

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Notice of abandonment of
water services in Alachua County
by Santa Fe Hills Water System.

DOCKET NO. 020223-WU
ORDER NO. PSC-02-0604-FOF-WU
ISSUED: May 2, 2002

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

ORDER ACKNOWLEDGING NOTICE OF ABANDONMENT,
ACKNOWLEDGING APPOINTMENT OF RECEIVERSHIP,
AND CANCELLATION OF CERTIFICATE NO. 557-W

BY THE COMMISSION:

Santa Fe Hills Water System (Santa Fe Hills or utility) is a Class C water utility currently serving approximately 50 residential connections within the Santa Fe Hills subdivision near the City of Alachua in Alachua County (County). This area is in the Suwannee River Water Management District (SRWMD) and is not considered a water use caution area. Wastewater is provided by septic systems.

The Commission gained jurisdiction in Alachua County on June 30, 1992. By Order No. PSC-93-1380-FOF-WU, issued September 20, 1993, in Docket No. 930569-WU, we granted the utility Grandfather Certificate No. 557-W and approved initial rates and charges using a base facility/gallonage charge rate structure. The original rates and charges granted in the 1993 certificate order have remained in effect since the utility has never filed a petition for an index, rate proceeding, or for any type of rate relief.

On February 18, 2002, Mr. Larry A. Gonzales, the son of the owner of the utility, gave notice to Alachua County that the utility was to be abandoned within sixty days. On March 11, 2002, the Commission received notice of the owner's intent to abandon. On March 21, 2002, the County of Alachua was appointed receiver by the Circuit Court in the Eighth Judicial Circuit in and for Alachua

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County, Florida. The term of the receivership began on April 19, 2002.

We have jurisdiction to consider this matter pursuant to Section 367.165, Florida Statutes.

Section 367.165, Florida Statutes, requires 60 days' notice be given to the County or Counties in which the utility is located and to the Commission prior to the abandonment of a utility. By letter dated February 18, 2002, and filed with the Commission on March 11, 2002, Mr. Gonzales gave the County, the Florida Department of Environmental Protection (FDEP), and this Commission, 60 days' notice of the owner's intent to abandon the utility water facilities as of April 22, 2002.

Located near the Town of Alachua, in Alachua County, the developer-related utility provides water service to approximately 50 residential connections in the Santa Fe Hills Subdivision. According to the 1993 grandfather certificate order, the utility has been in service since 1960, with a total of 84 connections anticipated at buildout.

According to the abandonment notice, Mr. Gonzales indicated that the owner and manager (his mother) is 86 years old and is no longer able to properly manage and maintain the system. Mr. Gonzales also stated that the system was running well and that there were no present citations or violations of which he was aware. However, the FDEP indicated to us that the water system is not currently meeting all FDEP standards and regulations. The deficiencies include disinfection, metering, chemical testing, record keeping, and operating problems. In general, the system is in poor condition. The utility has failed to respond to previous FDEP warning letters, and the owner has been noticed that the operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, with possible penalties resulting. To date, there has been no formal FDEP proceeding against this utility.

The SRWMD did not know of the utility's existence until contacted by our staff. As a result, the utility does not have a water use permit. The SRWMD does not consider the utility service

area to be in a water use caution area. Therefore, no water use restrictions exist for this utility.

By Order dated March 21, 2002, Alachua County petitioned and was appointed receiver of the utility in Case No.: 01-02-CA-1061 by the Circuit Court of the Eighth Judicial Circuit in and for Alachua County, Florida. Section 367.165(2), Florida Statutes, requires the County to petition the circuit court for the appointment of a receiver. Such receiver can be the County or any other person or entity such as the Homeowner's Association (HOA). The responsibility of the receiver is to operate the utility efficiently and effectively from the date of abandonment until disposition of the property. At the present time, the County has taken that responsibility. The County began operating the utility on April 19, 2002.

The Circuit Court's Order directed the Receiver to operate the water system until the system is disposed of in such a manner so as to provide efficient, effective, and environmentally continuous service to the customers of the utility during the term of this receivership, and as can be provided from the revenues of the system. The Receiver is also required to submit to the Circuit Court quarterly financial and operational reports for the water system for the duration of its receivership.

In discussions with the County, our staff has learned that although it considers itself obligated to find a receiver, pursuant to Section 367.165 Florida Statutes, the County is reluctant to become one. To the County, the best option for this system is to interconnect it to the nearby water main belonging to the City of Alachua, and have the City absorb Santa Fe into its service area. Given the age of the Utility's distribution system (40+ years), the City has already expressed concern to the County that its high pressure system would damage the lines owned by the utility. Given that concern, the City has subsequently declined the interconnection option as an immediate solution. The City has applied to FDEP's Drinking Water State Revolving Fund for funding that will include replacement of the utility's distribution system at an estimated cost of \$466,425. The real extent of the funding support for this project will not be known until the application process is complete. During the interim, the County intends to operate the utility as required in the receivership order.

Pursuant to Section 367.022(2), Florida Statutes, utility systems owned, managed, or controlled by governmental authorities are exempt from our regulation. Since on March 21, 2002, the County of Alachua, a governmental authority, was appointed receiver for this utility, we find it appropriate that the utility's certificate be cancelled. However, it should be noted that cancellation of the utility's certificate does not relieve the utility's obligation regarding the outstanding regulatory assessment fees (RAFs) and annual reports.

According to our records, Santa Fe Hills has failed to file its annual reports for the years 1993 through 2001, and has failed to pay its RAFs for the years 1996 through 1998, and 2000 through 2001. Rule 25-30.110, Florida Administrative Code, requires utilities subject to our jurisdiction as of December 31 of each year to file an annual report on or before March 31 of the following year. Pursuant to Rule 25-30.110 (6)(c), Florida Administrative Code, any utility that fails to file a timely, complete annual report is subject to penalties, absent demonstration of good cause for noncompliance.

Pursuant to Rule 25-30.120(2), Florida Administrative Code, the obligation to remit the regulatory assessment fee for any year shall apply to any utility which is subject to our jurisdiction on or before December 31 of that year. Further, pursuant to Section 350.113(4), Florida Statutes, and Rule 25-30.120(5), Florida Administrative Code, a statutory penalty plus interest shall be assessed against any utility that fails to timely pay its regulatory assessment fees. In addition, pursuant to Sections 367.145(1)(b) and 367.161, Florida Statutes, and Rule 25-30.120(5)(b), Florida Administrative Code, we may impose an additional penalty upon a utility for failure to pay regulatory assessment fees in a timely manner.

Our staff has contacted the utility owner regarding the issue of the outstanding annual reports and RAFs, and is currently attempting further collection efforts, and a possible payment plan. Should these efforts prove unsuccessful, or if the utility agrees to a payment plan, we will address the outstanding annual reports and RAFs in a later Order in this docket.

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Pursuant to Rule 25-30.060, (3), Florida Administrative Code, within 10 days of the appointment of the receiver by the Circuit Court, the Receiver shall request from us a copy of the utility's tariff and most recent annual report. A copy of the utility's tariff has been sent to the County; however, no annual reports were sent since none have been filed with the Commission.

Based on the above, we acknowledge the abandonment of Santa Fe Hills, acknowledge the appointment of the County as the receiver for Santa Fe, and cancel Certificate No. 557-W.

Based on the foregoing, it is

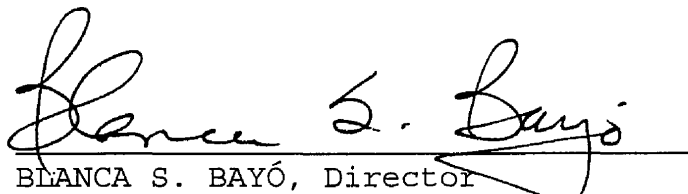
ORDERED by the Florida Public Service Commission that Mr. Larry A. Gonzales's notice of abandonment of Santa Fe Hills Water System is hereby acknowledged. It is further

ORDERED that the appointment of Alachua County as the receiver for Santa Fe Hills Water System is hereby acknowledged. It is further

ORDERED that Certificate No. 557-W issued to Santa Fe Hills Water System is hereby canceled. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 2nd day of May, 2002.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.