

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: May 21, 2009

TO: ~~Office of Commission Clerk (Cole)~~

FROM: Division of Economic Regulation (Clapp) *cl*

RE: Docket No. 090154-SU – Notice of abandonment of wastewater system for The Village of Lakeland Mobile Home Park in Polk County, by West Lakeland Wastewater, Inc.

Attached is a copy of Polk County's filing with the Tenth Judicial Circuit Court regarding the appointment of receiver for West Lakeland Wastewater, Inc. Please add the attached Notice of Hearing and Petition for Appointment of Receiver for West Lakeland Wastewater, Inc. to this docket.

Should you have any questions regarding this matter, feel free to contact me.

Attachments

COM _____

ECR _____

GCL _____

OPC _____

RCP _____

BSC _____

SGA _____

ADM _____

CLK *McLean*

DOCUMENT NUMBER-DATE

05070 MAY 21 08

FPSC-COMMISSION CLERK

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

POLK COUNTY, a political subdivision
of the State of Florida,

Petitioner,

v.

WEST LAKE LAND WASTEWATER, INC.,
SAM AVERETT and SUZZANE A. BRITT,
Respondents.

Case Number: 53-2009CA005284
Section: 11

RECEIVED
FLORIDA PUBLIC SERVICE
COMMISSION
09 MAY 18 AM 9:44
DIVISION OF
ECONOMIC REGULATION

NOTICE OF HEARING

TO: WEST LAKE LAND WASTEWATER, INC.
c/o Suzzane Britt, Registered Agent
3828 Cheverly Drive, West
Lakeland, FL 33813

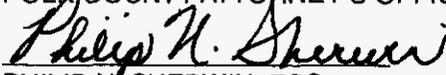
SAM AVERETT
1815 Ewell Road
Lakeland, FL 33811

SUZZANE BRITT
3828 Cheverly Drive, West
Lakeland, FL 33813

PLEASE TAKE NOTICE that on *Tuesday, May 26, 2009 at 10:30 a.m.*, or as soon thereafter as the matter may be heard, the undersigned will bring on to be heard the *Petition for Appointment of Receiver for West Lakeland Wastewater, Inc.* before the Honorable Roger A. Alcott, Hearing Room 8B1, West (Red) Elevators, Polk County Courthouse, 255 North Broadway Avenue, Bartow, Florida.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the Polk County Sheriff for service of process on West Lakeland Wastewater, Inc., c/o Suzzane Britt, Registered Agent; Sam Averett and Suzzane Britt, and by regular U.S. mail to Crystalyn R. Carey, Esquire, Counsel for the Florida Governmental Utility Authority and to Stephanie Clapp, Florida Public Service Commission this 14th day of May, 2009.

POLK COUNTY ATTORNEY'S OFFICE



PHILIP N. SHERWIN, ESQ.
Florida Bar No. 0366471
Assistant County Attorney
P.O. Box 9005, Drawer AT01
330 West Church Street
Bartow, Florida 33831-9005
(863) 534-6439
(863) 534-7654 (fax)

"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Office of the Court Administrator, (863) 534-4690, within two (2) working days of your receipt of this (describe notice); if you are hearing or voice impaired, call TDD (863) 534-7777 or Florida Relay Service 711."

FORM 1.997 CIVIL COVER SHEET

This civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of reporting judicial workload data pursuant to Florida Statute 25.075.

I. CASE STYLE

CIRCUIT COURT CIVIL

POLK COUNTY, a political subdivision
of the State of Florida,

Case Number: 2009CA-005284
Section: 11 - Roger Alcott

Petitioner,

v.

**WEST LAKELAND WASTEWATER, INC.,
SAM AVERETT and SUZZANE BRITT,**

Respondents.

II. TYPE OF CASE (Place an x in one box only. If the case fits more than one type of case, select the most definitive.)

Domestic Relations	Torts	Other Civil
<input type="radio"/> Simplified Dissolution <input type="radio"/> Dissolution <input type="radio"/> Support IV-D <input type="radio"/> Support Non-IV-D <input type="radio"/> Domestic Violence <input type="radio"/> Other domestic relations	<input type="radio"/> Professional malpractice <input type="radio"/> Products liability <input type="radio"/> Auto negligence <input type="radio"/> Other negligence	<input type="radio"/> Contracts <input type="radio"/> Condominium <input type="radio"/> Real property/Mortgage foreclosure <input type="radio"/> Eminent Domain <input type="radio"/> Challenge to proposed constitutional amendment <input checked="" type="radio"/> Other-Petition to Appoint Receiver <input type="radio"/> Eviction

III. IS JURY TRIAL DEMANDED IN COMPLAINT?

- Yes
 No

DATE 05-13-2009

SIGNATURE OF PARTY
INITIATING ACTION

Philip K. Shewer

RETURNED

MAY 13 2009

CLERK CIRCUIT COURT
POLK COUNTY

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

POLK COUNTY, a political subdivision
of the State of Florida,

Case No. 53-2009CA- **005284**
Section: **11**

Petitioner,

vs.

**WEST LAKELAND WASTEWATER, INC.,
SAM AVERETT, and SUZZANE A. BRITT,**

Respondents.

**PETITION FOR APPOINTMENT OF RECEIVER
FOR WEST LAKELAND WASTEWATER, INC.**

COMES NOW, POLK COUNTY, a political subdivision of the State of Florida, (hereinafter "COUNTY"), pursuant to Chapter 367.165 (2), Florida Statutes, and requests this Honorable Court to appoint a Receiver for WEST LAKELAND WASTEWATER, INC., on the following grounds:

1. WEST LAKELAND WASTEWATER, INC., (hereinafter "UTILITY") is a privately owned wastewater utility and is under the authority of the FLORIDA PUBLIC SERVICE COMMISSION (hereinafter "COMMISSION") pursuant to the Resolution adopted by the Polk County Board of County Commissioners on May 14, 1996, in which Polk County conferred authority to the COMMISSION for the regulation of all privately owned water and wastewater utilities located within Polk County. A copy of the Resolution is attached hereto as Exhibit "A".

2. The UTILITY provides wastewater service to The Village of Lakeland Mobile Home Park, which consists of approximately 335 wastewater utility connections. Water service is provided by the City of Lakeland

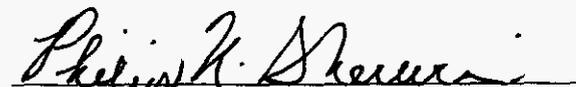
3. On March 30, 2009, COUNTY received written notice from SAM AVERETT and SUZZANE A. BRITT (hereinafter collectively the "OWNERS") of their intention to cease operation of WEST LAKELAND WASTEWATER, INC. on or before June 30, 2009, a copy of which is attached hereto as Exhibit "B". Section 367.165(2), F.S., provides in part, "*after receiving such notice, the county, or counties acting jointly if more than one county is affected, shall petition the circuit court of the judicial circuit in which such utility is domiciled to appoint a receiver, which may be the governing body of a political subdivision or any other person deemed appropriate.*"

4. The FLORIDA GOVERNMENTAL UTILITY AUTHORITY (hereinafter "FGUA") has expressed an interest in taking over the operation of the UTILITY. The FGUA was formed in 1999 through an Interlocal Agreement between Brevard, Lee, Polk and Sarasota Counties in order to make the best use of their common responsibilities and power to acquire, own, improve, operate and maintain water and wastewater facilities. FGUA is completing its due diligence and is scheduled to bring the matter before the FGUA Board on May 21, 2009. FGUA will update the County as to its formal intentions upon the conclusion of that meeting. In the event the acquisition and/or potential receivership is approved by the FGUA Board, COUNTY would request that the FGUA be appointed as receiver of the UTILITY. If FGUA's intention subsequent to the meeting on May 21, 2009 is to decline involvement with this UTILITY, COUNTY, in the alternative, would ask the Court to appoint a receiver pursuant to Chapter 367.165(2), F.S., which may be a governing body of a political subdivision or any other person deemed appropriate.

WHEREFORE, the COUNTY petitions this Court for an order appointing a receiver for WEST LAKELAND WASTEWATER, INC., in order to ensure uninterrupted and efficient wastewater service for The Village of Lakeland Mobile Home Park and to imbue upon the Receiver, all authority and power necessary to efficiently and effectively operate the wastewater utility until the proper and appropriate disposition of the UTILITY is effected.

Dated this 13th day of May, 2009.

POLK COUNTY ATTORNEY'S OFFICE



Philip N. Sherwin, Esq.

Assistant County Attorney

FBN: 0366471

330 West Church Street

P.O. Box 9005, Drawer AT01

Bartow, Florida 33831-9005

(863) 534-6439 (phone)

(863) 534-7654 (fax)

ATTORNEY FOR POLK COUNTY

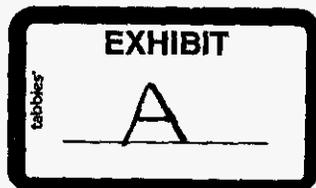
RESOLUTION

WHEREAS, Section 367.171, Florida Statutes, provides that a county may confer jurisdiction on the Florida Public Service Commission over private water and wastewater utilities as set forth in Chapter 367, Florida Statutes; and

WHEREAS, the Polk County Board of County Commissioners desires to so confer jurisdiction;

NOW, THEREFORE, the Polk County Board of County Commissioners resolves pursuant to Section 367.171, Florida Statutes, to confer jurisdiction on the Public Service Commission over those matters set forth in Chapter 367, Florida Statutes, relating to private water and wastewater utilities as defined therein.

DATED this 14 day of May, 1996.



STATE OF FLORIDA)
)
COUNTY OF POLK)

I, Richard M. Weiss, Clerk to the Board of County Commissioners of Polk County, Florida, hereby certify that the foregoing is a true and correct copy of a Resolution providing that the County may confer jurisdiction on the Florida Public Service Commission over private water and wastewater utilities, which was adopted by the said Board in regular session on May 14, 1996.

WITNESS my hand and official seal on this 9th day of October, 2002.

RICHARD M. WEISS
Clerk to the Board

By *Marie E. Kessler*
Marie E. Kessler
Deputy Clerk

West Lakeland Wastewater Inc.
PO Box 2303
Eaton Park, Fl 33840

RECEIVED-FPSC

09 MAR 30 AM 9:47

COMMISSION
CLERK

March 26, 2009

090154

To The Office of The Clerk of The PSC

As owners of West Lakeland Waste Water Inc. we are giving notice of our intent to abandon the waste water treatment plant for The Village of Lakeland Mobile Home Park Located on Reynolds Rd, Lakeland, FL 33801, Polk County Florida.

As required in section 367.165, F.S.

(2)

A) West Lakeland Waste Water Inc. P.O Box 2303, Eaton Park, Florida, 33840

B) Sam Averett, PO Box 266 Eaton Park, Florida, 33840, 863-665-1748, or sam@averettseptictank.com

C) The books are located at 2907 Brooks St. Lakeland Fl. 33803

D) March 26, 2009

E) We will abandon this plant on or before June 30, 2009

F) There is only a Wastewater System. City of Lakeland Water provides Water to the area.

G) We can not afford to run this plant any more.

H) We are in compliance with DEP permit, Permit Expires Nov. 29, 2009 permit # FLA013009

Ms. Suzanne Britt, President

COM DA. Britt, Pres
ECR _____
GCL _____
OPC _____
RCP Sam Averett
SSC _____ Cc: BOCC Polk County
SGA _____ D.E.P.
ADM _____
CLK Sam

DOCUMENT NUMBER-DATE

02774 MAR 30 8

FPSC-COMMISSION CLERK

