

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 16, 2023

TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk

FROM: Melinda H. Watts, Engineering Specialist IV, Division of Engineering

MW MR

RE: Docket No. 20220064-WS - Application for transfer of water and wastewater facilities of Tymber Creek Utilities, Inc., water Certificate No. 303-W, and wastewater Certificate No. 252-S to CSWR-Florida Utility Operating Company, LLC, in Volusia County.

Please file the attached email regarding "Utility Deeds – CSWR Response" and associated email attachment in the above mentioned docket file.

From: [Joann Parsons](#)
To: [Joann Parsons](#)
Subject: FW: 20220064 - Tymber Creek Certificate Transfer
Date: Friday, June 16, 2023 11:22:35 AM

From: Tom Crabb <tcrabb@radeylaw.com>
Sent: Friday, June 16, 2023 10:23 AM
To: Melinda Watts <Mwatts@PSC.STATE.FL.US>
Subject: FW: 20220064 - Tymber Creek Certificate Transfer

Good morning Melinda,

Since we spoke last Friday, it remains unknown why Mr. Shirah (now deceased) in 2019 deeded the plant parcel (just the land) from TCU to himself personally. The plant on that land remained in service to customers and there is no indication the plant or any other assets of the system were transferred to Mr. Shirah personally. The other deed is from 2001, transferring the perc pond parcel from JK Shirah & Sons to J. Stanley Shirah. I believe Mr. Shirah in years past had some kind of rental arrangement with TCU.

CSWR-Florida UOC's purchase agreement, filed in the docket, is with both TCU and the estate. The two referenced parcels and all other assets relating to the system will be transferred from TCU and the estate to CSWR as part of the transaction. Attached is a title commitment on the two parcels, received yesterday. Regardless of what may have happened with the former owner Mr. Shirah, it all goes to CSWR-Florida UOC.

Please let me know what, if any, additional documentation staff may need to get this transfer back on track to agenda conference. If you have any questions or CSWR-Florida UOC can further assist, please let me know.

Thank you,

Tom

Tom Crabb
Radey Law Firm
(850)284-7518 Mobile

www.radeylaw.com

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

AMERICAN LAND TITLE ASSOCIATION COMMITMENT

Schedule A

Transaction Identification Data for reference only:

Commitment Number: 1174377 - A5	Revision Number: None	Issuing Office File Number: Tymber Creek	Issuing Office: 2926801
Property Address: Summer Hill Court Ormond Beach, FL 32174	Loan ID Number:	ALTA Universal ID: None	Issuing Agent: Trow & Dobbins, P.A.

1. Commitment Date: **June 9, 2023 at 11:00 PM**
2. Policy to be Issued: Proposed Policy Amount:
OWNER'S: **ALTA Owner's Policy (06/17/06). (With Florida Modifications)** **\$1,275,000.00**
Proposed Insured: **Central States Water Resources, Inc., a Missouri corporation**
MORTGAGEE:
Proposed Insured:
MORTGAGEE:
Proposed Insured:
3. The estate or interest in the Land described or referred to in this Commitment is **FEE SIMPLE** (Identify estate covered, i.e., fee, leasehold, etc.)
4. Title to the estate or interest in the Land is at the Commitment Date vested in:
Parcel 1 (412504001420): T. Brent Jenkins, Successor Trustee of the Fifth Restatement of the Revocable Trust Agreement of J. Stanley Shirah, as last revised and restated on January 8, 2020;
Parcel 2 (412500000182): T. Brent Jenkins, Successor Trustee of the Fifth Restatement of the Revocable Trust Agreement of J. Stanley Shirah, as last revised and restated on January 8, 2020;
5. The Land is described as follows:
See Exhibit A

Old Republic National Title Insurance Company
400 Second Avenue South, Minneapolis, Minnesota 55401, (612) 371-1111



AUTHORIZED SIGNATORY
Trow & Dobbins, P.A.
2926801

This page is only a part of a 2016 ALTA Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I – Requirements; and Schedule B, Part II – Exceptions.

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

AMERICAN LAND TITLE ASSOCIATION COMMITMENT

Schedule B-I

Issuing Office File Number: Tymber Creek

Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.

Parcel 1 (412504001420):

- A. Trustee's Deed from T. Brent Jenkins, Successor Trustee of the Fifth Restatement of the Revocable Trust Agreement of J. Stanley Shirah, as last revised and restated on January 8, 2020 to the proposed insured purchaser(s).

Parcel 2 (412500000182):

- A. Trustee's Deed from T. Brent Jenkins, Successor Trustee of the Fifth Restatement of the Revocable Trust Agreement of J. Stanley Shirah, as last revised and restated on January 8, 2020 to the proposed insured purchaser(s).

5. An update of the title search must be completed just prior to the closing and the commitment must be endorsed to require clearance of, or take exception for, any additional title defects or adverse matters found.
6. **Parcel 1 (412504001420):**
 - A. INTENTIONALLY DELETED.
 - B. Recording of Certification of Trust confirming the information as required by Sec. 736.1017(1), F.S., containing the confirmatory statement under Sec. 736.1017(3).
 - C. Homeowners' Association estoppel letter must be furnished showing that the assessments are current and that there are no unpaid special assessments.

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AMERICAN LAND TITLE ASSOCIATION COMMITMENT

Schedule B-I

Issuing Office File Number: Tymber Creek

7. Parcel 2 (412500000182):

A. INTENTIONALLY DELETED.

B. Recording of Certification of Trust confirming the information as required by Sec. 736.1017(1), F.S., containing the confirmatory statement under Sec. 736.1017(3).

8. INTENTIONALLY DELETED.

9. INTENTIONALLY DELETED.

10. INTENTIONALLY DELETED.

11. The Company has no liability under this commitment for the issuance of a mortgagee policy until an endorsement is issued stating the name of the proposed insured mortgagee. The Company reserves the right to make additional requirements, including but not limited to, review of additional documentation regarding the proposed insured mortgagee.

12. ADDED: Good standing under the State of Florida for CSWR-Florida Utility Operating Company, LLC, a Florida limited liability company has been verified as of the certification date of this commitment. Satisfactory evidence must be furnished establishing that it remains in good standing under the laws of Florida at date of the insured purchase and sale and/or loan.

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

AMERICAN LAND TITLE ASSOCIATION COMMITMENT

Schedule B-II

Issuing Office File Number: Tymber Creek

Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching subsequent to the Commitment Date hereof but prior to the date the Proposed Insured acquires for value of record the estate or interest or Mortgage thereon covered by this Commitment.
2.
 - a. General or special taxes and assessments required to be paid in the year **2022** and subsequent years.
 - b. Rights or claims of parties in possession not recorded in the Public Records.
 - c. Any encroachment, encumbrance, violation, variation or adverse circumstance that would be disclosed by an inspection or an accurate and complete land survey of the Land and inspection of the Land.
 - d. Easements or claims of easements not recorded in the Public Records.
 - e. Any lien, or right to a lien, for services, labor or material furnished, imposed by law and not recorded in the Public Records.
3. Any Owner's Policy issued pursuant hereto will contain under Schedule B the following exception: *Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the Land insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.*
4. Any lien provided by County Ordinance or by Chapter 159, F.S., in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the land described herein; and any lien for waste fees in favor of any county or municipality.
5. **Parcel 1 (412504001420):**
 - A. Development Agreement recorded in O.R. Book 1770, Page 1567, as re-recorded in O.R. Book 1995, Page 175 and as amended in O.R. Book 1999, Page 1323, and O.R. Book 3709, Page 2658, Public Records of Volusia County, Florida.
 - B. All matters contained on the Plat of TYMBER CREEK PHASE I, as recorded in Plat Book 34, Page 98, Public Records of Volusia County, Florida.

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OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

AMERICAN LAND TITLE ASSOCIATION COMMITMENT

Schedule B-II

Issuing Office File Number: Tymber Creek

- C. REVISED: Covenants, conditions, and restrictions contained in Declaration of Covenants and Restrictions for Tymber Creek, Phase I and Notice of Provisions of Tymber Creek Homeowners Association, Inc. recorded in O.R. Book 1866, Page 459, which contain provisions creating easements and/or assessments, as amended in O.R. Book 1882, Page 527, together with and as amended by Declaration of Covenants and Restrictions for Tymber Creek, Phase II recorded in O.R. Book 2083, Page 302 and as further amended in O.R. Book 2341, Page 1303, O.R. Book 2351, Page 1658, O.R. Book 2442, Page 1886, O.R. Book 2820, Page 1391 and O. R. Book 3752, Page 2801, as affected by Notice of Intent to Enforce Covenants and Restrictions recorded in O.R. Book 6692, Page 3800, as further affected by Resolution recorded in O.R. Book 6728, Page 240, O.R. Book 6739, Page 4849 and O.R. Book 6892, Page 2542 and as further affected by Notice of Intent to Enforce Covenants and Restrictions as recorded in O.R. Book 7205, Page 3207 and O.R. Book 7205, Page 3820, Public Records of Volusia County, Florida.
- D. Dedication Agreement recorded in O.R. Book 2048, Page 1504, Public Records of Volusia County, Florida.
- E. REVISED: Right-of-Way Easement granted to Tomoka Cable T.V. recorded in O.R. Book 2128, Page 634, Public Records of Volusia County, Florida.
- F. Right-of-Way Easement granted to Tomoka Cable T.V. recorded in O.R. Book 2146, Page 26, as assigned to Palm Coast Cablevision, LTD. recorded in O.R. Book 4439, Page 1154, Public Records of Volusia County, Florida.
- G. Access easement together with terms and conditions therein as contained in Agreement recorded in O.R. Book 3115, Page 494, Public Records of Volusia County, Florida.
- H. INTENTIONALLY DELETED.
- I. Access Easement granted to Palm Coast Cablevision, LTD recorded May 27, 1999 in O.R. Book 4439, Page 1156, Public Records of Volusia County, Florida.
- J. Easement granted to Palm Coast Cablevision, LTD recorded May 27, 1999 in O.R. Book 4439, Page 1161, Public Records of Volusia County, Florida.
- K. REVISED. Riparian and littoral rights are not insured.
- L. Access to and from Parcel 1 is limited to that provided by common ownership of Parcel 2.

6. Parcel 2 (412500000182):

- A. Development Agreement recorded in O.R. Book 1770, Page 1567, as re-recorded in O.R. Book 1995, Page 175 and as amended in O.R. Book 1999, Page 1323, and O.R. Book 3709, Page 2658, Public Records of Volusia County, Florida.

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OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

AMERICAN LAND TITLE ASSOCIATION COMMITMENT

Schedule B-II

Issuing Office File Number: Tymber Creek

- B. Permanent access and maintenance easement contained in Stipulated Order of Taking recorded in O.R. Book 6432, Page 134, Public Records of Volusia County, Florida.
 - C. REVISED: Terms and conditions of the easement contained in Utility Easement recorded in O.R. Book 6637, Page 4367, Public Records of Volusia County, Florida. (Appurtenance)
 - D. REVISED: Riparian and littoral rights are not insured.
- 7. INTENTIONALLY DELETED.
 - 8. INTENTIONALLY DELETED.
 - 9. INTENTIONALLY DELETED.
 - 10. Rights of the lessees under unrecorded leases.

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OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
COMMITMENT
Exhibit A

Commitment Number:

1174377

Issuing Office File Number:

Tymber Creek

Parcel 1 (412504001420):

Parcel 142, TYMBER CREEK PHASE I, according to the map or plat thereof as recorded in Plat Book 34, Page 98, Public Records of Volusia County, Florida.

Parcel 2 (412500000182):

A PORTION OF THE EAST 1/2 OF THE WEST 1/2 OF SECTION 25, TOWNSHIP 14 SOUTH, RANGE 31 EAST, VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF THE NORTH LINE OF SAID SECTION 25 AND THE EASTERLY RIGHT-OF-WAY LINE OF TYMBER CREEK ROAD, SAID POINT ALSO BEING THE POINT OF BEGINNING AS SHOWN ON THE RECORD PLAT OF TYMBER CREEK PHASE I, AS RECORDED IN PLAT BOOK 34, PAGES 98-103, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE GO NORTH 88 DEGREES 33 MINUTES 07 SECONDS EAST ALONG THE NORTH LINE OF SAID SECTION 25, A DISTANCE OF 670.25 FEET TO THE NORTHWEST CORNER OF PARCEL 142 (THE SEWAGE AND WATER TREATMENT PLANT SITE) OF SAID TYMBER CREEK PHASE I; THENCE DEPARTING THE NORTH LINE OF SAID SECTION 25, GO ALONG THE BOUNDARY OF SAID TYMBER CREEK PHASE I THE FOLLOWING COURSES AND DISTANCES: SOUTH 10 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 648.87 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWEST AND HAVING A RADIUS OF 135.95 FEET; THENCE GO SOUTHWEST ALONG SAID CURVE HAVING A RADIUS OF 135.95 FEET, THROUGH A CENTRAL ANGLE OF 67 DEGREES 03 MINUTES 48 SECONDS, AN ARC DISTANCE OF 150.20 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHEAST AND HAVING A RADIUS OF 178.64 FEET; THENCE GO SOUTHWEST ALONG SAID CURVE HAVING A RADIUS OF 178.64 FEET, THROUGH A CENTRAL ANGLE OF 16 DEGREES 01 MINUTE 20 SECONDS, AN ARC DISTANCE OF 49.95 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTH AND HAVING A RADIUS OF 25.00 FEET; THENCE GO WEST ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 70 DEGREES 28 MINUTES 14 SECONDS, AN ARC DISTANCE OF 30.75 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHWEST AND HAVING A RADIUS OF 400.00 FEET, SAID POINT BEING ON THE NORTHERLY LINE OF A 50 FOOT EASEMENT KNOWN AS SANDY SPRING ROAD; THENCE GO NORTHWEST ALONG SAID

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OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
COMMITMENT
Exhibit A

Commitment Number:

1174377

Issuing Office File Number:

Tymer Creek

EASEMENT CURVE HAVING A RADIUS OF 400.00 FEET, THROUGH A CENTRAL ANGLE OF 18 DEGREES 55 MINUTES 08 SECONDS, AN ARC DISTANCE OF 132.08 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHEAST AND HAVING A RADIUS OF 25.00 FEET; THENCE GO NORTHWEST ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 44 DEGREES 18 MINUTES 02 SECONDS, AN ARC DISTANCE OF 19.33 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTH AND HAVING A RADIUS OF 50.00 FEET; THENCE GO WEST ALONG SAID CURVE HAVING A RADIUS OF 50.00 FEET, THROUGH A CENTRAL ANGLE OF 158 DEGREES 14 MINUTES 26 SECONDS, AN ARC DISTANCE OF 138.09 FEET TO A POINT; THENCE DEPARTING SAID CURVE GO SOUTH 88 DEGREES 39 MINUTES 10 SECONDS WEST, A DISTANCE OF 141.82 FEET TO A POINT ON THE AFORESAID EASTERLY RIGHT-OF-WAY LINE OF TYMBER CREEK ROAD; THENCE GO NORTH 01 DEGREES 20 MINUTES 50 SECONDS WEST, A DISTANCE OF 686.89 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT the land described in O.R. Book 6432, Page 134, of the Public Records of Volusia County, Florida, described as follows:

A portion of lands described in Official Records Book 4638, Page 2697, of the Public Records of Volusia County, Florida lying in the Northeast 1/4 of the Northwest 1/4 of Section 25, Township 14 South, Range 31 East, Volusia County, Florida being more particularly described as follows:

Commence at the Northwest corner of said Section 25, thence run N 89°11' 24" E along the North line of Section 25 for a distance of 1396.36 feet to the POINT OF BEGINNING, said point also situated on existing easterly Right of Way line of Tymer Creek Road (R/W width varies) as shown on the Plat of Tymer Creek Phase 1 as recorded in Map Book 34 Page 98 of said Public Records; thence continue along said North line, N 89°11' 24" E a distance of 341.54 feet; thence departing said North line run S 07°14'50" W a distance of 372.77 feet; thence S 38°53'54" E a distance of 80.58 feet; thence S 69°29'44" E a distance of 130.41 feet; thence S 81°15'52" E a distance of 70.27 feet; thence S 10°38'30" W a distance of 138.67 feet to a point of curvature of a curve concave northwesterly having a radius of 95.95 feet; thence run southwesterly along the arc of said curve through a central angle of 67°03'48" for an arc distance of 112.31 feet to a point of reverse curve concave southeasterly having a radius of 218.64 feet a chord bearing of S 65°30'22" W and a chord distance of 92.40 feet; thence run southwesterly along the arc of said curve through a central angle of 24°23'51" for an arc distance of 93.10 feet to a point of curvature of a non-tangent curve concave southwesterly having a radius of 400.00 feet, a chord bearing of N 58°55'17" W and a chord distance of 109.13 feet; thence

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
COMMITMENT
Exhibit A

Commitment Number:

1174377

Issuing Office File Number:

Tymber Creek

run northwesterly along the arc of said curve through a central angle of $15^{\circ}40'51''$ for an arc distance of 109.47 feet to the point of reverse curve of a curve concave northeasterly having a radius of 25.00 feet; thence run northwesterly along the arc of said curve through a central angle of $44^{\circ}18'02''$ for an arc distance of 19.33 feet to a point of reverse curve of a curve concave southerly having a radius of 50.00 feet; thence run westerly along the arc of said curve through a central angle of $158^{\circ}14'22''$ for an arc distance of 138.09 feet; thence S $89^{\circ}17'57''$ W a distance of 141.82 feet to a point on the aforementioned easterly Right of Way line of Tymber Creek Road; thence N $00^{\circ}42'03''$ W along said Right of Way line a distance of 686.39 feet to the POINT OF BEGINNING.