

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re:
Petition for Class G-II Groundwater
Quality Criteria Exemption
Florida Department of Transportation
I-75 Rest Area Mile Post 35
Unincorporated Broward County, Florida

OGC File No. 19-0395
Broward County

FINAL ORDER GRANTING PETITION FOR WATER QUALITY CRITERIA EXEMPTION

The Department of Environmental Protection (Department) hereby issues this Final Order Granting a Water Quality Criteria Exemption under Rule 62-520.500, Florida Administrative Code (F.A.C.), to the Florida Department of Transportation (FDOT or Petitioner), for the Interstate 75 Mile Post (MP) 35 Rest Area Wastewater Treatment Plant (WWTP) and Reverse Osmosis Water Treatment Plant (WTP) Underground Injection Well which are located in Unincorporated Western Broward County, Florida. The Petitioner is seeking a water quality criteria exemption from the Class G-II groundwater quality standard for color, which is 15 color units (c.u.). The Petitioner requests an alternate compliance level of 150 c.u. for color. The Department is issuing this Final Order for the reasons stated below.

BACKGROUND

1. On June 18, 2018, the Department received a petition from FDOT for a water quality criteria exemption associated with disposal of secondary treated domestic wastewater generated at the rest area WWTP and reverse osmosis concentrate from the rest area WTP in the Hawthorn Group (containing the Intermediate aquifer), which is classified as Class G-II groundwater in this location, pursuant to Rule 62-520.410,

F.A.C. The petition relates to the FDOT Rest Area WWTP and WTP injection well system, which is located at the Interstate 75 MP 35, Unincorporated Western Broward County, Florida.

2. Petitioner seeks an exemption from specific Class G-II groundwater quality standards, set forth in Rule 62-520.420(1), F.A.C. Relief is sought from the Class G-II groundwater quality standard for color, which is 15 color units (c.u.); this is an aesthetically-based secondary drinking water standard (secondary standard), pursuant to Rule 62-550.320, F.A.C.

3. Petitioner is proposing renewing the operating permit for the injection well.

4. The injection well was constructed in 2002 for the Interstate 75 MP 35 WWTP and WTP. The well is completed with an open hole interval from 545 feet to 617 feet below land surface (bls).

5. The sources of wastewater are the FDOT on-site WWTP and WTP. The wastewater can contain elevated levels of color.

6. The color measurements for the wastewater generally less than 100 c.u. (secondary standard of 15 c.u.).

7. The FDOT rest area's water supply wells, which supply the WTP, are the only potable wells within one mile of the site and should not be affected by the proposed operation. Also, water from the Intermediate aquifer in this location would require desalination prior to use due to its natural brackish nature. Desalination by reverse-osmosis treatment which should reduce the color concentration to below the

secondary drinking water standard.

8. The potential use of the Intermediate aquifer in this area for potable water is unlikely because the naturally high total dissolved solids (TDS) concentration of approximately 4,900 mg/L. The Surficial aquifer is a significantly better-quality drinking water resource. There is 345 feet of confinement between the Surficial aquifer and the Intermediate aquifer (injection zone) in this project area which will prevent the operation of the injection well from affecting the Surficial aquifer drinking water source. In addition, a Surficial aquifer monitor well is monitored to assure that there are no effects on the water quality of the Surficial aquifer from the injection project.

9. Pursuant to Rule 62-520.500(1), F.A.C., the Petitioner is required to provide alternative compliance levels for the parameters from which an exemption is being sought. The Petitioner requests an alternate compliance level of 150 c.u. for color. The alternate color compliance level, if approved, is subject to Department review upon renewal of the operation permit and any future exemption renewal.

FINDINGS AND CONCLUSIONS

10. The Department has permitting jurisdiction under Chapter 403, Florida Statutes (F.S.). The FDOT I-75 MP 35 rest area injection well project is not exempt from these permitting procedures. The Department has determined that an underground injection control (UIC) permit is required for the FDOT I-75 MP 35 rest area injection well.

11. FDOT is permitted to operate under UIC permit number 0129560-010-UO/5W, which expires five years after issuance. The exemption for color from the Class

G-II groundwater quality standard, if granted by the Department, will be incorporated into UIC permit number 0129560-010-UO/5W and approved for the duration of said permit. The exemption is applicable only to the groundwater elements of UIC permit number 0129560-010-UO/5W.

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

(a) Rule 62-520.500(1)(a), F.A.C.: Granting the exemption is clearly in the public interest.

Granting the exemption is clearly in the public interest. The project is located in the Florida Everglades. The Everglades Forever Act (EFA) requires more stringent water quality standards to be met for the disposal of wastewater, in particular with respect to phosphorus levels. The application of new water quality criteria under EFA prohibits the use of a leachate drainfield as a disposal option. The disposal of excess water using advanced wastewater and reverse osmosis technologies meets the public need of Florida residents and tourists for a reliable disposal mechanism of wastewater at a reasonable cost while not adversely affecting the environment. Granting the groundwater quality criteria exemption for the FDOT I-75 MP 35 Rest Area injection well system will allow FDOT an economical alternative for disposal and should not have any adverse impact on concentrations of color in the adjacent off-site groundwater.

(b) Rule 62-520.500(1)(b), F.A.C.: Compliance with such criteria is unnecessary for the protection of present and future potable water supplies.

Compliance with the groundwater standard for color as set forth in Rule 62-520.420(1), F.A.C., is unnecessary for the protection of present and future potable water supplies. Groundwater quality within the injection zone is generally poor, with a TDS concentration of approximately 4,900 mg/L. Due to the TDS concentration, groundwater withdrawal from this aquifer for potable use at or near the facility would require treatment prior to use, which would also treat the color. The FDOT public water supply wells are Surficial aquifer water wells located within the FDOT rest area property. There are no other public water supply wells within one mile of the rest area.

(c) Rule 62-520.500(1)(c), F.A.C: Granting the exemption will not interfere with existing uses or the designated use of the waters or of contiguous water.

Granting an exemption from the Class G-II groundwater standards will not interfere with existing uses or the designated use of the waters or contiguous waters. Except for the FDOT-owned and operated rest area supply wells which supply the raw Surficial aquifer groundwater for this facility, there are no public potable water wells within a one-mile radius of the rest area. The Hawthorn Group provides confinement between the Intermediate aquifer injection zone and the overlying Surficial aquifer, which is the local source of drinking water. Secondary drinking water standards are aesthetically based and granting the exemption for color at the requested level will not pose a health threat. The alternate compliance level for color proposed by Petitioner will have no adverse impacts on the health, safety, or welfare of persons, or on the groundwater or any surface water surrounding the facility. Therefore, granting the

exemption will not interfere with the existing uses or designated use of the waters or of contiguous water.

(d) Rule 62-520.500(1)(d), F.A.C.: The economic, environmental, and social costs of compliance with the criteria outweigh the economic, environmental, and social benefits of compliance.

The costs associated with compliance with the Class G-II groundwater standard for color outweigh the economic, environmental, and social benefits of compliance. Compliance with the groundwater standard would require FDOT to haul and dispose of the wastewater to another permitted facility, construct an onsite system to treat for color, or construct a deep Class I injection well. The costs associated with these alternatives are estimated to be approximately \$30,000 per year to haul and dispose of effluent offsite, \$25,000 to construct carbon treatment plus \$5,000 in annual costs, \$60,000 to construct ozone treatment plus \$5,000 in annual costs, and \$4.2 million to construct a deep injection well facility plus \$60,000 in annual costs. These costs would negatively impact FDOT's ability to provide the most cost effective and reliable supply of water wastewater services and would create an additional financial burden to the agency. Granting the water quality criteria exemption for color for this injection project therefore outweighs the environmental benefit of compliance, as color is an aesthetic parameter with no known threat to the environment or public health, in addition to an economic savings.

(e) Rule 62-520.500(1)(e), F.A.C.: An adequate monitoring program approved by the Department is established 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 of underground geologic formations or waters.

A groundwater monitoring program has been approved by the Department and is operated by FDOT as required under UIC permit number 0129560-010-UO/5W to ensure compliance with the groundwater standards including the alternative compliance level, to detect any adverse effects to other aquifers or surface waters, and to detect any adverse effect on underground geologic formations or waters. One single-zone monitor well is in the Surficial aquifer. The approved monitoring program design meets the requirements for a groundwater quality criteria exemption. FDOT will implement the approved groundwater monitoring program as required in UIC permit number 0129560-010-UO/5W.

(f) Rule 62-520.500(1)(f), F.A.C.: The exemption will not present a danger to the public health, safety, or welfare.

Granting an exemption from the secondary drinking water standard for color is not expected to present danger to the public health, safety, or welfare. Secondary drinking water standards are aesthetically based and do not pose a health threat at the requested level. In addition, groundwater use is limited in the Intermediate aquifer in this area; there are no public or private water wells located within a one-mile radius of the facility that are using this aquifer as a potable water supply; and there are no plans for future potable water supply development in the area. Use of the Intermediate aquifer groundwater as a potable water source would require treatment. This treatment

would reduce the color concentration to meet the secondary standard limit. The receiving brackish Intermediate aquifer groundwater will not be adversely affected by this discharge. No effect on the overlying aquifer system or nearby surface waters is expected.

13. **IT IS THEREFORE ORDERED** that Petitioner's petition for a water quality criteria exemption for the secondary drinking water standard for color is **GRANTED**. The exemption is subject to the following conditions:

(a) The exemption is being granted based on the Department's determination that the permittee's continued injection into the Intermediate aquifer will not present a danger to the public health, safety or welfare and will have no environmental, social, or economic effect.

(b) The exemption will be incorporated into the FDOT UIC permit number 0129560-010-UO/5W, which expires five years after issuance, and is approved for the duration of said permit. Under the conditions of this exemption, the alternate compliance level for color shall be limited to 150 c.u. A petition for any future renewal of this exemption must be submitted by FDOT in conjunction with renewal of permit number 0129560-010-UO/5W, any future application for a construction permit for additional Class V injection wells, or an operation permit for any Class V injection well project including operation permit renewals.

(c) The exemption provides relief only from the secondary drinking water standard for color (standard is 15 c.u.) contained in Rule 62-550.320, F.A.C., as referenced in Rule 62-520.420, F.A.C. All other groundwater standards, including the

primary drinking water standards contained in Rule 62-550.310, F.A.C., the other secondary drinking water standards contained in Rule 62-550.320, F.A.C., and the minimum criteria contained in Rule 62-520.400, F.A.C., apply to the FDOT injection well.

d) The permittee shall monitor water quality in accordance with the specific conditions of the FDOT UIC permit number 0129560-010-UO/5W.

e) If condition 1 below occurs, injection shall cease until the issue of upward fluid migration is satisfactorily addressed.

1. Surficial aquifer monitor wells including MW-1 – A primary or secondary drinking water standard or natural background level (whichever is greater) is exceeded in MW-1 because of injection.

NOTICE OF RIGHTS

Pursuant to section 403.815, F.S., and Rule 62-110.106(7), F.A.C., you (the applicant) are required to publish at your own expense the enclosed Notice of Final Order Granting a Water Quality Criteria Exemption. The notice shall be published one time only within 30 days from receipt 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 proof of publication to Mr. Joe Haberfeld, P.G., Florida Department of Environmental Protection, Aquifer Protection Program, 2600 Blair Stone Road, Mail Station 3530, Tallahassee, Florida 32399-2400 or

joe.haberfeld@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.

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 application.

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 Rules 28-106.201 and 28-106.301, 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, or via electronic correspondence at Agency_Clerk@dep.state.fl.us. Also, a copy of the petition shall be mailed to the applicant, Mr. Tony Castro, Deputy Maintenance Engineer, Florida Department of Transportation, 3400 West Commercial Boulevard, Fort Lauderdale, Florida 33309, at the time of filing.

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any

persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. 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.

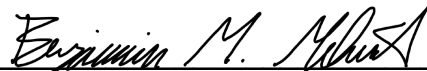
Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension 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, or via electronic correspondence at Agency_Clerk@dep.state.fl.us, before the 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 for this proceeding.

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 Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department

in the Office of General Counsel (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 from the date this action is filed with the Clerk of the Department.

DONE AND ORDERED this 27th day of July 2020, in Tallahassee, Florida.



Benjamin M. Melnick
Director
Division of Water Resource Management
State of Florida Department of
Environmental Protection
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

CERTIFICATE OF SERVICE

The undersigned duly designated clerk hereby certifies that this FINAL ORDER and all copies were sent on the filing date Monday, July 27, 2020, to the following listed persons:

- Tony Castro FDOT
- Doug Beason FDEP, Tallahassee
- Betsy Hewitt FDEP, Tallahassee
- Leo Garcia FDEP Tallahassee
- Joseph Haberfeld FDEP, Tallahassee
- James Dodson FDEP, Tallahassee
- Cindy Fischler FDEP, Tallahassee
- Chris Weller FDEP, SED
- Norva Blandin FDEP, SED
- Sirena Davila FDEP, SED

Enclosure: Public Notice

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section.120.52, Florida Statutes, (F.S.), with the designated Department Clerk, receipt of which is hereby acknowledged.

Lisa Williams
Clerk

07/27/2020
Date

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
FINAL ORDER GRANTING PETITION FOR WATER QUALITY CRITERIA EXEMPTION

The Department of Environmental Protection gives notice of its Final Order to grant an exemption from the Class G-II groundwater standard for color pursuant to Rule 62-520.500, Florida Administrative Code (F.A.C.), as part of Underground Injection Control (UIC) permit number 0129560-010-UO/5W to the Florida Department of Transportation (FDOT) Interstate 75 Milepost 35 Rest Area located in Unincorporated Broward County, Florida. The exemption is for the permitted discharge of secondary treated domestic wastewater generated at the rest area wastewater treatment plant and reverse osmosis concentrate from the rest area water treatment plant to Class G-II groundwater of the Intermediate aquifer.

On March 9, 2018, the Department received an operation permit renewal application (number 0129560-010-UO/5W) and a water quality criteria exemption renewal request (number 0129560-011-UO/V1) from FDOT for operation of a Class V injection well system. The exemption will be incorporated into UIC permit number 0129560-010-UO/5W, which expires five years after issuance, and is approved for the duration of said permit. A petition for any future renewal of this exemption must be submitted by FDOT in conjunction with renewal of permit number 0129560-010-UO/5W, any future application for a construction permit for additional Class V injection wells, or an operation permit for any Class V injection well project including operation permit renewals.

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 application.

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 Rules 28-106.201 and 28-106.301, 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, or via electronic correspondence at Agency_Clerk@dep.state.fl.us. Also, a copy of the petition shall be mailed to the applicant, Mr. Tony Castro, Deputy Maintenance Engineer, Florida Department of Transportation, 3400 West Commercial Boulevard, Fort Lauderdale, Florida 33309, 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 by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under

Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. 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, or via electronic correspondence at Agency_Clerk@dep.state.fl.us, before the 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 for 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 Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (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 from the date this action is filed with the Clerk of the Department.

For more information or to review the application and petition contact Joe Haberfeld, P.G., at 850-245-8655 or joe.haberfeld@floridadep.gov of the Department's Tallahassee Office.