

State of Florida



Public Service Commission  
-M-E-M-O-R-A-N-D-U-M-

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**DATE:** June 25, 2003  
**TO:** Division of the Commission Clerk and Administrative Services  
**FROM:** Division of Economic Regulation (Brady) *pb/aj*  
**RE:** Docket No. 030407-WS, Application for transfer of water and wastewater facilities and Certificate No. 366-S in Levy County from Springside at Manatee, Ltd. to Par Utilities, Inc., holder of Certificate No. 428-W, for cancellation of Certificate No. 435-W held by Springside, and for amendment of Certificate No. 428-W.

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In the initial application filed April 28, 2003, the Order Appointing Receiver that was attached to Exhibit II was either filed or scanned on odd pages only. Attached is a complete copy of this order for inclusion in the docket file.

Attachment

cc: Division of Economic Regulation (Walden, Kaproth)  
Office of the General Counsel (Fleming)  
Division of the Commission Clerk and Administrative Services (security file)

DOCUMENT NUMBER DATE

05664 JUN 25 8

FPSC-COMMISSION CLERK

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT  
IN AND FOR LEVY COUNTY, FLORIDA

CLERK OF CIRCUIT COURT  
LEVY COUNTY, FLORIDA

99 10/24 PM 1:22

FILED

LEVY COUNTY, FLORIDA, a )  
political subdivision of the )  
State of Florida, )  
vs. )  
KENNETH DRUMMOND and )  
PROPERTY PLANNING, INC, )  
Respondents. )  
\_\_\_\_\_ )

CIVIL ACTION

CASE NO. 99- 929 -CA

ORDER APPOINTING RECEIVER

THIS MATTER having come before the Court upon Petition of LEVY COUNTY, FLORIDA, and the Court after receiving the further advise and recommendations or counsel, and being fully advised of the premises, hereby finds:

Respondent operates a residential water and wastewater system within the jurisdictional boundaries of Levy County, Florida, pursuant to the provisions of Chapter 367, Florida Statutes. On or about August 18, 1999 Respondent formally filed a Notice Of Abandonment for the water and wastewater, pursuant to Section 367.165, Florida Statutes. Levy County subsequently filed its Petition To Appoint A Receiver to take possession of and operate Respondent's facilities.

Based upon the foregoing and further evidence presented by Levy County concerning the appropriateness of the Receiver, pursuant to Section 367.165(2), Florida Statutes, it is hereby

ORDERED AND ADJUGED as follows:

SECTION 1. APPOINTMENT OF NEW RECEIVER AND TERM.

LONNIE PARNELL is hereby appointed to act as Receiver for the Respondent's residential water and wastewater system. The term of this Receivership shall begin on the date of this Order and shall continue until such time as the Receiver sells or otherwise disposes of the property of the Respondent's water and wastewater system, or is relieved as Receiver by this Court. The connection of these facilities, to a regional or central water system utility upon the availability of same, shall constitute a disposition of the property, for the purposes of this Order. Upon termination and expiration of the receivership as provided herein, the Receiver shall be released from all further obligations to operate and maintain the water and wastewater system. Should the term of the Receiver terminate and expire due to the sale of the Respondent's water and wastewater system by the Receiver, then the obligations and responsibilities of the Receiver shall terminate and expire as of the date of closing of any such sale.

SECTION 2. SURRENDER OF PROPERTY, ASSETS, DOCUMENTS AND FACILITIES.

All property assets, documents, and facilities of the water and wastewater system shall be turned over to LONNIE PARNELL by Respondent at the time of this Order. The Respondent's obligations regarding the surrender of the property, assets, documents, and facilities shall be outlined herein. The Respondent shall, to any extent that it may not have already done so: (1) turn over and produce to Receiver all customer account records, contracts, agreements, correspondence, legal pleadings,

business records, easements, and any other documents related to the system, to include property, assets and liabilities associated therewith in order that the Receiver may then operate and maintain say system, and (2) surrender control of all real and personal property to the Receiver. Upon entry of this Order, the Respondent shall turn over and produce all bank accounts, bank account records, customer deposits, cash, and accounts receivable balances to the Receiver.

**SECTION 3. RECEIVER POWERS.**

Once the documents from the system and the real personal property associated therewith are surrendered to the Receiver in accordance with Section 2 above, the Receiver shall send written notice of receipt thereof to this Court, shall indicate his acceptance of appointment as Receiver, shall cause the operation of the system until such time as provided for in Section 1, and shall continue the lawful operation and maintenance of the utility service to the customers of the system. In order to effectively carry out the responsibilities under this Order, the Receiver shall have the following powers and authority:

(1.) to provided and maintain water and wastewater service within the designated Service Area, in compliance with all applicable permits, regulations, and statutes;

(2.) to make extensions, expansions, repairs, replacements, and improvements to the system as appropriate and necessary;

(3.) to collect rates, fees, charges, and deposits for all services provided by the system in accordance with all applicable state laws;

(4.) to borrow money, and to pledge and encumber the facilities, assets and revenues of the system for repayments thereof;

(5.) to enter into contracts or agreements with any other public agency or private entity providing for or relating to the operation and maintenance of the system or to connection of the customers to any other public or private system;

(6.) to accept gifts, grants, or contributions in kind in connection with the management, operation and maintenance of the system;

(7.) to retain and pay the fees, costs, and salaries of accountants, architects, engineers, attorneys, employees, or other professional consultants as necessary or desirable in the management, operation, or maintenance of the system and to ensure compliance with all the provisions of this Order for the rates, fees, and charges authorized under this Section 3;

(8.) to pay from revenues collected from the customers of the system all necessary and reasonable operating expenses contemplated in this Section 3., in a manner designed to continue the efficient, effective and environmentally sound operation of said utility;

(9.) to connect customers of the system to any other public or private water system with adequate water and wastewater service capacity; to accept said customers

in accordance with and subject to applicable requirements and payment of fees to said public or private system;

(10.) upon completion thereto, the Receiver, with written approval from this Court, may discontinue the operation of the system and dispose of all land, facilities, assets, and revenues to satisfy all outstanding obligations of the system. The Receiver shall give due notice to the owner and all creditors of the system of his receivership prior to any disposal of the facilities;

(11.) to sue or be sued, to implead or to be impleaded, to complain and defend in any Court, and to seek all legal or equitable relief in accordance with applicable state law;

(12.) to apply for and obtain any applicable federal, state, and local governmental permits, certificates, licenses, or other approvals in order to operate and maintain the system;

(13.) to perform generally any other lawful acts necessary or desirable to carry out the express powers and authority granted and imposed herein.

**SECTION 4. CONTINUED JURISDICTION.**

This Court shall retain jurisdiction in this cause to enter such further orders or take any action as it deems appropriate. Nothing in this Order is intended to determine what entity may be ultimately and/or permanently responsible for the operation and maintenance of the system to any person, firm, or entity, then, on the date of closing of such sale, this Order shall terminate and expire, and this matter shall be closed. The

Receiver shall file notification of any sale with this Court no later than ten (10) business days following the date of any such sale.

**SECTION 5. IMMUNITY FROM LIABILITY AND VIOLATIONS.**

As consideration for Receiver assuming the responsibility for the continued operation and maintenance of the system, the Receiver and his agents and employees are hereby declared to be held harmless and not legally responsible for any and all claims, liability, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and fees, including attorneys' fees, that have arisen or may arise out of the past design, construction, operation, and maintenance of the system. This immunity shall include but not be limited to: immunity from injury to persons, damage to property or property rights, or violation of any governmental law, rule, regulation or requirement that may arise from the design, construction, operation, or maintenance of the system to the date of appointment of the Receiver.

**SECTION 6. RESPONDENT'S LIABILITY.**

Respondent shall remain liable under all applicable laws for any claims, violations, demands, penalties, suits, proceedings, actions, or fees occurring prior to the appointment and acceptance by the Receiver.

**SECTION 7. RECEIVER'S SEPARATION OF FUNDS.**

LONNIE PARNELL, as Receiver, is hereby directed by this Court to maintain separate accounts and records for the managements of the system. Additionally, this court hereby directs that the revenues from the Respondent's Utility are not to be

