

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

RECEIVED--FPSC
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-M-E-M-O-R-A-N-D-U-M-

COMMISSION
CLERK

DATE: August 15, 2011
TO: All Parties of Record & Interested Persons
FROM: Anna Norris, Senior Attorney, Office of the General Counsel *ARN*
RE: Docket No. 110076-WS – Notice of abandonment of water and wastewater systems in St. Johns County by Orangedale Utilities, Inc.

Please place the attached correspondence in the above-referenced docket file.

Thank you.

DOCUMENT NUMBER-DATE

05740 AUG 15 =

FPSC-COMMISSION CLERK



St. Johns County Board of County Commissioners

Office of the County Attorney

August 5, 2011

Anna R. Norris, Senior Attorney
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850



Re: Docket # 110076-WS-Orangedale Abandonment

Honorable Members of the Public Service Commission,

After a Notice of Abandonment pertaining to the above referenced utility was filed (See Exhibit A), St. Johns County complied with Section 367.165, Florida Statute and Rule 25-30.090 Abandonments, and filed for receivership of the subject utility. An Order Appointing Receiver was rendered on May 3, 2011 (See Exhibit B). The Order provided that:

If the Receiver does not sell or otherwise dispose of the real and personal property of the Respondents' water and wastewater assets comprising the System within ninety (90) days of entry of this Order, the Receiver shall transfer all ownership interests in such property to St. Johns County.

The St. Johns County Board of County Commissioners has accepted ownership of the subject utility through formal Board action (See Exhibit C).

Through the receivership process, the County was not able to obtain an income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions in aid of construction pertaining to the subject utility. The County believes that some of these documents or information may have been provided to the Public Service Commission by the subject utility in the time period prior to the Notice of Abandonment.

In recognition of the County's present ownership and operation of the subject utility, the County requests that the Public Service Commission expressly release the subject utility from Public Service Commission jurisdiction.

DOCUMENT NUMBER-DATE

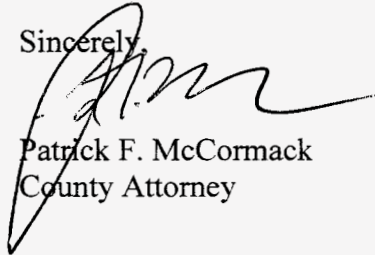
05740 AUG 15 =

FPSC-COMMISSION CLERK

Anna R. Norris, Senior Attorney
Florida Public Service Commission
August 5, 2011

Please contact me if you have any questions pertaining to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. McCormack', written over the word 'Sincerely,'.

Patrick F. McCormack
County Attorney

Exhibits as stated

Copies to: Bill Young, St. Johns County Utility Director

Mr. Marshall Willis
Director - Division of Economic Regulation
Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

March 12, 2011

Notice of Abandonment

Mr. Willis,

Pursuant to the requirement of Section 367.165, Florida Statutes as detailed in Rule 25-30.090 Abandonments;

(a and b) The following businesses hereby notify the Public Service Commission of their intent to Abandon the following on May 11, 2011:

Orangedale Utilities, Inc. (Operating under a recently issued Grandfather Certificate)
528 Majestic Oak Parkway
St. Augustine, FL 32092
St. Johns County, Florida

Contact - Jon B. Stump, President
524 Majestic Oak Parkway
St. Augustine, Florida 32092
(904) 509-2417

The Vinyard MHP Utilities Facilities (Owner and Permits Holder via Fl. DEP)
524 Majestic Oak Parkway
St. Augustine, FL 32092
St. Johns County, Florida

Contact - Jon B. Stump, Owner
524 Majestic Oak Parkway
St. Augustine, Florida 32092
(904) 509-2417

(c) The location of the Utilities' Books and Records is:

524 Majestic Oak Parkway
St. Augustine, Florida 32092
(904) 509-2417

(d) The Date of this Notice is: March 12, 2011

(e) The date the Utility will be Abandoned: May 11, 2011 (60 – Days from Notice)
Page 2 Notice of Abandonment Orangedale Utilities, Inc / Vinyard MHP

- (f) The Water System, The Wastewater System and Sewage Lift Station are all to be Abandoned.
- (g) The reason for Abandonment is financial:
- 1/ Our Systems were Exempt under St. Johns County Jurisdiction (under 100 Service Connections- 93). We operated at near break-even and never collected Regulatory Assessment Fees.
 - 2/ In Fall 2008 OUI installed water meters to reduce waste and fairly charge for services based on usage. We advised our customers that our rate would be based on the published rates of St. Johns County Utilities plus 10% because our small, out-lying utility could not operate as efficiently as larger systems. Installation was completed in December 2008 and billing based on metered consumption was scheduled to begin in April after our customers (mostly retired) were made aware of the change in costs and given an opportunity to make repairs or change usage habits.
 - 3/ January 1, 2009 OUI began charging customers who couldn't pay for their meter in Full, the first of 36 installments to purchase their meter.
 - 4/ January 16, 2009 St. Johns County transferred jurisdiction to Florida Public Service Commission. OUI did not receive any correspondence, e-mail or phone message advising us of this change from either St. Johns County or The PSC regarding the transfer even though we were one of the less than 5 small unregulated utilities operating in this jurisdiction who would be impacted by this transfer.
 - 5/ Mid March 2009 PSC notified OUI by mail of the change in jurisdiction and was ordered to freeze our rates and charges which went into in effect on January 1, 2009.

Over the past 25 months since that letter we have received no authorization from the PSC to either begin passing through the 4.5% Regulatory Assessment Fee to our customers or begin charging for our services based on metered usage.

And yet, Orangedale Utilities, Inc. was required by the PSC that our 2009 Regulatory assessment Fee of more than \$2,600.00 had to be paid on time in 2010.

This Fee was paid out of my pocket and drove our budget, which was already operating at a loss, into a tail spin.

- 6/ We were not informed that our system was not considered exempt until August 2009.
- 7/ We were not informed of our responsibility to collect RAF's until August 2009.
- 8/ Orangedale Utilities, Inc. was placed under demand to expedite an application for A Grandfather Certificate and compile Tariffs for both the Water and Sewer Services By a PSC required due date or face penalties. We complied. Once again, these costs were above and beyond our budget.

- 9/ January 2010 OUI received a packet from PSC which included information Regarding our ability to apply for the right to pass-thru the RAF fees and our right to Apply for Staff Assisted Rate Assistance. This was one year after the fact.
 - 10/ OUI called the PSC regarding these Applications and was informed that these applications and services would become available AFTER a Grandfather Certificate had been issued.
 - 11/ OUI received our Certificate later in 2010 and was told that these services would become available AFTER my accounting was set-up according to the Uniform System of Utility Bookkeeping. At my cost.
 - 12/ Now, after more than two years, my funds have been depleted by paying fees I have never been authorized to pass-thru to my customers, by generating Certificate Costs, by generating Tariffs and now, I'm being required to submit our 2010 Annual Report and become responsible for another \$2,600.00 in RAF's.
 - 13/ I can no longer operate at a loss and can see no way of ever recovering.
- (h) Our systems are operating under current permits issued by Florida DEP/NE and have no outstanding violations.

Mr. Willis,

We have been in conversation with St. Johns County for more than two three months and offered our facilities to the County on the basis of a Soft Transfer (no cash) More than two months ago.

The County has expressed the fact that they do not wish to take over such a small, remote system and last week offered to contact the PSC on my behalf, in an attempt to resolve issues and hopefully allow me to keep the utilities. As an optimist, I sincerely hope we can come to terms and will gladly void this Notice of Abandonment should something work out in everyone's best interest.

Sincerely,

Jon B. Stump, President - Orangedale Utilities, Inc./ Owner – Vinyard MHP

Cc: P. Daniels, C. Kummer at PSC
Bill Young, Utilities Director St Johns County

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
ST. JOHNS COUNTY, FLORIDA

CASE NO.: CA11-0673
DIVISION: 55

ST. JOHNS COUNTY, FLORIDA,
a political subdivision of the
State of Florida,
Petitioner,

vs.

ORANGEDALE UTILITIES, INC., a Florida corporation,
THE VINYARD MHP UTILITIES FACILITIES, and
JON B. STUMP,
Respondents.

CLERK, STICKLAND
CLERK OF CIRCUIT COURT
ST. JOHN COUNTY, FL

2011 MAY -4 AM 9:55

FILED

ORDER APPOINTING RECEIVER

THIS MATTER having come before the Court upon the Petition of St. Johns County, and the Court after receiving the advice and recommendations of counsel, and being fully advised in the premises, hereby finds:

Respondents own and operate a residential water system, wastewater utility system, sewage lift station and associated property within the jurisdictional boundaries of St. Johns County, Florida, pursuant to recently issued Grandfather Certificate, issued by the Public Service Commission in 2010 (the "System"). On or about March 12, 2011, Respondents formally filed a Notice of Abandonment for the System, and St. Johns County subsequently filed its Petition to Appoint a Receiver (the "Petition") to take possession of and operate Respondents' facilities.

On May 2, 2011, this Court heard the County's Petition and being fully advised in the premises, it is

EXHIBIT B

CA11-0673

HEREBY ORDERED AND ADJUDGED:

A. The County's Petition is hereby granted.

B. Section 1. Appointment of Receiver and Term. St. Johns County is hereby appointed to act as the Receiver for the Respondents' System. The term of this receivership shall begin on a date mutually agreeable to the Receiver and Respondents, but no later than May 12, 2011, and shall terminate as follows:

(1) The Receiver shall have ninety (90) days to sell or otherwise dispose of the real and personal property of the Respondents' water and wastewater assets comprising the System. For purposes of this Order, the connection of these facilities, and/or the customers receiving service from these facilities, to a regional or central water and wastewater utility, upon the availability of the same, shall constitute a disposition of the property. Should the term of the Receiver terminate and expire due to the sale of the Respondent's System by the Receiver, or interconnection of the System to a regional or central water and wastewater utility, then the obligations and responsibilities of the Receiver shall terminate and expire as of the date of closing of any such sale or interconnection; or

(2) If the Receiver does not sell or otherwise dispose of the real and personal property of the Respondents' water and wastewater assets comprising the System within ninety (90) days of entry of this Order, the Receiver shall transfer all ownership interests in such property to St. Johns County.

(3) It is expressly understood that in light of the Respondents' abandonment of the System, none of the Respondents are, or will be, entitled to any benefits or proceeds, specifically including any disposition of property or distribution of monies, that result from, and/or are associated with, the disposal of all, or a part of, the System by the Receiver.

Upon termination and expiration of the receivership as provided for herein, the Receiver shall be released from all further obligations to operate and maintain the System.

Section 2. Surrender of Property, Assets, Documents, and Facilities. All property, assets, documents, and facilities comprising and necessary to the System shall be turned over to the Receiver after entry of this Order. Orangedale Utilities, Inc. and/or The Vinyard MHP Utilities Facilities, and Jon B. Stump to any extent that they may not have already done so, shall: (1) turn over and produce to the Receiver all customer account records, contracts, agreements, non-privileged correspondence, business records, easements, construction drawings, record drawings, O&M manuals, permits, operating protocol, and any other documents related to the System, to include the property, assets and liabilities associated therewith in order that the Receiver may then operate and maintain said System, and (2) surrender all real and personal property comprising and necessary to the System to the Receiver. Upon entry of this Order, Orangedale Utilities, Inc. and/or The Vinyard MHP Utilities Facilities, and Jon B. Stump shall turn over and produce all bank accounts, bank account records, customer deposits, cash, and accounts receivable balances to the Receiver, which relate to the subject abandoned property and franchise. Upon not less than ninety (90) days' prior written notice to Respondents, the Receiver may dispose of the above-described records in its possession. However, the Receiver shall maintain all documents in accordance with its record retention policy and subject to all applicable federal, state or local laws. At Respondents' cost and expense, Respondents may retain, or make arrangements for the retention of, records in the possession of the Receiver to be disposed of. To the extent that the System is sold or otherwise disposed of, the Receiver shall include a provision in the instrument effectuating the transfer for the maintenance of records as provided herein. Notwithstanding the foregoing, nothing in this Section shall affect whatever legal claims Respondents may or may not have had or owned prior to the date the receivership begins, as set forth in Section 1 herein, and nothing in this Section shall in any way determine whether or not any such claims have themselves been abandoned.

Section 3. Receiver Powers. Once the documents from the System and the real and personal property associated therewith are surrendered to the Receiver in accordance with Section 2 above, the Receiver shall send written notice of receipt thereof to this Court, and shall cause the operation of the System until such time as provided for in Section 1, and shall continue the lawful

operation and maintenance of the utility service to the customers of Orangedale Utilities, Inc. and/or The Vinyard MHP Utilities Facilities. In order to effectively carry out its responsibilities under this Order, the Receiver shall have the following powers and authority:

(1) To provide and maintain sewer collection service within the designated service area, in compliance with all applicable permits, regulations, local laws, and statutes;

(2) To make extensions, expansions, repairs, replacements, and improvements to the System as appropriate and necessary;

(3) To collect rates, fees and charges, and deposits for all services provided for the System in accordance with all applicable state and local laws;

(4) To borrow money, and to pledge or encumber the facilities, assets and revenues of the System for the repayment thereof;

(5) To enter into contracts or agreements with any other public agency or private entity providing for or relating to the operation and maintenance of the System or the connection of the customers to any other public or private sewer system;

(6) To accept any gifts, grants, or contributions in kind in connection with the management, operation, and maintenance of the System;

(7) 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 System and to ensure compliance with all provisions of this Order for the rates, fees and charges authorized under this Section 3;

(8) To pay from the revenues collected from the customers of the System, all necessary and reasonable operating expenses (including the costs and expenses contemplated in this Section 3) in a manner designed to continue the efficient, effective and environmentally sound operation of said System. However, to the extent said revenues are insufficient to allow the Receiver to continue the efficient, effective, and environmentally sound operation of the System; the Receiver shall timely petition the appropriate regulatory entity for an adjustment of its rates sufficient to meet such responsibilities. Furthermore, Receiver may expend such reasonable amounts as prudent,

necessary, and advisable, in the professional judgment of Receiver, in order to effectuate the efficient, effective, and environmentally sound operation of the System. To the extent that the reasonable costs of the receivership are not recouped from Respondents pursuant to Section 6 herein, the System and its successors and assigns, including any party who purchases or acquires said System, shall be indebted to Receiver for the full extent of such reasonable costs and shall pay Receiver for such reasonable costs out of the first monies available or at any closing on the transfer or acquisition of the System, whichever comes first:

(9) To connect the customers of the System to any other public or private sewer system with adequate sewer service capacity to accept said customers in accordance with and subject to applicable requirements and payment of fees to said public or private sewer systems;

(10) Upon connection thereto, the Receiver may discontinue the operation of the System and dispose of all lands, facilities, assets, and revenues to satisfy outstanding obligations of the System. The Receiver shall give due notice to the owner and all creditors of the Orangedale Utilities, Inc. and/or The Vinyard MHP Utilities Facilities of its receivership prior to any disposal of the facilities:

(11) To sue or be sued, to implead or to be impleaded, to complain and defend in any court, and to seek all legal or equitable relief in accordance with applicable state law;

(12) 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 System;

(13) To perform generally any other lawful acts necessary or desirable to carry out the express powers and authority granted and imposed herein.

(14) To seek further instructions and/or guidance from this Court concerning the operation and maintenance of the System during any part of the time frame that the receivership exists.

Section 4. Continuing 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 System, except as provided in Section 1. In the event of a disposition of the System by the Receiver to any person, firm or entity, then, on the date of closing of such sale, this Order shall terminate and expire, and this matter shall be closed. The Receiver shall file notification of any sale with this Court no later than ten (10) business days following the date of any such sale.

Section 5. Immunity from Liability and Violations. As consideration for Receiver assuming the responsibility for the continued operation and maintenance of the System, the Receiver and its agents and employees are hereby declared to be held harmless and not legally responsible for any or 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 (or be the result of) the past design, construction, operation, and maintenance of the System. 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 System prior to the date of appointment of the Receiver, or during the period of receivership, if such injury, damage or violation is the direct result of prior design, construction, operation or maintenance of the System.

Section 6. Respondents' Liability. The Respondents shall remain liable under all applicable laws for any claims, violations, demands, penalties, suits, proceedings, actions or fees occurring prior to the appointment of any Receiver. To the extent that any such claim, violation, demand, penalty, suit, proceeding, action, or fee is presented, Receiver, or its successors or assigns, shall make available to Respondents all documents surrendered pursuant to Section 2 herein. To the extent that the revenues of the System are insufficient to fund the reasonable costs of the receivership, Respondents shall be liable for the reasonable costs of the receivership during the Term of the receivership, as set forth in Section 1 herein; and specifically including any, and all costs and/or fees associated with this action/proceeding, including, but not limited to court costs. However, notwithstanding any other provision contained in this Order, Respondents shall have the right to challenge whether any such costs were reasonable and necessary.

Section 7. Receiver's Separation of Funds. St. Johns County, as Receiver, is hereby directed by this Court to maintain separate accounts and records for the management of the Respondents' System. Additionally, this Court hereby directs that the revenues from the Respondents' utility are not to be considered the revenues of the Receiver, nor are the revenues of the Receiver to be considered those of the Respondents' utility.

Section 8. Receiver's Obligations for Operation. The Receiver in this cause is hereby directed to operate the System until disposed of per the provisions of this Order. The System shall be operated by the Receiver in such a manner so as to provide efficient, effective and environmentally sound continuous service to the customers of the System during the term of this receivership, and as can be provided from the revenues of the System.

Section 9. Receiver's Accounting to the Court. At the end of the Term of the receivership, as set forth in Section 1, the Receiver shall submit to the Court and Respondents financial and operational reports for the System for the duration of its receivership.

DONE AND ORDERED in Chambers at St. Augustine, St. Johns County, Florida this 3rd day of May, 2011.


Circuit Court Judge

Copies to: Patrick F. McCormack, County Attorney
500 San Sebastian View
St. Augustine, Florida 32084

Jon B. Stump, Owner and President
Orangedale Utilities, Inc. and
The Vinyard MHP Utilities Facilities
524 Majestic Oak Parkway
St. Augustine, Florida 32092

3/26/11
JWS

Jon B. Stump
524 Majestic Oak Parkway
St. Augustine, Florida 32092

**MINUTES OF MEETING
BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA
JUNE 21, 2011
(9:00 A.M.)**

Proceedings of a regular meeting of the Board of County Commissioners of St. Johns County, Florida, held in the auditorium at the County Administration Building, 500 San Sebastian View, St. Augustine, Florida.

Present: J. Ken Bryan, District 5, Chair
Mark Miner, District 3, Vice Chair
Cyndi Stevenson, District 1
Ron Sanchez, District 2
Jay Morris, District 4
Michael Wanchick, County Administrator
Patrick McCormack, County Attorney
Lenora Newsome, Deputy Clerk

(06/21/11 - 1 - 9:00 a.m.)
CALL TO ORDER

Bryan called the meeting to order.

(06/21/11 - 1 - 9:00 a.m.)
ROLL CALL

The clerk called the roll and all members were present.

(06/21/11 - 1 - 9:00 a.m.)
INVOCATION

Reverend Ken Asplund, Marketplace Christian Professionals, gave the Invocation.

(06/21/11 - 1 - 9:02 a.m.)
PLEDGE OF ALLEGIANCE

Commissioner Miner led the Pledge of Allegiance.

(06/21/11 - 1 - 9:02 a.m.)
RECOGNITION OF FIRE/RESCUE EMPLOYEE ROBERT HALL WHO IS RETIRING
WITH 31 YEARS OF SERVICE

Chief Robert Hall said, after 35 years of service to St. Johns County, he was retiring.

(06/21/11 - 1 - 9:03 a.m.)
RECOGNITION OF FIRE/RESCUE EMPLOYEE STEVE CANFIELD WHO IS
RETIRING WITH 20 YEARS OF SERVICE

Chief Hall asked Steve Canfield to come down to the dais and gave his accolades. He stated that Canfield was retiring from St. Johns County with 25 years of service.

(06/21/11 - 1 - 9:05 a.m.)
RECOGNITION OF FIRE/RESCUE EMPLOYEE SHELLEY WOOD WHO IS RETIRING
WITH 30 YEARS OF SERVICE

9. Motion to adopt **Resolution No. 2011-160**, approving the terms and authorizing the County Administrator, or designee, to execute a Purchase and Sale Agreement for property needed for Communication Tower Site #6 for the County Emergency Communication System

RESOLUTION NO. 2011-160

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE A PURCHASE AND SALE AGREEMENT FOR PROPERTY NEEDED FOR COMMUNICATION TOWER SITE #6 FOR THE COUNTY EMERGENCY COMMUNICATION SYSTEM

10. Motion to adopt **Resolution No. 2011-161**, approving the transfer of the remaining balance of \$536,313 in Department 3372 (St. Johns County Transit Facility) to Department 3371 Public Transportation Assistance. This is to consolidate and track funding associated with the construction of the St. Johns County Transit Facility

RESOLUTION NO. 2011-161

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TRANSFER OF THE REMAINING BALANCE OF \$536,313 IN DEPARTMENT 3372 TO DEPARTMENT 3371

11. Motion to approve a transfer in the amount of \$2,500 from Vilano Street Lighting District Fund Reserves (1232-59920) to Other Maintenance (1232-54603) and to authorize the expenditure of the funds to retrofit existing street lighting
12. Authorization to substitute a vendor for a previously approved purchase of furnishings and specialized equipment for the Sheriff's Evidence Building. Motion to authorize the County Administrator or his designee, to substitute the 1st vendor's proposal dated 4/11/11, with the approved State contract manufacturer Vanerum-Stelter, whose proposal is dated 5/23/11; and Reduce the total purchase amount by \$1,273.08
13. Motion to approve the Administrative Assistant position at Pay Grade 118, Step 14 and the downgrade of the Customer Service/Operations Assistant, Pay Grade 117, Step 13 to a Billing Specialist III at Pay Grade 115, Step 1
14. Motion to recognize and appropriate the Bartram Oaks Utility budget for 90 days, and: Motion to approve the transfer of \$4,476 from Utility Reserves (4426-59920) to the Bartram Oaks Utility Fund to ensure a balanced budget, and: Motion to incorporate Bartram Oaks into the County's Main Utility System once the receivership period is complete
15. Motion to authorize **Resolution No. 2011-162**, approving the terms, provisions, conditions, and requirements of the First Amendment to the Cost Share Agreement between the St. Johns River Water Management District and St. Johns County, for the reuse and treatment initiative previously approved by the County by Resolution 2010-174, and authorizing the Chairman of the Board of