

BEFORE THE PUBLIC SERVICE COMMISSION

In re: **Notice of Abandonment – Crooked Lake
Park Sewerage Company, SU785**

DOCKET NO. 20200210-SU

NOTICE OF FILING ORDER APPOINTING RECEIVER

POLK COUNTY, a political subdivision of the State of Florida, Successor Receiver for the Abandoned Wastewater Utility Assets of the Crooked Lake Park Sewerage Company, hereby gives notice of filing with the Florida Public Service Commission the following order entered by the Honorable Circuit Court Judge Dana Y. Moore, Tenth Judicial Circuit, Polk County, Florida, on March 25, 2021, attached hereto:

ORDER APPOINTING POLK COUNTY AS RECEIVER FOR THE
ABANDONED WASTEWATER UTILITY ASSETS OF THE CROOKED LAKE
PARK SEWERAGE COMPANY.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing has been furnished this 1st day of April, 2021, to D. Scott Baker, Esq., attorney for Crooked Lake Park Sewerage System via email at sbaker@zkslawfirm.com; Gary F. Clark, Chairman, Florida Public Service Commission via email at Commissioner.Clark@psc.state.fl.us; Adam Tietzman, Commission Clerk via filing with Docket 20200210-SU; Bill Beasley, County Manager, Polk County, via email at billbeasley@polk-county.net; J. R. Kelly, Public Counsel via email at Kelly.JR@leg.state.fl.us; Charles Rehwinkel, Deputy Public Counsel via email at Rehwinkel.charles@leg.state.fl.us; and Attorney D. Bruce May, Jr. via email at bruce.may@hklaw.com.

Respectfully Submitted,
POLK COUNTY ATTORNEY'S OFFICE

By: /s/ Thomas G. Norsworthy
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ATTORNEY FOR POLK COUNTY

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

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

Petitioner,

CASE NO.: 2020CA-003194-0000-00
SECTION: 04

vs.

CROOKED LAKE PARK SEWERAGE
COMPANY, LLC,

Respondent.

**ORDER APPOINTING POLK COUNTY AS RECEIVER FOR
THE ABANDONED WASTEWATER UTILITY ASSETS OF THE
CROOKED LAKE PARK SEWERAGE COMPANY**

THIS MATTER having come before the Court on March 25, 2021 upon the Petition of Polk County, a political subdivision of the State of Florida, to appoint a receiver to operate a sewerage collection and transmission system and a domestic wastewater treatment facility (collectively, the “CLP Wastewater System”) located within an unincorporated area of Polk County that the Crooked Lake Park Sewerage Company (the “Company”), the current owner and operation of that system, seeks to abandon pursuant to Section 367.165, Florida Statutes, and the Court having reviewed the Petition and having been heard from Thomas G. Norsworthy, Deputy County Attorney for Polk County, and from D. Scott Baker of Zimmerman Kiser Sutcliffe, Orlando, for the Company, and being otherwise fully advised in the premises finds, as follows:

A. On or about September 4, 2020, the Company provided Polk County and the Florida Public Service Commission (“PSC”) a Notice of Abandonment of the CLP Wastewater System pursuant to Section 367.165, Florida Statutes;

B. Following an October 27, 2020 hearing on Polk County’s Petition, the Court by an Order dated November 6, 2020 granted the Company’s request for a ninety (90) day delay in the appointment of a receiver because the Company had accepted an offer to sell the CLP Wastewater System to a third party;

C. On or about October 27, 2020, the Company provided Polk County and the PSC notice of its intent to delay abandonment of the CLP Wastewater System;

D. At a January 21, 2021 status conference, the Company advised the Court the proposed sale of the CLP Wastewater System would not occur, and the Court scheduled a March 25, 2021 hearing to continue its consideration of Polk County’s Petition; and

E. On or about February 16, 2021, the Company filed a renewed Notice of Abandonment of the CLP Wastewater System with the date of abandonment to be effective as of the date the Court grants the County's petition;

ACCORDINGLY, IT IS HEREBY ORDERED AND ADJUDGED:

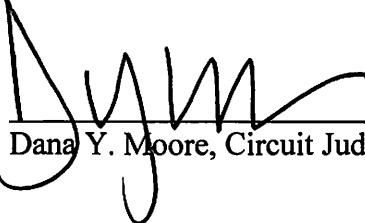
1. Appointment of Receiver and Term. Polk County is hereby appointed as the receiver ("Receiver") for the abandoned CLP Wastewater System. The term of the receivership shall begin March 25, 2021 and shall continue until the Receiver disposes of the real property and personal property comprising the CLP Wastewater System in a manner designed to continue the efficient and effective operation of utility service to affected utility customers.
2. Surrender of Property, Assets, Documents, and Facilities. The Company shall immediately transfer to the Receiver the custody and possession of all real property and personal property (tangible and intangible) comprising and necessary to the operation of the abandoned CLP Wastewater System. The property to be transferred and produced to the Receiver shall include without limitation all real property and facilities, audits, bank accounts, bank account records, customer account records, customer deposits, cash, account receivable balances, contracts, agreements, correspondence, business records, deeds, easements, construction drawings, records drawings, O&M Manuals, permits, operating protocols, inspections, reports, notices of violation, notices of non-compliance, and all other books, records, reports, and documents related to the CLP Wastewater System, its assets and liabilities. The Receiver shall maintain all documents in accordance with its records retention policy, and subject to all applicable laws.
3. Receiver's Powers. The Receiver shall have all authority and power necessary to efficiently and effectively operate the abandoned CLP Wastewater System in such capacity to include without limitation the following:
 - a. to provide and maintain wastewater services within the designated service area of the CLP Wastewater System in compliance with all applicable permits, regulations and statutes;
 - b. to make extensions, expansions, repairs, replacements, and improvements to the CLP Wastewater System, as appropriate and necessary;
 - c. to collect rates, fees, charges, and deposits for all services provided by and through the CLP Wastewater System in accordance with all applicable state laws;
 - d. to increase or decrease rates charged to customers served by the CLP Wastewater System, or to obtain a special assessment which may be necessary to pay for costs incurred by the Receiver in the operation, maintenance, and improvement of the CLP Wastewater System and for complying with the terms of the receivership;
 - e. to borrow funds and to pledge and encumber the facilities, assets, and revenues of the CLP Wastewater System for repayment thereof;
 - f. to enter into contracts or agreements with any public agency or private entity providing for or relating to the operation and maintenance of the CLP Wastewater System or the connection of customers to any other public or private utility;

- g. to accept gifts, grants, or contributions in kind in connection with the management, operation, and maintenance of the CLP Wastewater System;
- h. to retain and pay the fees, costs, and salaries of accountants, architects, engineers, attorneys, employees, or other professional consultants as necessary or desirable in the management, operation, or maintenance of the CLP Wastewater System and to ensure compliance with all the provisions of this Order for the rates, fees, and charges authorized under this Section 3;
- i. to pay from revenues collected from the customers of the CLP Wastewater System, all necessary and reasonable operating expenses contemplated in this Section 3, in a manner designed to continue the efficient, effective, and environmentally sound operation of the system;
- j. to connect customers of the CLP Wastewater System to any other public or private wastewater system with adequate capacity; to accept said customers in accordance with and subject to applicable requirements and payment of fees to said public or private system; and upon completion of connection to any such system the Receiver, with written approval from this Court, may discontinue the operation of the CLP Wastewater System and dispose of all land, facilities, assets, and revenues to satisfy all outstanding obligations pertaining thereto;
- k. to sue or be sued, to implead or be impleaded, to complain and defend in any court, and to seek all legal or equitable relief in accordance with applicable state law;
- l. to apply for and obtain any applicable federal, state, and local governmental permits, certificates, licenses, or other approvals in order to operate and maintain the CLP Wastewater System;
- m. to perform generally any other lawful acts necessary or desirable to carry out the express powers and authority granted and imposed herein;
- n. the right to separately charge each customer for wastewater services;
- o. the right to repair, replace, maintain, improve, and expand the CLP Wastewater System by and on behalf of the properties specially benefitted by all such repairs, maintenance, replacements, improvements and expansion;
- p. the right to establish Municipal Services Benefit Unit(s) in accordance with Florida Statutes, Section 125.01(q), by and through which Polk County, as Receiver, may assess each property served by the CLP Wastewater System its separate, respective share of the costs Polk County, as Receiver, incurs to make the required repairs, replacement, expansion, maintenance, and improvements to the system on behalf of those benefitted properties; and
- q. the right to utilize all public utility easements, private easements, licenses, and all other approvals or consents whether expressly or impliedly granted or reserved for the repair, replacement, maintenance, improvement, and expansion of the CLP Wastewater System;

all of which the Receiver may exercise without obtaining a further order from the Court.

4. Receiver's Operation Obligations. The Receiver shall operate the CLP Wastewater System so as to provide efficient, effective, environmentally sound, continuous service to system customers, as the same can be provided from revenues generated by the system.
5. Separation of Funds. The Receiver will maintain separate accounts and records for the management of the CLP Wastewater System. Any revenues generated from the CLP Wastewater System will not be revenues of Polk County, nor will the revenues from any of Polk County's departments, divisions, businesses, or employment be considered revenues of the CLP Wastewater System.
6. Receiver's Accounting to the Court. Upon request during the receivership the Receiver shall submit financial and operational reports to the Court regarding the CLP Wastewater System.
7. Receiver's Liability. The Receiver is appointed only to be a receiver of the abandoned CLP Wastewater System; it is not the receiver for the Company or for any Company assets that are not part of the CLP Wastewater system. Accordingly, the Receiver shall not be legally responsible for claims, liabilities, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions, and fees (inclusive of reasonable attorneys' fees, costs and expenses) that have already arisen or that may later arise or result from the design, construction, operation, maintenance, and repair of the CLP Wastewater System and all associated actions or events related thereto which occurred prior to March 25, 2021, [collectively, "Liability"], to include without limitation those pertaining to injury to any person, damage to any property or property rights, or the violation of any governmental law, rule, regulation, or requirement, regardless of whether the Liability was asserted prior to March 25, 2021 or during the term of the receivership.
8. Continuing Jurisdiction. This Court shall retain jurisdiction in this cause to enter such further orders as it deems appropriate.

DONE AND ORDERED in Chambers in Bartow, Polk County, Florida this 25th day of March, 2021.



Dana Y. Moore, Circuit Judge

Copies furnished to:

Thomas G. Norsworthy, Deputy County Attorney
D. Scott Baker, Esq.