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CLERK

DATE: September 19, 2005
TO: Blanca S. Bayó, Commission Clerk and Administrative Services Director
FROM: Richard P. Redemann, Professional Engineer III, Division of Economic Regulation
RE: Docket No. 050271-WU; Notice of Abandonment of water system in Polk County by The Colinas Group, Inc.

Please add to the docket file the attached Order After Status Conference and Order to Appoint Polk County as Interim Successor Receiver.

RR:kb
Attachment
cc: Division of Economic Regulation (Kaproth)
Office of General Counsel (Gervasi)

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**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA**

**STATE OF FLORIDA, ex. Rel.,
POLK COUNTY, a political subdivision of
the State of Florida
Petitioner,**

vs.

**CASE NO.: 53-2002-CA-004961
SECTION: 4**

**LAZY S UTILITIES, INC., and
the ESTATE of ARCHAR SMITH
Defendants.**

**ORDER TO APPOINT POLK COUNTY
AS INTERIM SUCCESSOR RECEIVER**

THIS CAUSE having come on to be heard on the Notice of Hearing, as filed by
Petitioner State of Florida, ex. Rel., POLK COUNTY, a political subdivision of the State of Florida,
[hereinafter "COUNTY"] and the Court having considered the proposals, options, and having heard
argument and being otherwise fully advised in the premises for the appointment of a receiver, pursuant
to Chapter 367, Florida Statutes;

It is therefore,

ORDERED AND ADJUDGED as follows:

1. The Colinas Group, Inc., a Florida corporation providing engineering and
environmental consulting services, located in City of Lakeland, Polk County, shall be relieved as to
service as the Receiver [hereinafter "RECEIVER"] for the water utility system providing service to
residential customers in a neighborhood located near the City of Lakeland, Florida, which was formerly
owned and operated by the Lazy S Utilities, Inc. The cessation of water service to the residential area in

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question will constitute a public health and safety concern. As used herein the following definitions apply:

a. "Parties" means the Interim Successor Receiver, Polk County, Florida, hereinafter "RECEIVER"; the water provider: City of Lakeland, Florida,; and any other legal entities who later may become party to this action.

b. "Utility" means the aspect of the business formerly owned and operated by Lazy S Utilities concerning the distribution and delivery of drinking water to residential customers.

c. "Drinking Water System" means the drinking water system once owned and operated by Lazy S Utilities, including the transmission lines, any water treatment system and meters.

2. The RECEIVER's appointment is effective as of: September 1, 2005, and shall run until such time as the RECEIVER disposes of the Utility as provided herein and files a final report with the Court, or until the RECEIVER is otherwise discharged by the Court. The RECEIVER shall not be required to post a bond.

3. The RECEIVER shall have the following duties and powers:

a. To manage and operate the Utilities in a manner so as to effectively and efficiently provide sewer and water service to the Utilities customers in accordance with applicable statutes and properly promulgated rules, regulations or ordinances of the United States, the State of Florida, the Board of County Commissioners of Polk County, Florida, or any other regulatory agency or governmental authority with jurisdiction over the Utilities. The Receiver shall have full authority to compromise, settle, prosecute or defend claims involving the Utilities and to enter into agreements to effect settlements with regulatory or governmental authorities, if necessary, subject to final approval by the Court.

b. To expend, at the Receiver's discretion, whatever funds deemed proper for the preservation, maintenance, care, improvement, construction or management of the Utilities, including but not limited to, payment of wages, mortgage payments, premiums on all insurance policies and payments due under contracts.

c. To incur expenses, charges and liabilities in the ordinary course of the Operation of the Utilities.

d. To increase in the rates charged to the customers served by the Utilities or to obtain a special assessment against the customers served by the Utilities which may be necessary to pay for the costs incurred by the Receiver in operating, maintaining and improving the Utilities and complying with the terms of this Receivership, and to collect such fees and payments for provision of such services. SEE EXHIBIT 'A' attached hereto and incorporated by reference.

e. To employ and compensate employees for the operation of the Utilities, including without limitation, attorneys, accountants, managers, agents, assistants, and advisors without liability for any act of those persons, so long as they are selected and retained with ordinary care and their payment is subject to the approval of the Court.

f.. To execute deeds, leases, contracts, bills of sale, notes and other written instruments.

g. To file with the Clerk of the Court within twenty days of the date of appointment as Receiver, an inventory under oath of the property coming under its control or possession, all in accordance with Rule 1.620, Florida Rules of Civil Procedure, unless otherwise waived by the Court. *Filing of the initial inventory is waived.* RD
The Receiver shall render once a year thereafter, an accounting of any additional property

or effects which it has discovered or which shall have come into its possession since appointment, and of the amount of any funds remaining in the hands of or invested by the Receiver, and of the manner in which the same is secured or invested, stating the balance due from or to the Receiver at the time of rendering the last account and the receipts and expenditures since that time. The Receiver is authorized to employ any financial institution, accounting firm or similar organization to prepare such accounting or advise the Receiver as to the preparation of the accounting.

h. To borrow money from any source (including the Receiver in its nonfiduciary capacity), and to secure the loan by mortgage or with other collateral.

i. To compromise, arbitrate or otherwise adjust claims in favor of or against the Receiver and/or the Utilities and to agree to any rescission or modification of any contract or agreement.

j. To participate in any type of liquidation or reorganization of the Utilities, subject to appropriate court approval.

k. To buy, sell, exchange or lease any real or personal property, publicly or privately, for cash or credit, upon terms and conditions that the Receiver deems advisable and subject to approval of the Court after notice to the Parties and any lienholder on the real or personal property and the opportunity to be heard. Any lease so made will be valid and binding for its full term even though it extends beyond the full duration of the receivership.

l. To exercise all its powers at all times in a fiduciary capacity.

m. To perform in a fiduciary capacity any act and make any and all necessary decisions or elections under state law or the Internal Revenue Code on behalf of the Utilities,

including but not limited to, the filing of necessary tax returns, and making any adjustments or elections as it deems fit.

n. To hold, manage, and develop real estate, to grant easements and to make decisions with regard to the real estate as it deems advisable.

o. To receive reasonable compensation for its services in the operation and management of the Utilities payable from the income earned from the operation of the Utilities.

p. To establish and maintain bank accounts in the name of the Utilities or the Receiver and negotiate checks, bills, notes, or other instruments in payment of obligations of, or for services rendered to, the Receiver.

q. To recover a reasonable attorneys' fee and costs in actions brought by or against the Receiver.

r. To pursue, at its discretion, the rights, causes of action and remedies available to the Utilities at the time of the Receiver's appointment.

s. Except as contrary to law, and in addition to all other powers and rights granted herein or by applicable law, the Receiver is empowered to take any action deemed necessary to fully and properly carry out its duties as Receiver.

t. The Receiver shall provide written notice of any of its actions materially affecting the Utilities to the Parties. The Parties, upon reasonable advance notice, may review the books and records kept by the Receiver or its agents.

4. Within 30 days of the entry of this order, the Receiver shall review the accounts of the receivership to determine how much money has been collected from the residents for the purpose of

operating and maintaining the Utilities and how much has been spent for that purpose.

5. The Receiver shall maintain separate accounts and otherwise maintain and account for the assets and liabilities of the Receivership separately and independently from the public assets and liabilities of The Colinas Group, Inc., in its capacity as a corporate consulting entity.

DONE AND ORDERED in Chambers at Bartow, Polk County, Florida this ^{SEP 12} ___ day of August

2005.



ROBERT L. DOYEL
Circuit Judge

Copies furnished to:

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IN THE CIRCUIT COURT
OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

CLERK OF COURT SERVICE
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DIVISION OF
ECONOMIC REGULATION

STATE OF FLORIDA,
Plaintiff,

v.

Case No.: 2002-CA-004961

LAZY S UTILITIES, INC.,
Defendant.

ORDER AFTER STATUS CONFERENCE

THIS MATTER is before the court as a result of a status conference that was held August 26, 2005. Present were Palmer Davis, Lakeland Assistant City Attorney; Michael Duclos, Assistant County Attorney); Scott Langston, Esquire; and various residents of Lazy S Community. The court, having reviewed all submissions, and having heard and considered the arguments of the parties at the status conference and otherwise being fully advised in this matter, finds as follows:

At the last hearing held on June 17, 2005, a proposal was made by the City of Lakeland (the "City") and Polk County (the "County") to the Court that would allow residents to connect to the City's water system if 41 residents paid \$2,500 prior to commencement of repairs and construction. The City sent a letter to the residents to see if they could meet that financial commitment in order to make the proposal work. At the status conference, Mr. Davis reported to the court that only 34 residents sent in paper commitments of \$2,500. However, the City will be able to honor the proposal provided that all 34 residents send in the money by October 1, 2005. He stated he would send a letter to all of residents requesting the \$2,500 by October 1, 2005. Mr. Davis told the court that once the money was secured by the City, construction of the new water lines could begin right away with a projected end date of April 2006. He said the last step before connecting to the City's water line requires a connection to a water meter that will cost residents approximately \$365. Mr. Davis recommended each resident get a permit and hire a plumber for this procedure.

Mr. Duclos reported to the court that the residents that do not pay the \$2,500 at the outset could possibly be put on a payment plan that is added to their tax bill through an MSBU assessment that could extend for ten years or more. However, this possibility is contingent upon Mr. Duclos presenting the idea of a payment plan to the board of county commissioners for their approval. He suggested that the residents get a loan on their own as the County will charge 8% interest on the \$2,500 payment plan loan. Mr. Duclos encouraged the residents to honor their upfront financial commitment, as similar proposals around the state cost as much as \$10,000 per residence.

Mr. Duclos told the court he did not find, as previously directed by the court, any case law holding that the County should not be the receiver in this action. Hence, the County will be appointed as the receiver. The court deems this appropriate because the Lazy S Community within the geographical jurisdiction of the County.

ORDERED this _____ day of **SEP 12** 2005.



ROBERT L. DOYEL, Circuit Judge

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