

RECEIVED

AUG 19 1992

Northwest Florida  
DER

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION

IN RE: ESCAMBIA COUNTY UTILITIES )  
AUTHORITY )  
Request for Exemption from )  
Permitting Requirements for )  
Water Distribution and Sewage )  
Collection Systems Twelve )  
Inches or Less in Diameter )  
\_\_\_\_\_ )

DOCKET NO. 91-48R

FINAL ORDER

This matter is before me pursuant to the Department's authority in Section 403.1815, Florida Statutes (1991), to authorize counties to regulate the construction of water distribution mains of 12 inches or less, gravity sewage collection systems of 12 inches or less, sewage force mains of 12 inches or less, and pump stations appurtenant to such force mains, provided that the county requesting the authorization owns the water or sewage facility served by the mains, collection systems, and pump stations in question.

FINDINGS OF FACT

1. The applicant is the Escambia County Utilities Authority. Permits issued by the Escambia County Utilities Authority pursuant to this order will be through the Authority's Engineering Department.

2. The Escambia County Utilities Authority is a local government body established by Chapter 81-376, Laws of Florida,

and is eligible for the authorization and exemption from Department permitting requirements pursuant to Section 403.1815, Florida Statutes.

3. The Escambia County Utilities Authority owns the water and sewerage systems to which the water distribution and sewage collection systems will be connected.

4. The Escambia County Utilities Authority has demonstrated the engineering, administrative, and legal capabilities to independently regulate the construction of water distribution and sewage collection and transmission systems.

5. On March 8, 1989, the Escambia County Utilities Authority (Authority) requested authorization to independently regulate the construction of water distribution and sewage collection systems of 12 inches or less in diameter, sewage force mains of 12 inches or less in diameter, and pump stations appurtenant to such force mains and to be exempt from applicable Department permitting requirements in accordance with Section 403.1815, Florida Statutes.

6. On June 15, 1992, the Escambia County Utilities Authority and the Department entered into a Memorandum of Agreement (MOA) authorizing the Escambia County Utilities Authority to independently regulate the construction of water distribution mains of 12 inches or less in diameter, gravity sewage collection systems of 12 inches or less in diameter, sewer force mains of 12 inches or less in diameter, and pump stations

appurtenant to such force mains (Exhibit 1). Authority for the Director of District Management to enter into a MOA for the Department for purposes of delegation pursuant to Section 403.1815, Florida Statutes, is hereby granted. The parties have mutually agreed to be bound by the terms and agreements contained in the MOA. The MOA details the Authority's engineering, administrative, and legal responsibilities in the review of applications, plans, and specifications for water distribution and sewage collection and transmission systems and procedures for approval or denial of these systems.

7 / s. On June 15, 1992, the Department gave notice of its intent to authorize the Escambia County Utilities Authority to independently regulate the construction of water distribution and sewage collection and transmission systems of 12 inches or less in diameter, sewage force mains of 12 inches or less in diameter, and pump stations appurtenant to such force mains, subject to the following conditions:

A. The Escambia County Utilities Authority shall be responsible for timely processing of applications and for providing appropriate due process opportunities for substantially affected parties to be heard on any final actions taken by the Authority related to these permitting matters.

B. The Escambia County Utilities Authority shall maintain and make available for Department review adequate records and submit monthly reports indicating the number of all connections to the Escambia County Utilities Authority's water and sewage systems with a listing of the number and location of new connections to these systems. The Escambia County Utilities Authority also agrees to submit a yearly updated map of the Authority's water distribution and sewage collection systems.

C. The Department reserves the right to revoke the authorization if the Department determines that the Authority has failed to operate and maintain its water and sewer systems in compliance with Department regulations or has failed to comply with the terms of the MOA.

§ 7. A notice of the intent to allow the Escambia County Utilities Authority to independently regulate the construction of water distribution mains of 12 inches or less in diameter, gravity sewage collection systems of 12 inches or less in diameter, sewer force mains of 12 inches or less in diameter, and pump stations appurtenant to such force mains was published in the Pensacola News Journal on June 29, 1992, and no petition for administrative hearing was filed pursuant to Section 120.57, Florida Statutes.

#### CONCLUSIONS OF LAW

1. The processing of the request to allow the Escambia County Utilities Authority to independently regulate the construction of water distribution mains of 12 inches or less in

diameter, gravity sewage collection systems of 12 inches or less in diameter, sewer force mains of 12 inches or less in diameter and pump stations appurtenant to such force mains and the issuance of this Final Order are governed by the provisions of Chapter 120, Florida Statutes.

2. The construction of water distribution and sewage collection and transmission systems is subject to the regulatory jurisdiction of the Department under Chapter 403, Florida Statutes.

3. The Department is authorized by Section 403.1815, Florida Statutes, to allow any county or municipality to independently regulate the construction of water distribution systems of 12 inches or less in diameter, sewage collection systems of 12 inches or less in diameter, and sewage force mains of 12 inches or less and pump stations appurtenant to such force mains which may be connected to any water system or sewerage system owned by the county or municipality.

4. The relevant provisions of the following Department rules will apply to the authority. Florida Administrative Code Chapter 17-4 contains general procedures and requirements for obtaining permits from the Department. Florida Administrative Code Chapter 17-604 contains specific design criteria and permitting requirements for sewage collection systems. Florida

Administrative Code Chapter 17-555 contains specific design criteria and permitting requirements for water distribution systems.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that:

1. The Escambia County Utilities Authority is authorized to independently regulate the construction of water distribution and sewage collection systems of 12 inches or less in diameter and sewage force mains of 12 inches or less in diameter and pump stations appurtenant to such force mains, and therefore be exempt from applicable Department permitting requirements pursuant to Section 403.1815, Florida Statutes.

2. The authorization and exemption is subject to the following conditions:

A. The Escambia County Utilities Authority shall be responsible for timely processing of applications and for providing appropriate due process opportunities for substantially affected persons to be heard on any final actions taken by the Authority related to these permitting matters.

B. The Escambia County Utilities Authority shall maintain and make available for Department review adequate records and submit monthly reports indicating the number of new connections to the Authority's water and sewerage systems. The

Escambia County Utilities Authority also agrees to submit a yearly updated map of the Authority's water distribution and sewage collection systems.

C. The Department reserves the right to revoke this authorization and exemption from Department permitting requirements pursuant to Section 403.1815, Florida Statutes.

D. The Escambia County Utilities Authority agrees to regulate the construction of water distribution and sewage collection and transmission systems under the terms of the MOA entered into on June 15, 1992. Failure to comply with the terms of the MOA may result in the revocation of the authorization.

3. The authorization does not exempt the Escambia County Utilities Authority from complying with all other applicable rules of the Department.

4. Acceptance of the order constitutes notice and agreement that the Department will periodically review this Order as provided for in the MOA for compliance, including but not limited to, site inspections where applicable, and may initiate those enforcement actions deemed appropriate for any violation of the conditions and requirements contained herein or violations of any rules or requirements of the Department.

Any party of this Order has the right to seek judicial review of this designation pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of

the Department in the Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; 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 of this Notice if filed with the Clerk of the Department.

DONE and ENTERED this 30<sup>th</sup> day of August, 1992, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION

~~FILED~~ FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to S120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

[Signature]  
Clerk      8.13.92  
Date


[Signature]  
CAROL BROWNER  
Secretary

Department of Environmental Regulation  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400  
Telephone: (904) 488-4805



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to A. E. Van Dever, Executive Director, Escambia County Utilities Authority, P.O. Drawer 15311, Pensacola, Florida 32514 and Robert Kriegel, District Director, Northwest District, 160 Governmental Center, Pensacola, Florida 32501-5794 on this 17th day of August, 1992.

  
Cynthia K. Christen  
Assistant General Counsel  
Department of Environmental  
Regulation  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400  
Telephone (904) 488-9730

MEMORANDUM OF AGREEMENT  
LOCAL GOVERNMENT REGULATION OF THE CONSTRUCTION  
OF WATER DISTRIBUTION AND SEWAGE COLLECTION SYSTEMS

The State of Florida Department of Environmental Regulation (Department) and the Escambia County Utilities Authority (Authority) enter into this agreement to delineate the Authority's engineering, administrative, and legal responsibilities for authorization to independently regulate the construction of water distribution mains of 12 inches or less in diameter, gravity sewage collection systems of 12 inches or less in diameter, sewage force mains of 12 inches or less in diameter and pump stations appurtenant to such force mains pursuant to Section 403.1815, Florida Statutes (F.S.)

INTENT  
PART I

1.1 It is the intent of the Department to delegate environmental regulatory activities to local governments that demonstrate the competence and capabilities to carry out these activities.

1.2 As specified in Section 403.1815, F.S., the Department may, under certain conditions and upon request, allow any county or municipality to independently regulate the construction of water distribution mains of 12 inches or less in diameter, gravity sewage collection systems of 12 inches or less in diameter, sewage force mains of 12 inches or less in diameter and pump stations appurtenant to such force mains. This exemption from Department permitting requirements applies only to water distribution mains of twelve (12) inches or less in diameter, gravity sewage collection systems of twelve (12) inches or less in diameter, sewage force mains of twelve (12) inches or less in diameter and pump stations appurtenant to such force mains, which will be connected to water and sewerage plants owned by the county or municipality. Those projects greater than twelve (12) inches in size shall remain under the Department's jurisdiction, and shall be subject to all applicable Department permitting requirements. Such delegation does not negate the necessity for complying with the applicable design standards contained in Chapters 17-555 and 17-604, Florida Administrative Code (F.A.C.).

1.3 It is the intent of this agreement to delineate the Authority's engineering, administrative, and legal responsibilities to administer and comply with the requirements of Section 403.1815, F.S.

1.4 Any delegation of, or exemption from, Department regulatory activities shall be authorized by Final Order of the Secretary of the Department.

1.5 Nothing in this agreement or the Final Order shall relieve the Authority from any requirement to obtain the necessary permits for construction activities in waters of the State or from complying with all other provisions and rules of the Department.

ADMINISTRATION OF AGREEMENT  
PART II

2.1 The parties to this agreement are the Department of Environmental Regulation and the Escambia County Utilities Authority, a local government body of the State of Florida. The Director of District Management of the Department's Northwest District Office and the undersigned Escambia County Utilities Authority representative are each empowered to enter into this agreement and perform any act which it requires.

2.2 Specific Department authorization to independently regulate the construction of water distribution and sewage collection and transmission systems, in place of the Department permitting requirements, shall not become effective until execution of a Final Order by the Secretary of the Department, pursuant to Chapter 120, F.S. This agreement will become effective upon execution of the Final Order.

2.3 This agreement can be modified, in whole or in part, at any time upon mutual consent of the Department and the Escambia County Utilities Authority. This agreement and any modifications shall be filed in the Department's Office of General Counsel.

2.4 The Final Order executed by the Secretary providing the authorization for independent regulation shall supersede any conflicting provision of this agreement.

2.5 This agreement will be implemented by and through the Director of District Management of the Department's Northwest District Office and the Escambia County Utilities Authority representative, or other such persons as designated in writing by the Director of District Management and the Escambia County Utilities Authority representative. This agreement may be terminated by either party without cause upon written notice to the other party at least ninety days prior to the effective date of such termination. Such termination shall be grounds for the Department to revoke or suspend the Final Order providing authorization for the Escambia County Utilities Authority to independently regulate the construction of water distribution and sewage collection and transmission systems.

2.6 Permits issued pursuant to this agreement will be through the Authority's Engineering Department for the Authority's Board.

2.7 This agreement will be jointly reviewed by the parties at least every three (3) years to determine the adequacy of this agreement and the need for any modifications.

2.8 If any part of this agreement is judicially determined to be invalid, the other provisions of this agreement will remain in full force and effect.

ENGINEERING, TECHNICAL AND RECORD KEEPING CONSIDERATIONS  
PART III

3.1 Review of the engineering features of the plans and specifications shall be performed under the supervision of a licensed professional engineer registered in the State of Florida in accordance with Chapter 471, F.S.

3.2 The Escambia County Utilities Authority shall review the water distribution and sewage collection and transmission system design plans and specifications for conformance with applicable Department design and performance criteria. Department design and performance criteria for water distribution and sewage collection and transmission systems are found in Chapters 17-555 and 17-604, F.A.C. respectively.

3.3 The Escambia County Utilities Authority shall operate and maintain its water supply, treatment and distribution facilities, and its domestic wastewater collection, transmission, treatment, disposal and reuse facilities in compliance with all applicable Department regulations, including any conditions contained in a valid Department permit.

3.4 The Escambia County Utilities Authority shall plan for, design, permit, and construct additional capacity for its water and wastewater systems in a timely manner to service the growth associated with these systems. The Escambia County Utilities Authority shall not allow connection to its water or wastewater systems, any water distribution or sewage collection and transmission systems which would cause the respective systems to exceed their permit capacities, or otherwise violate applicable permit conditions or water quality standards. If at any time the Authority approves for connection or allows connection of a project to its water or wastewater system which causes the respective water or wastewater system to exceed its permitted capacity, or otherwise violate applicable permit conditions or water quality standards, it will be subject to automatic enforcement action by the Department pursuant to Chapter 403, F.S. Enforcement action may include termination of this agreement and penalties of up to \$10,000 per day. Such

termination shall be grounds for the Department to revoke or suspend the Final Order providing authorization to independently regulate the construction of water distribution and sewage collection and transmission systems.

3.5 The Authority shall ensure that each water distribution system is adequately disinfected and that the appropriate bacteriological clearances are provided before approving a water distribution system for service.

3.6 The Authority shall maintain adequate records of the water distribution and sewage collection and transmission system projects, including but not limited to, record drawings. For each project, the type of service provided (residential, commercial, industrial) and design flow for the project shall be recorded, along with dates of approval of construction and connection to the Authority's water or sewerage systems. The Authority shall also maintain records on the bacteriological samples submitted for clearance of water distribution systems.

3.7 The Authority shall maintain a record of actual flow, committed flow and permitted flow of any water and wastewater treatment plant which is served by water distribution and sewage collection and transmission systems that it has independently regulated pursuant to Section 403.1815, Florida Statutes.

3.8 All Authority records relating to compliance with this agreement will be made available to officials of the Department upon request. The Authority shall maintain project records for a period of at least ten (10) years.

3.9 Prior to execution of this agreement, the Authority has submitted to the Department applicable local ordinance(s) and/or regulation(s) which are compatible to or stricter than Department rules on the construction of water distribution and sewage collection and transmission systems in a format acceptable to the Department.

3.10 On a monthly basis, the Authority shall submit to the Department a listing of all new extensions to the water and sewerage systems. This listing shall include the name of the project, location, type of service provided and design flows. These listings shall be submitted by the fifteenth (15th) day of the following month, and be provided in a format acceptable to the Department.

3.11 The Authority shall prepare and submit to the Department a suitable updated Utility Map of any water distribution and sewage collection system extensions to the Authority's water and sewerage systems for the preceding year. This map shall be submitted by July 1 of each year.

LEGAL AND ADMINISTRATIVE CONSIDERATIONS  
PART IV

4.1 The Authority has provided by local ordinance or regulation requirements compatible with, or stricter than, applicable Department rules on the construction of water distribution and sewage collection systems.

4.2 The Authority has developed procedures for the processing and approval of water distribution and sewage collection system projects to be connected to the Escambia County Utilities Authority systems.

4.3 The Authority shall be responsible for timely processing of applications and for providing appropriate due process opportunities for substantially affected parties to be heard on any final action taken by the Authority related to these permitting activities.

4.4 The Authority shall not process any after-the-fact permit applications. An after-the-fact permit application is subject to Department permitting procedures including application processing fees and enforcement. The Authority shall immediately notify the Department if it receives such an application.

4.5 The Authority shall not process any permit applications for systems involving innovative design or having features not complying with design/performance criteria contained in Chapters 17-555 and 17-604, F.A.C. Such an application is subject to Department permitting procedures including application processing fees and enforcement. The Authority shall immediately notify the Department if it receives such an application.

4.6 All water distribution and sewage collection and transmission system projects subject to this agreement are exempt from Department application processing fees. However, nothing in the agreement shall preclude the Authority from collecting fees for its review and processing of these projects.

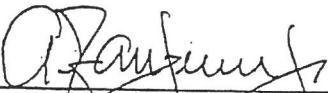
4.7 The exemption from Department permitting requirements pursuant to Section 403.1815, F.S., as specified in this agreement and authorized by Final Order of the Secretary shall not apply, if the Department has so notified the Authority, to any water and sewer system project which the Department has deemed to be in substantial noncompliance with applicable laws and standards.

4.8 The parties agree that the Department reserves the right to periodically review the performance of the Authority


pursuant to this agreement, including but not limited to, site inspections where applicable, and may initiate those enforcement actions deemed appropriate for any violation of the conditions and requirements contained herein and/or violations of any rules or requirements of the Department.

AGREED TO on this 15th day of June, 1992.

ESCAMBIA COUNTY UTILITIES  
AUTHORITY OF ESCAMBIA  
COUNTY

  
\_\_\_\_\_  
A. E. VAN DEVER  
EXECUTIVE DIRECTOR  
ESCAMBIA COUNTY UTILITIES  
AUTHORITY

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION

  
\_\_\_\_\_  
ROBERT V. KRIEDEL  
DIRECTOR OF DISTRICT MANAGEMENT  
NORTHWEST DISTRICT OFFICE