

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re:
Petition for a G-II Ground Water
Quality Criteria Exemption
Cedar Key Water and Sewer District,
Cedar Key, Florida

OGC File No. 18-1018
Levy County

**FINAL ORDER GRANTING PETITION FOR GROUND WATER
QUALITY CRITERIA EXEMPTION**

The Department of Environmental Protection (“Department”) hereby issues a Final Order granting the Petitioner’s, Cedar Key Water and Sewer District, petition for a ground water quality criteria exemption from the primary drinking water standard for sodium and the secondary drinking water standards for chloride, color, odor, and total dissolved solids (TDS), pursuant to Rule 62-520.500, Florida Administrative Code (F.A.C.), as set forth below.

BACKGROUND AND FINDING OF FACTS

1. On May 25, 2018, Petitioner filed with the Department a Petition for Renewal of Exemption pursuant to Rule 62-520.500, Florida Administrative Code (F.A.C.) for the renewal of ground water quality criteria exemptions (exemption). The Petitioner is requesting the establishment of alternative compliance levels for the primary drinking water standard for sodium, and the secondary drinking water standards for chloride, color, odor, and total dissolved solids (TDS) at the Cedar Key Water Reclamation Facility (“Facility”) in Cedar Key. The groundwater exemptions are associated with Petitioner’s permitted domestic wastewater discharge to Class G-II groundwater through subsurface absorption field system at the Facility.

2. The applicable groundwater quality standards for Class G-II groundwater

are established, in part, in Rule 62-520.420(1), F.A.C. In addition to the minimum criteria in Rule 62-520.400, F.A.C., the primary and secondary drinking water quality standards for public water systems established pursuant to the Florida Safe Drinking Water Act, which are listed in Rules 62-550.310, and 62-550.320, F.A.C., apply to Class G-II ground water.

3. As provided for under the applicable rule, Petitioner has proposed the following alternative compliance levels for the parameters from which an exemption is being sought: Sodium 400 mg/L (milligrams per liter), Chloride 1000 mg/L, Color 25 color units, Odor 20 Threshold Odor Number, TDS 1,800 mg/L.

4. The Facility is located on the northwest corner of 8th Street and G Street adjacent to Back Bayou, Cedar Key. The Petitioner has operated the water reclamation facility since 1990, though property ownership extends back to an even earlier period when the water reclamation facility was the site of the Cedar Key Water Treatment Plant.

5. On April 29, 1991, the Department entered a Final Order granting the water reclamation facility the first (original) exemption from the ground water standards for sodium, chloride, color, odor, and TDS. On November 8, 2000, April 19, 2005, May 28, 2008, and September 25, 2013, the Department executed Final Orders granting the water reclamation facility the first, second, third and fourth renewal exemptions, respectively. The May 25, 2018, petition is Cedar Key Water and Sewer District's fifth request for a renewal exemption at the water reclamation facility.

6. The water reclamation facility discharges treated domestic wastewater to a shallow surficial aquifer using a 50,000-square foot non-public access rapid-rate land application absorption field system, and to a total of 6.3 acres at six slow-rate public

access land application sites. Historical analysis of groundwater monitoring data at the absorption field indicates elevated levels of sodium, chloride, color, odor, and TDS. The elevated parameters are due in part to the water reclamation facility's wastewater discharges at the land application site. Additionally, the facility is located on an island in the Gulf of Mexico and the elevated parameters are naturally occurring in marine waters. Saltwater intrusion, tidal influences, storm surges, and hurricanes have affected the water quality of the surficial aquifer including the elevated parameter levels at the application area.

7. The Petitioner used the shallow surficial aquifer as a source for public water supply until 1965 but discontinued its use in favor of a deep well public water system located across the bay on the mainland. Use of the surficial aquifer was discontinued due to the limited ground water supplies and water quality problems resulting from saltwater intrusion and the surrounding marine environment. Additionally, the State Charter creating the Petitioner prohibits privately owned domestic potable water supply wells on the island. The Petitioner states there are no privately owned domestic potable water wells on Cedar Key. Groundwater on the island is not used for drinking water purposes or for other domestic uses such as cooking or bathing.

8. The Petitioner is authorized to treat and discharge domestic wastewater to groundwater under operating Permit Number FL0031216. On May 25, 2018, the Department received an application for the renewal of the water reclamation facility's domestic wastewater operating Permit Number FL0031216. Renewal of the groundwater exemption, if granted by the Department, will be incorporated into the domestic wastewater operating renewal Permit Number FL0031216 and approved for the duration

of the permit. The exemption only extends to the groundwater elements of the domestic wastewater operating permit Number FL0031216.

9. The Department has reviewed the petition for an exemption pursuant to the requirements of Rule 62-520.500, F.A.C., and makes the following findings concerning compliance with applicable criteria:

(a) Rule 62-520.500(1), F.A.C.: granting the exemption is clearly in the public interest because the Petitioner provides for wastewater treatment and disposal, which is an essential service that serves to protect and preserve human health, safety and welfare.

(b) Rule 62-520.500(2), F.A.C.: compliance with such criteria is unnecessary for the protection of present and future potable water supplies. As previously noted, Petitioner's use of the surficial aquifer was discontinued due to water quality problems resulting from saltwater intrusion and the surrounding marine environment. The Petitioner states there are no privately owned domestic potable water wells on Cedar Key. Groundwater wells on the island are not used for drinking water purposes or for other domestic uses such as cooking or bathing.

(c) Rule 62-520.500(3), F.A.C.: granting the exemption will not interfere with existing uses or the designated use of the waters or of contiguous water. The surficial aquifer is only used for irrigation. The Petitioner's discharge will not impair such use.

(d) Rule 62-520.500(4), F.A.C.: compliance with the ground water quality criteria standards would require significant economic, environmental, and social cost with minimal economic, environmental, and social benefits of compliance. The design, construction, operation, and maintenance of a micro-filtration or reverse osmosis treatment system would require a significant expenditure of capital. Brine disposal

resulting from these treatment systems would result in additional costs and environment impacts. These costs will have a negative impact on the facility's ability to provide the most cost-effective service to ratepayers. Requiring compliance with the G-II standards would result in no discernible environmental, social, or economic benefits.

(e) Rule 62-520.500(5), F.A.C.: a groundwater monitoring program has been approved by the Department and is implemented under domestic wastewater discharge Permit Number FL0031216. The monitoring program is designed to ascertain the location and approximate dimensions of the discharge plume, to detect any leakage of contaminants to other aquifers or surface waters, and to detect any adverse effect on underground geologic formations or waters. The monitoring program meets the requirements for monitoring under a water quality exemption. The facility will continue to implement the approved groundwater monitoring program.

(f) Rule 62-520.500(6), F.A.C.: Granting an exemption from the standard for sodium associated with permitted wastewater discharge to Class G-II groundwater will have no adverse effects upon public health, safety, or welfare.

IT IS THEREFORE ORDERED that Petitioner's petition for water quality criteria exemptions for the primary drinking water standard for sodium, and secondary drinking water standards for chloride, total dissolved solids, color, and odor is **GRANTED**. The exemption is subject to the following conditions:

(i) No single value will exceed the alternative compliance levels for the parameters from which an exemption is being sought: Sodium 400 mg/L (milligrams per liter), Chloride 1000 mg/L, Color 25 color units, Odor 20 Threshold Odor Number, TDS 1,800 mg/L.

(ii) Renewal of the groundwater exemption will be incorporated into the domestic wastewater operating renewal Permit Number FL0031216 and approved for the duration of the permit. The exemption only extends to the groundwater elements of the domestic wastewater operating permit Number FL0031216.

(iii) Any future exemptions must be petitioned for by the applicant in conjunction with any future renewal of domestic wastewater discharge Permit Number FL0031216.

NOTICE OF RIGHTS

Pursuant to Section 403.815 F.S., and Department Rule 62-110.106(7), F.A.C., the applicant is required to publish at its own expense the enclosed Notice of Intent to Grant a Water Quality Exemption. The notice shall be published, one time only within 30 days from the date of issuance of this Notice of Intent, in the legal ad 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 an original of the proof of publication to Cindy Fischler, PG, Florida Department of Environmental Protection, Aquifer Protection Program, 2600 Blair Stone Road, Mail Station 3520, Tallahassee, Florida 32399-2400, and a copy to PWS@Floridadep.gov, within seven days of publication. Failure to publish the notice and provide proof of publication within the allotted time may result in denial of the exemption.

The Department will issue the exemption with the attached conditions unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57, F.S. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed exemption decision may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) with the Agency Clerk in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Petitions filed by the exemption applicant or any of the parties listed below must be filed within 21 days of receipt of this written notice.

Petitions filed by any persons other than those entitled to written notice under section 120.60(3), F.S., must be filed within 21 days of publication of the public notice or receipt of the written notice, whichever occurs first. Under section 120.60(3), F.S., however, any person who asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication. The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person 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 only be at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Department's action is based must contain the following information, as required by Rule 28-106.201, F.A.C.

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner if the petitioner is not represented by an attorney or a qualified representative; 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 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 specific facts the petitioner contends warrant reversal or modification of the Department's action;

(f) A statement of the specific rules and statutes the petitioner contends requires 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 wants the Department to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department final action may be different from

the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department on the petition have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation under Section 120.573, F.S., is not available for this proceeding.

A party to this order has the right to seek judicial review of it under Section 120.68, F.S., by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Agency Clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, 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 must be filed within 30 days after this order is filed with the clerk of the Department.

DONE AND ORDERED ON this the 13th day of June, 2019, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION



Benjamin Melnick
Deputy Director
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State of Florida Department of
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FILING AND ACKNOWLEDGMENT and CERTIFICATE OF SERVICE

FILED, on this date, under Section 120.52, Florida Statutes, with the designated Deputy Clerk, receipt of which is hereby acknowledged. The undersigned hereby certifies that this FINAL ORDER GRANTING PETITION FOR GROUND WATER QUALITY CRITERIA EXEMPTION and all copies were mailed before the close of business on June 13, 2019, to the listed persons.



Clerk

June 13, 2019

Date

Copies furnished to:

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