

REQUEST TO ESTABLISH DOCKET
(PLEASE TYPE)

Date 12/22/97

Docket No. 971635-50

1. Division Name/Staff Name MAJ, Patricia Brady *pb bgr*
2. OPR MAJ, P.Brady
3. OCR LEGAL, B. Reyes *BR*
4. Suggested Docket Title Notice of abandonment of wastewater system in Citrus County by RHV Utilities, Inc. *utility*
5. Suggested Docket Filing List (attach separate sheet if necessary)

- A. Provide NAMES ONLY for regulated companies or ACRONYMS ONLY regulated industries, as shown in Rule 25-22.104, F.A.C.
B. Provide COMPLETE name and address for all others. (Match representatives to clients.)

1. Parties and their representatives (if any)

Mr. Henry Striegl, President
RHV Industries, Inc.
11781 W. Fishermen Lane
Homosassa, Florida 34446
PHONE: (352) 628-9808

Mr. Larry Haas
County Attorney, Citrus County
111 W. Main Street, Executive Offices, 3rd Floor
Inverness, Florida 34450
PHONE: (352) 637-9970

Mr. Alvah L. Cox, Jr., CPA, P.A.
2424 N. Essex Avenue
Hernando, Florida 34442-5320
PHONE: (352) 746-1400

Mr. Louis Badami
Citrus County Utility Manager
111 W. Main Street
PHONE: (352) 746-2694 ext. 31 or 33

2. Interested Persons and their representatives (if any)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

6. Check one:
 Documentation is attached.
 Documentation will be provided with recommendation.

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PSC/RAR 10 (Revised 01/96)

DOCUMENT NUMBER-DATE
13087 DEC 22 97
FPSC-RECORDS/REPORTING

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT OF THE STATE
OF FLORIDA, IN AND FOR CITRUS COUNTY

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Plaintiff,

vs.

CASE NO.: 97-1872-CA

RHV UTILITIES, INC.,

Defendant.

Received

DEC - 2 1997

County Attorney

ORDER GRANTING INTERVENTION AND APPOINTING RECEIVER

THIS CAUSE coming before the Court for a Status Conference on November 17, 1997, as previously ordered by the Court, and upon CITRUS COUNTY's Motion to Intervene and its Petition for the Appointment of Receiver for the Defendant, RHV UTILITIES, INC. Present at the Hearing were Robin Jung, Attorney for the DEPARTMENT OF ENVIRONMENTAL PROTECTION; Rondey Fields, Attorney for the Defendant, RHV UTILITIES, INC.; and Larry M. Haag, County Attorney for Citrus County, and the Court having been advised by Counsel for the Defendant that no buyer for the Utility has been found, although there is one possible purchaser interested who will not be in a position to make a determination of whether it desires to purchase until December 1997, and the Court having previously been advised by Mr. Fields that the Defendant, RHV UTILITIES, INC. has no financial means for which to respond to

the Orders previously entered in the Court with respect to the enforcement action brought by the Plaintiff, it is

ORDERED AND ADJUDGED, as follows:

1. The Motion to Intervene filed by CITRUS COUNTY is hereby granted.

2. That the Petition for Appointment of Receiver filed by CITRUS COUNTY pursuant to Section 367.165, Florida Statutes *is granted.*

3. CITRUS COUNTY as Receiver is not the Receiver of RHV UTILITIES, INC. but only as to the assets of the Utility described below. As used herein the following definitions apply:

(a) Parties means the Plaintiff, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, and Defendant, RHV UTILITIES, INC.

(b) Plant means the wastewater treatment plant and the wastewater collection system owned by RHV UTILITIES, INC., including all pipes, lift stations, lines, and other appurtenances.

(c) Receiver means CITRUS COUNTY, a political subdivision of the State of Florida.

4. The Receiver's appointment is effective immediately and shall run until such time as the Receiver disposes of the plant as provided herein and files a final report or until the Receiver is otherwise discharged by the Court. The Receiver shall not be required to post a bond.

5. The Receiver shall have the following powers and duties:

/S/PATRICIA THOMAS

- (a) To manage and operate the Plant in a manner so as to effectively and efficiently provide sewer service to the customers of RHV UTILITIES, INC., as provided herein.
- (b) The Receiver shall have full authority to enter into agreements with regulatory or governmental authorities to effectuate the terms of this Receivership, as necessary, subject to final approval by the Court.
- (c) To expend at the Receiver's discretion whatever funds deem proper for the preservation, maintenance, care, improvement, construction or management of the Plant.
- (d) To include expenses, charges and liabilities in the ordinary course of the operation of the Plant.
- (e) To apply for increase in the rates charged to the customers served by the Plant or to obtain a special assessment against the customers served by the Plant which may be necessary to pay for the cost incurred by the Receiver in operating and maintaining the Plant and comply with the terms of this Receivership.
- (f) To employ and compensate employees for the operation of the Plant and for complying with the terms of this Receivership, so long as they are selected and retained with the ordinary care and their payment is subject to the approval of the Court.
- (g) To execute contracts, bills of sale, notes and other written instruments.
- (h) To file with the Clerk of the Court within 20 days of the 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. The Receiver shall render every three months thereafter an accounting of any additional property or affects which it has

discovered or which shall have come into its possession since appointment.

- (i) To compromise, arbitrate, or otherwise adjust claims in favor or against the Receiver and to agree to any rescission or modification of any contract or agreement.
- (j) To exercise all its powers at all times in a fiduciary capacity.
- (k) To receive reasonable compensation for its services in the operation and management of the Plant payable from the income earned from the operation of the Plant.
- (l) Except as contrary to law and in addition to all other powers of rights granted herein or applicable law, the Receiver is empowered to take any action to be necessary to fully and properly carry out his duties as Receiver.
- (m) The Receiver shall provide written notice of any of their actions materially affecting the Plant to the parties. The parties, upon reasonable advance notice, may review the books and records kept by the Receiver or its agents.
- (n) Within 30 days of the entry of this Order the Receiver shall review the accounts of RHV UTILITIES, INC. to determine the assets and liabilities of RHV UTILITIES, INC. and shall from the date of this Order be entitled to receive all payments made by utility customers of RHV UTILITIES, INC. and to use said funds in accordance with this Order.
- (o) The Defendant, RHV UTILITIES, INC., is hereby directed to forward to the Receiver all funds currently held in accounts of the Utility in order for the Receiver to use said funds in accordance with the terms of this Order.

6. The Receiver is directed to take the following actions to insure the Plant is operated to the extent possible in compliance with the rules of the DEPARTMENT OF ENVIRONMENTAL PROTECTION:

- (a) Within two months of the date of this Order the Receiver shall file a report with the Court concerning the most appropriate means of making any and all practical repairs to the Plant which are capable of being made in order to bring the Plant into compliance with the rules of the FDEP. Said report shall detail the costs of the proposed improvements and any other problems which must be overcome including any problems associated with any outstanding mortgage or other encumbrances on Utility property owned by the Defendant, RHV UTILITIES, INC.
- (b) Upon filing the report the Receiver and the Party shall notice a hearing before the Court to establish the appropriate action to be taken by the Receiver based upon the findings of the report. The Court shall order the Receiver to implement the findings in the report or such other actions as the Court finds appropriate and may include in the Order such powers and authorities as are necessary to implement the findings. If for any reason the Receiver is unable to comply with the terms of this Order, the Department may move that the Receiver be discharged and appropriate relief be granted from the Defendant, RHV UTILITIES, INC.

7. In furtherance of the Court appointing CITRUS COUNTY as Receiver the Defendant, RHV UTILITIES, INC., is hereby directed as follows:

- (a) Within 14 days of the date of this Order RHV UTILITIES, INC. shall provide to the Receiver an accounting of all monies in its possession and

shall turn said funds over to the Receiver in order for the latter to operate the Plant in accordance with this Order.

- (b) RHV UTILITIES, INC. is hereby directed to provide to the Receiver, as necessary, any reasonable information requested by the Receiver which will enable the latter to operate the Plant in an efficient manner. RHV UTILITIES, INC. is hereby directed to cooperate fully with the Receiver in the implementation of this Order, including but not limited to, providing as-builts for the Utility and any other information needed by the Receiver.

8. As of the date of this Order the Receiver shall be responsible for operating the Plant to the extent possible with the Rules of the FDEP. Should a dispute arise between the Plaintiff and Receiver with respect to operation of the existing facilities, said dispute shall be brought to the attention of the Court for resolution immediately.

9. Beginning December 1, 1997 and until further order of this Court, the residents shall pay their monthly utility fees to the Receiver who shall be in charge of all funds. Said utility fees to be sent to the Accounts Receivable Section, Lecanto Government Building, 3600 West Sovereign Path, Suite 127, Lecanto, Florida 34461.

10. The Parties and the Receiver shall meet again with the Court on the 14th day of January, 1998 at 1:30 P.M. to update the Court on the progress of the Receivership.

DONE AND ORDERED this 24 day of November 1997.

/S/PATRICIA THOMAS

Patricia Thomas
Circuit Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by United States Mail to Robin Jung, Esquire, Assistant General Counsel, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, FL 32399-2400; Rodney Fields, Esquire, Post Office Box 20713, Tampa, FL 33622-0713; and Larry M. Haag, County Attorney, 111 West Main Street, Third Floor, Inverness, FL 34450, this 24 day of November, 1997.

BETTY STRIFLER, Clerk of Court

Betty Strifler
Judge-Judicial Assistant-Clerk

This Order Prepared By:

Larry M. Haag, Esquire

Copies forwarded to all parties this 20th day of November, 1997.