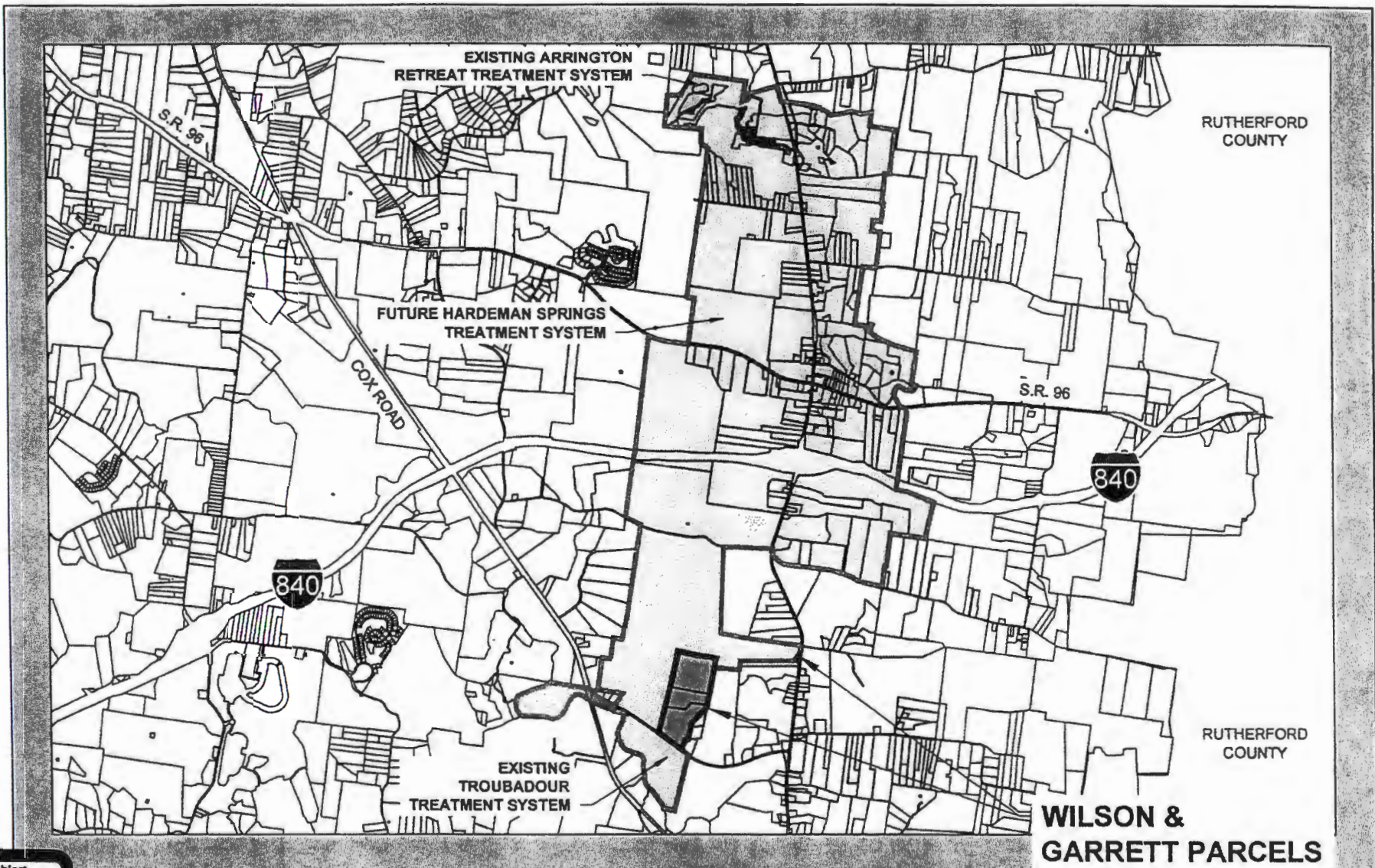


PROPOSED SERVICE AREA MAP

DECEMBER, 2018

REVISIONS			
NO.	BY	DATE	DESCRIPTION

Contact:	BRUCE MEYER	1
Phone:	615-251-0600	
Email:	bmeyer@cheatham.com	



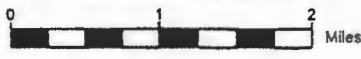
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EXHIBIT



PROPOSED SERVICE AREA MAP (ENLARGED VIEW)

DECEMBER, 2018



REVISIONS

NO.	BY	DATE	DESCRIPTION

Contact: BRUCE MEYER

Phone: 815-281-8800

Email: bmeyer@sheafferwws.com



N Nolensville/College Grove Utility District
C P.O. Box 127, 2002 Johnson Industrial Blvd., Nolensville, TN 37135
G Phone No. 615-776-2511 - Fax No. 615-776-2591

March 25, 2019

Matt Bryant
M2 Group, LLC

Re: Sanitary Sewer Service Release : Wilson Parcels on Cox Rd. (Map 136) (Parcel 12.01 , 12.02) and (Map 141) (Parcel 8.00)

Dear Mr. Bryant

Nolensville College Grove Utility District by your request hereby releases its charter rights to provide sanitary sewer service to the proposed development known as The Wilson Parcel on Cox Rd. (Map 136) (Parcel 12.01 , 12.02) and (Map 141) (Parcel 8.00)

Please feel free to contact me if I can be of further assistance.

Sincerely,

Mike E Polston
General Manager
NCG Utility District

