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July 12, 2022

VIA Electronic Filing to the Office of Commission Clerk

Florida Public Service Commission
Office of Commission Clerk
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

In re: Docket No. 20220092-WS – Notice of abandonment of water and wastewater systems in Charlotte County by Sun River Utilities, Inc.

Dear Commission Clerk:

With this cover letter, CSWR-Florida Utility Operating Company, LLC files a copy of the Twentieth Judicial Circuit Court's Order Appointing CSWR-Florida Utility Operating Company, LLC as Successor Receiver for the abandoned water and wastewater systems in Charlotte County previously operated by Sun River Utilities, Inc.

Sincerely,

/s/ Jordann L. Wilhelm

Jordann L. Wilhelm

Thomas A. Crabb

Susan F. Clark

Attorneys for CSWR-Florida UOC

cc: Michael Smallridge (mike@fus1llc.com)
Office of Charlotte County Attorney c/o Jean Stasio (jean.stasio@charlottecountyfl.gov)
Sun River Utilities, Inc. c/o Beth Keating (bkeating@gunster.com)
Waterfront Homes of Charlotte, LLC c/o William C. Garner (bgarner@wcglawoffice.com)
North Charlotte Waterworks, Inc. c/o William T. Rendell (trendell@uswatercorp.net)
Richard Gentry, Office of Public Counsel (gentry.richard@leg.state.fl.us)
Stephanie Morse, Office of Public Counsel (morse.stephanie@leg.state.fl.us)

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR CHARLOTTE COUNTY, FLORIDA**

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

PETITIONER,

vs.

CASE NO.: 21-000148CA

NORTH CHARLOTTE WATERWORKS, INC.,
a Florida corporation;
SUN RIVER UTILITIES, INC.,
an inactive Florida corporation;
WATERFRONT HOMES OF CHARLOTTE, LLC,
a Florida limited liability corporation.

RESPONDENTS.

**ORDER APPOINTING CSWR – FLORIDA UTILITY OPERATING COMPANY, LLC
AS SUCCESSOR RECEIVER**

THIS MATTER having come before the Court upon Charlotte County’s Motion to Direct Receiver to Continue to Operate Utility and to Take Necessary Steps to Resolve Legal and Environmental Issues, and/or to Appoint a Successor Receiver (the “Motion”) regarding the operation of the abandoned water and wastewater system located at 29024 Wood Duck Drive, Punta Gorda, Florida 33982 (the “Utility”), and the Court being fully advised of the premises, finds and Orders as follows:

1. On December 24, 2020, North Charlotte Waterworks, Inc. and Sun River Utilities, Inc. filed a Joint Notice of Abandonment for the Utility.
2. On February 3, 2021, Charlotte County filed a Petition to Appoint Receiver pursuant to Florida Statute section 367.165.
3. On April 30, 2021, the Court entered an order appointing Mr. Michael Smallridge as receiver of the Utility. The Court retained jurisdiction.

4. On May 9, 2022, Mr. Smallridge filed a Notice of Abandonment with the Florida Public Service Commission (“PSC”) and Charlotte County noticing his intent to abandon the Utility within 70-days pursuant to Florida Statute section 367.165.

5. On May 25, 2022, Charlotte County filed the instant Motion requesting that this Court either direct Mr. Smallridge to continue operating the Utility or appoint a successor receiver.

Based on the foregoing and further evidence presented, pursuant to section 367.165, Florida Statutes it is hereby,

ORDERED AND ADJUDGED as follows:

1. Appointment of Successor Receiver and Term. CSWR – Florida Utility Operating Company, LLC (“CSWR”) is hereby appointed as the successor receiver (“Successor Receiver”) for the abandoned Utility. The term of the Receivership shall begin on July 18, 2022 and shall continue until such time as the Successor Receiver disposes of the Utility as provided for in this Order or is relieved of any further duty by the Court. Mr. Michael Smallridge (the “Former Receiver”) shall be released from his appointment as receiver of the Utility on July 18, 2022.

2. Surrender of Property, Assets, Documents, and Facilities. In preparation for the Successor Receiver’s duties commencing on July 18, 2022, the Former Receiver shall immediately surrender all property, assets, documents, and facilities of the Utility to the Successor Receiver, including but not limited to, all customer account records, contracts, agreements, correspondence, legal pleadings, business records, easements, and any other documents related to the Utility including all assets and liabilities associated therewith in order that the Successor Receiver may then operate and maintain said Utility. The Former Receiver shall turn over and produce all bank accounts, bank account records, customer deposits, cash, and accounts receivable balances for the Utility to the Successor Receiver.

3. Powers of the Successor Receiver. Once the property, assets, documents, and facilities outlined above have been turned over to the Successor Receiver, the Successor Receiver shall send written notice of the receipt thereof to this Court. Such notice shall indicate CSWR's acceptance as Successor Receiver for the Utility, shall cause the operation of the Utility until such time as provided for in Section 1, and shall continue the lawful operation and maintenance of the water and wastewater services to customers of the Utility. In order to effectively carry out the duties and responsibilities under this Order, the Successor Receiver shall have the following powers and authority:

- a. to provide and maintain water and wastewater services within the designated service areas, in compliance with all applicable permits, regulations and statutes;
- b. to make extensions, expansions, repairs, replacements and improvements to the Utility as appropriate and necessary;
- c. to collect rates, fees, charges and deposits for all services provided by the Utility in accordance with all applicable state laws;
- d. to apply for an increase in rates charged to customers served by the Utility or to obtain a special assessment which may be necessary to pay for costs incurred by the Successor Receiver in the operation, maintenance and improvement of the Utility and for complying with the terms of this Receivership;
- e. to borrow funds and to pledge and encumber the facilities, assets, and revenues of the Utility 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 Utility 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 Utility;
- 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 Utility 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 Utility, all necessary and reasonable operating expenses contemplated in this Section 3, including a monthly management fee in the amount of \$1,000, in a manner designed to encourage the efficient, effective, and environmentally sound operation of said Utility. Furthermore, Successor Receiver may expend such reasonable amounts as prudent, necessary, and advisable, in the professional judgment of Successor Receiver, subject to ultimate determination of reasonableness and prudence by the Florida Public Service Commission in any proceeding establishing rates, in order to effectuate the efficient and effective operation of the Utility;
- j. to connect customers of the Utility to any other public or private water system or 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;
- k. upon completion thereto, the Successor Receiver, with written approval from this Court, may discontinue the operation of the Utility and dispose of all land, facilities, assets, and revenues to satisfy all outstanding obligations of the Utility. The Successor Receiver shall give due notice to the owner and all creditors of the Utility of this Receivership prior to any disposal of the facilities;
- l. with written approval of this Court, sell or otherwise dispose of all Utility land, facilities, and assets;
- m. 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;
- n. 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 Utility; and
- o. to perform generally any other lawful acts necessary or desirable to carry out the express powers and authority granted and imposed herein.

4. Successor Receiver's Obligation to Operate the Utility. The Successor Receiver is hereby directed to operate the Utility until said Utility is disposed of pursuant to the provisions in this Order. The Utility shall be operated by the Successor Receiver in such a manner so as to provide efficient, effective, and environmentally sound continuous service to the customers of the Utility during the term of the Receivership, and as can be provided from the revenues of the Utility.

5. Separation of Funds. CSWR, as Successor Receiver, is hereby directed by this Court to maintain separate accounts and records for the management of the Utility. Additionally, this Court hereby directs that the revenues from the Utility are not to be considered as revenues of

the Successor Receiver, nor are the revenues from any of Successor Receiver's departments, divisions, or businesses considered to be revenues of the Utility.

6. Successor Receiver's Immunity from Liability and Violations. As consideration for the Successor Receiver assuming the responsibility for the continued operation and maintenance of the Utility, the Successor Receiver and its agents and employees are hereby declared to be held harmless and not legally responsible for any and all claims, liability, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and fees, including attorneys' fees, that have arisen or may arise out of the past design, construction, operation, and maintenance of the Utility. This immunity shall include but not be limited to: immunity from injury to persons, damage to property or property rights, or violation of any governmental law, rule, regulation or requirement that may arise from the design, construction, operation, or maintenance of the Utility to the date of the appointment of the Successor Receiver, or during the period of receivership, if such injury, damage, or violation is the direct result of design, construction, operation or maintenance of the Utility occurring prior to the date of the appointment of the Successor Receiver.

7. Liability of Owner. Owner shall remain liable under all applicable laws for any claims, violations, penalties, suits, proceedings, actions, or fees occurring prior to the appointment of the Former Receiver and Successor Receiver.

8. Successor Receiver's Accounting to the Court. The Successor Receiver shall file with the Court and serve on all Parties quarterly Florida Department of Environmental Protection ("FDEP") reports and shall file with the Court and serve on all Parties annual financial and operational reports for the Utility for the duration of the Receivership. The initial report(s) from the Successor Receiver shall be due on November 1, 2022.

9. Continued Jurisdiction. This Court shall retain jurisdiction in this cause to enter such further orders or take any action as it deems appropriate. Nothing in this Order is intended to determine what entity may be ultimately and/or permanently responsible for the operation and maintenance of the Utility in the event of a sale or other method of disposal and transfer to any person, firm, or entity. Further, nothing in this Order by virtue of CSWR being named as Successor Receiver shall preclude CSWR from purchasing the water and wastewater system which is the subject of this Order. On the date of closing of such sale or transfer, this Order shall terminate and expire and this matter shall be closed with regards to the Utility. The Successor Receiver shall file a notification of such sale or disposal of the Utility with this Court, no later than ten (10) business days following the date of such sale or disposal.

DONE AND ORDERED.



eSigned by: CHERYLE, CEFREY H in 21000148CA
on 07/08/2022 16:08:11 dADwM5sj

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