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ORIGINAL

RUDEN
MCCLOSKEY
SMITH
SCHUSTER &
RUSSELL, P.A.
ATTORNEYS AT LAW

1549 RINGLING BOULEVARD
SUITE 600
SARASOTA, FLORIDA 34236

POST OFFICE BOX 49017
SARASOTA, FLORIDA 34230-6017

TELEPHONE: (941) 365-0140
FAX: (941) 955-7590

E-MAIL: RJG@RUDEN.COM

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Florida Public Service Commission
Division of Water and Wastewater

August 4, 1998

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Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: *Rampart Utilities, Inc. Application to Amend Certificate No. 497-S*

Dear Sir/Madam:

The undersigned represents Maple Leaf Estates Homeowners' Corporation which files this objection to the application to amend the referenced certificate. The reasons for the objection are set forth below. In accordance with §367.045(4) Maple Leaf Estates Homeowners' Corporation requests that the Public Service Commission schedule a proceeding in or near Charlotte County to address the issues raised by the Rampart application.

Maple Leaf Estates Homeowners' Corporation owns and operates Maple Leaf Estates Mobile Home Park (hereinafter "Maple Leaf"). Maple Leaf accounts for approximately 80% of Rampart Customers. The Rampart sewage treatment plant is located within a densely residential area of Maple Leaf. The Rampart plant is a small "package plant" constructed in the late 1970's. The size and location of the treatment facilities demonstrate the developer's intent was to serve only Maple Leaf, although admittedly, its franchise area includes another mobile home park and some nearby residential and commercial areas. Maple Leaf is concerned about the environmental impact to its residents resulting from increased capacity caused by the expansion of the Rampart franchise area.

In the early 1990's, Charlotte County acquired General Development Utilities which the County now operates as Charlotte County Utilities (hereinafter "CCU"). When the CCU charter was created, it specifically provided that any area within Charlotte County, outside the franchise area of any existing private utility was reserved as the CCU service area. This is consistent with the Charlotte County comprehensive future land use plan. In an effort to bring the Rampart plant under the CCU umbrella, the residents of Maple Leaf petitioned Charlotte County to establish the Maple Leaf Estates/Victoria Estates Municipal Services Water and Sewer Benefit Unit. The purpose of the MSBU was to fund a possible County purchase of Rampart Utilities. A court ordered appraiser has been appointed to conduct an initial appraisal of Rampart Utilities to facilitate the acquisition through the MSBU. It is the understanding of the undersigned that the court ordered appraisal report will be completed shortly.

In recent years, Rampart Utilities, Inc. has been a Defendant in two lawsuits. First was an action brought by Charlotte County for the non-payment of bulk water fees and reserve capacity fees.

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Charlotte County vs. Rampart Utilities, Inc., Case No. 92-1996-CA-01, Twentieth Judicial Circuit, Charlotte County, Florida. In those proceedings, Charlotte County sought, and received, the appointment of a Receiver which has managed the assets of Rampart Utilities since 1993. Second, Henry Woods, et al vs. Rampart Utilities, Inc./Hugh Keith, et al., Case No. 93-17311(04) Seventeenth Judicial Circuit, Broward County, Florida. The Broward County proceedings sought an accounting and dissolution of a Florida Limited Partnership which was allegedly one of the owners of Rampart. Following a trial, the Circuit Court entered an order authorizing the winding up and sale pendente lite of the Rampart assets.

Pending the sale of Rampart, it is still managed by a court appointed Receiver. It is a well established principle of law that a Receiver is appointed to preserve assets which are the subject of litigation during the pendency of that litigation. The Receiver's powers and duties are limited to those enumerated in the order of appointment. The order appointing the Receiver does not authorize the Receiver to seek an expansion of the Rampart franchise area.

In summary, Maple Leaf objects to an attempt to expand the Rampart Utilities franchise area because the expansion is not authorized by the Receiver's appointment, is against the best interests of Rampart's current customers and contrary to the long range plans of Charlotte County. Accordingly, Maple Leaf opposes the Rampart application to expand its franchise area.

Sincerely,

RUDEN, McCLOSKEY, SMITH,
SCHUSTER & RUSSELL, P.A.


Robert J. Gill

RJG/lss

cc: Rampart Utilities, Inc. c/o Theodore Steffens, Receiver
Maple Leaf Estates Homeowners' Corporation
Richard Howell, Charlotte County Utilities
Kathleen W. Errett, Assistant County Attorney