

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re: Citrus County Utilities, Point O'
Woods Wastewater Treatment Facility

OGC Case No. 15-0665

Petition for Variance from

Provisions of Rule 62-610.462(3), F.A.C.

DEP File No.: FLA011893-006-DWF

ORDER GRANTING PETITION FOR VARIANCE

On October 20, 2015, the Citrus County Utilities, Point O' Woods Wastewater Treatment Facility (Petitioner), filed a petition with the Florida Department of Environmental Protection (Department) pursuant to Section 120.542, Florida Statutes, requesting a variance from the operator staffing requirements of Rule 62-610.462(3), Florida Administrative Code (F.A.C.). Rule 62-610.462(3), F.A.C., requires operator staffing at the above-referenced facility by a Class C or higher operator 6 hours per day for 7 days per week. The Petitioner seeks a variance from the requirements of the rule in order to reduce the minimum operator staffing requirements to 3 hours per day for Monday through Friday and 1 hour per day for Saturday and Sunday.

Notice of receipt of the petition was published in the Florida Administrative Register on October 30, 2015. No public comment was received.

BACKGROUND AND APPLICABLE REGULATORY CRITERIA

I. The Point O' Woods Waste Water Treatment Facility (WWTF) is a Category III, Class C, extended aeration domestic wastewater treatment facility with a permitted capacity of 0.036 MGD Annual Average Daily Flow (AADF). The WWTF is permitted to discharge reclaimed water receiving high level disinfection via a Part III slow-rate public access system.

II. The Point O' Woods WWTF is located at East Gable Court, Inverness, Florida 34451, in Citrus County, at latitude 28° 51' 49" N /longitude 82° 16' 39" W.

III. The effluent disposal system at the Point O' Woods WWTF automatically diverts effluent to an onsite reject pond if high level disinfection is not achieved. Only effluent receiving high level disinfection may be discharged to the slow-rate public access system. When the Total Residual Chlorine drops below the automated system diversion set point or the Turbidity rises above the automated system diversion set point as outlined in the current WWTF's Department approved Reuse Operating Protocol, the effluent is diverted to the onsite reject pond and an alarm call out is received by the operator. Manual reset of the automated diversion system is required to return the effluent flow from the reject pond to the slow-rate public access system, which ensures the effluent quality is meeting public access requirements.

An operator would continue to respond to any call-outs regardless of an approved reduction in staffing. The operator will ensure high-level disinfection parameters have returned to satisfactory levels prior to diverting flow back to reuse. Based on the level of automation available to the operator and the low demand from the reclaimed water users, the above-requested

staffing reduction would provide sufficient time to ensure public access reuse effluent quality requirements are met. The staffing reduction would allow enough time onsite, at a WWTF of this size, for regular operational activities to be completed. The Operator onsite staffing reduction from the requirements of Rule 62-610.462(3), F.A.C., meet the Rule 62-699.310(2)(a)3. staffing requirements for a WWTF of this size, which requires staffing by Class C or higher operator 3 hours/day for 5 days/week and one visit each weekend.

IV. Rule 62-610.462(3), F.A.C., state in pertinent part: "The minimum staffing requirement at the wastewater treatment facility shall be reduced to staffing by a Class C or higher operator 6 hours per day, 7 days per week, unless Chapter 62-699, F.A.C., requires additional operator presence or a higher level of operator."

THE VARIANCE OR WAIVER WILL MEET THE UNDERLYING PURPOSE OF
THE STATUTE

V. Section 120.542(2), Fla. Stat., states "variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness." The variance procedure is intended to provide relief from unreasonable, unfair, and unintended results in unique cases.

VI. The purpose of the underlying statutes 403.061, 403.064, 403.087, 403.088 is to ensure that the quality and use of public access reuse water is environmentally acceptable and not a threat to public health and safety.

VII. The Petitioner demonstrated that the purpose of the underlying statute will be achieved by use of the automated reject system and alarm notification to the operator. Any effluent generated that does not meet the public access reuse water quality requirements would be automatically diverted to the reject pond. The effluent would only be returned to public access reuse disposal by the Operator after determining that the effluent has achieved public access reuse quality, after which manual reset of the automated system may occur.

VIII. Based on the level of automation available to the operator, the design capacity of the WWTF (0.036 MGD) and the low demand from the reclaimed users, the staffing reduction would provide sufficient time onsite for regular operations. The Operator onsite staffing reduction from the requirements of Rule 62-610.462(3), F.A.C., meet the Rule 62-699.310(2)(a)3. staffing requirements for a WWTF of this size, which requires staffing by Class C or higher operator 3 hours/day for 5 days/week and one visit each weekend.

SUBSTANTIAL HARDSHIP TO THE PETITIONER and
VIOLATIONS OF PRINCIPLES OF FAIRNESS

IX. "Substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. Section 120.54(2), Florida Statutes.

X. Petitioner requests a variance or waiver of the strict application of Rule 62-610.462(3), F.A.C., because applying the rules for licensure application would be a substantial hardship.

XI. The Petitioner demonstrated that strict application of the rule would result in substantial economic hardship to the Petitioner. Citrus County Utilities recently upgraded a Type I WWTF and is in the process of expansion of another Type I WWTF. Additionally, Citrus County Utilities has taken over operations of several small package plants from FGUA and most recently, a Citrus County School Facility. Time currently underutilized at the Point O' Woods WWTF could be better spent training operators on the newer, larger County operated Facilities and recently acquired smaller projects, while still providing high quality effluent to and meeting the demand of the Point O' Woods WWTF reclaimed water users.

THEREFORE, IT IS ORDERED:

XIII. Based on the foregoing reasons, the Petitioner has demonstrated that it has met the requirements for a variance of 62-610.462(3), F.A.C. PETITIONERS REQUEST FOR A VARIANCE IS GRANTED.

XIV. This variance shall remain in effect until July 22, 2022. Although the Petitioner requested a permanent variance, the Department is limiting this variance to the current operation permit cycle because the variance deals with an operational requirement rather than a physical construction requirement, and because the applicable science, rules, or laws may change during the permit cycle. The Petitioner can petition to renew this variance when the Petitioner applies to renew its operation permit.

XV. Use of the automated system to divert effluent that does not meet high level disinfection to the reject must be continued at the facility.

XVI. An operator must be available to respond to any alarms/call-outs from the automated system after diversion of effluent to the reject pond.

PUBLICATION OF NOTICE

You, Citrus County Utilities, Point O' Woods Wastewater Treatment Facility, are required to publish at your own expense the enclosed notice of this variance. The notice is required to be published one time within 30 days, in the legal advertisements section of a newspaper of general circulation in the area affected. For the purpose of this rule, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. The applicant shall provide proof of publication to:

Department of Environmental Protection
Permitting and Waste Clean-up Program
Southwest District Office
13051 N. Telecom Parkway
Temple Terrace, FL 33637

The proof of publication shall be provided to the above address within seven days of publication. Failure to publish the notice and provide proof of publication within the allotted time shall be grounds for denial of the variance or waiver.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient

petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the request for a variance or waiver.

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rule 28-106.201, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, telephone number, and any e-mail address of the petitioner; the name, address, telephone number, and any e-mail address of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing must be filed within 21 days of receipt of this written notice. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline for filing a petition for an administrative hearing. A timely request for extension

of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

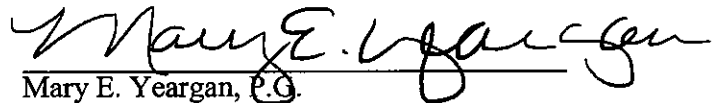
Mediation is not available in this proceeding.

Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this action is filed with the Clerk of the Department.

DONE AND ORDERED this 14th day of January 2015 in Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Mary E. Yeargan, P.G.
Southwest District Director
Florida Department of Environmental Protection
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926

Copies furnished to:

Ken Cheek, Citrus County Director of Water Resources, Ken.Cheek@citrusbocc.com
Devon Villareal-Dabbs, Utilities Compliance Manager, Devon.Villareal@citrusbocc.com
Gary Loggins, Operations Manager, Gary.Loggins@citrusbocc.com
Joint Administrative Procedures Committee, joint.admin.procedures@leg.state.fl.us

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION NOTICE OF
ORDER GRANTING VARIANCE

The Department of Environmental Protection gives notice of its determination pursuant to section 120.542, Florida Statutes, in File No. FLA011893-006-DWF to grant a variance to Citrus County Utilities from Rule 62-610-462(3), Florida Administrative Code (F.A.C.), in order to reduce the minimum operator staffing requirements to 3 hours per days for 5 days per week and 1 hour visits on each weekend at Point O' Woods Wastewater Treatment Facility East Gable Court, Inverness, Florida 34451, in Citrus County, at lat 28° 51' 49" N /long 82° 16' 39" W.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rule 28-106.201, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

In accordance with rule 62-110.106(3) of the Florida Administrative Code, petitions for an administrative hearing must be filed within 21 days of publication of this notice or receipt of written notice, whichever occurs first. However, any person who has previously asked the Department for notice of this agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it.

A person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be

filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation is not available in this proceeding.

On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, this process may result in a modification of the agency action or even a denial of the request for a variance or waiver.

A copy of the Order may be obtained by contacting: Jacquelyn Champion, Department of Environmental Protection, 13051 N. Telecom Parkway, Temple Terrace, Florida 33637; telephone 813-470-5918; Jacquelyn.Champion@dep.state.fl.us during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.