

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN RE: Hernando County Utilities )  
Department Request for Delegation )  
of Authority to Independently )  
Regulate the Construction of Water )  
Distribution Systems Twelve Inches )  
or Less in Diameter )  
-----)

CASE NO. 93-3911

FINAL ORDER

This matter is before me pursuant to the authority of the Department of Environmental Protection (DEP) under section 403.1815 of the Florida Statutes (1991) to delegate to counties and municipalities the authority to independently regulate the construction of water distribution mains of 12 inches or less in diameter, provided that the municipality requesting the authorization wholly owns the water facilities serving the distribution systems in question.

FINDINGS OF FACT

1. The applicant is the Hernando County Utilities Department. Permits issued pursuant to this order will be through the Hernando County Utilities Department.
2. Hernando County is a local government body eligible for the delegation pursuant to section 403.1815 of the Florida Statutes.
3. Hernando County wholly owns the water facilities to which the water distribution systems will be connected.
4. The water facilities owned by Hernando County are in substantial compliance with applicable laws and standards.

5. The Hernando County Utilities Department has demonstrated the administrative, technical, and legal capabilities to independently regulate the construction of water distribution systems.

6. On April 15, 1993, the Hernando County Utilities Department requested delegation in accordance with section 403.1815 of the Florida Statutes. On May 24, 1993, the Hernando County Utilities Department revised its request to include only independent regulation of the construction of water distribution mains of 12 inches or less in diameter in accordance with section 403.1815 of the Florida Statutes.

7. On January 31, 1994, DEP gave notice of its intent to delegate to the Hernando County Utilities Department the authority to independently regulate the construction of water distribution mains of 12 inches or less in diameter that connect to water facilities wholly owned by Hernando County, and to exempt such systems from applicable DEP permit requirements, subject to the following conditions:

A. The Hernando County Utilities Department shall ensure that all distribution systems connecting to its water facilities comply with applicable design standards in Florida Administrative Code chapter 17-555. Such standards shall be specified in interlocal agreements between Hernando County and other jurisdictions receiving water service from the Hernando County Utilities Department, and copies of new or updated interlocal agreements shall be promptly provided to DEP. Water distribution systems in other jurisdictions receiving water service from the Hernando County Utilities Department without an interlocal agreement with Hernando County shall be subject to DEP

permitting procedures and state permit fees. Review of the engineering features of 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 of the Florida Statutes.

B. The Hernando County Utilities Department 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.

C. The Hernando County Utilities Department 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 that it takes related to these permitting matters. The Hernando County Utilities Department shall not independently regulate any after-the-fact permit applications, or permit applications that include any distribution line greater than 12 inches in diameter, or permit applications for systems connecting to water facilities not wholly owned by Hernando County, or permit applications for systems involving innovative design or having features not complying with design/performance criteria in Florida Administrative Code chapter 17-555, or permit applications for systems connecting to water facilities which DEP has deemed to be in substantial noncompliance with applicable laws or standards if DEP has so notified Hernando County. Such permit applications shall be subject to DEP permitting procedures and state permit fees.

D. The Hernando County Utilities Department shall

ensure timely compliance with all requirements for construction of water distribution systems independently regulated under this order.

E. The Hernando County Utilities Department shall maintain and make available for DEP review adequate records, including project drawings. Records for each project shall be kept on file for at least the previous ten years, or the period of delegation, whichever is less. 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 water system. Records on bacteriological samples submitted for clearance of water distribution systems shall be maintained.

F. The Hernando County Utilities Department shall submit to the DEP Southwest District Office monthly reports (by the third Monday of the following month) indicating the number of all connections to its water systems, with a listing of the project name, location, type of service, applicable treatment plant, and design flow of each new connection to these systems during the preceding month, and a yearly updated map (by July 1 of each year) of its water distribution systems indicating extensions of such systems constructed during the prior twelve months ending June 1.

G. DEP reserves the right to revoke the delegation if DEP determines that Hernando County has failed to operate and maintain its water systems in compliance with DEP regulations or has failed to comply with the terms of this order.

H. The Hernando County Utilities Department shall maintain a record of actual flow, committed flow, and permitted

flow of its water treatment facilities served by water distribution systems independently regulated under this order.

I. The Hernando County Utilities Department shall plan for, design, permit, and construct additional capacity for its water treatment facilities in a timely manner to service the growth associated with these systems. Hernando County shall not allow connection to its water treatment facilities by any water distribution system which would cause the respective facilities to exceed their permitted capacities, or otherwise violate applicable permit conditions or water quality standards. If at any time Hernando County approves for connection or allows connection of a project to any of its water treatment facilities which causes an exceedance of permitted capacity, or otherwise violates applicable permit conditions or water quality standards, it will be subject to enforcement action by DEP pursuant to chapter 403 of the Florida Statutes. Enforcement action may include revocation of this order and penalties of up to \$5,000 per violation per day.

8. The notice of the intent to delegate to the Hernando County Utilities Department the authority to independently regulate the construction of water distribution mains of 12 inches or less in diameter was published in the Hernando Times on February 8, 1994. No petition for administrative hearing was filed pursuant to section 120.57 of the Florida Statutes.

CONCLUSIONS OF LAW

1. The processing of the request to delegate to the Hernando County Utilities Department the authority to independently regulate the construction of water distribution mains of 12 inches or less in diameter and the issuance of this Final Order are governed by the provisions of chapter 120 of the Florida Statutes.

2. The construction of water distribution systems is subject to the regulatory jurisdiction of DEP under chapter 403 of the Florida Statutes.

3. DEP is authorized by section 403.1815 of the Florida Statutes (1991) to allow any county or municipality to independently regulate the construction of water distribution mains of 12 inches or less in diameter which will be connected to water facilities wholly owned by the county or municipality.

4. The relevant provisions of the following DEP rules shall apply to the delegation. Florida Administrative Code chapter 17-4 contains general procedures and requirements for obtaining permits from DEP. 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. In accordance with section 403.1815 of the Florida Statutes, the Hernando County Utilities Department is delegated to independently regulate the construction of water distribution mains of 12 inches or less in diameter that connect to water

facilities wholly owned by Hernando County, and such systems are exempt from applicable DEP permit requirements, subject to the following conditions:

A. The Hernando County Utilities Department shall ensure that all distribution systems connecting to its water facilities comply with applicable design standards in Florida Administrative Code chapter 17-555. Such standards shall be specified in interlocal agreements between Hernando County and other jurisdictions receiving water service from the Hernando County Utilities Department, and copies of new or updated interlocal agreements shall be promptly provided to DEP. Water distribution systems in other jurisdictions receiving water service from the Hernando County Utilities Department without an interlocal agreement with Hernando County shall be subject to DEP permitting procedures and state permit fees. Review of the engineering features of 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 of the Florida Statutes.

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C. The Hernando County Utilities Department 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 that it takes related to these permitting matters. The Hernando County

Utilities Department shall not independently regulate any after-the-fact permit applications, or permit applications that include any distribution line greater than 12 inches in diameter, or permit applications for systems connecting to water facilities not wholly owned by Hernando County, or permit applications for systems involving innovative design or having features not complying with design/performance criteria in Florida Administrative Code chapter 17-555, or permit applications for systems connecting to water facilities which DEP has deemed to be in substantial noncompliance with applicable laws or standards if DEP has so notified Hernando County. Such permit applications shall be subject to DEP permitting procedures and state permit fees.

D. The Hernando County Utilities Department shall ensure timely compliance with all requirements for construction of water distribution systems independently regulated under this order.

E. The Hernando County Utilities Department shall maintain and make available for DEP review adequate records, including project drawings. Records for each project shall be kept on file for at least the previous ten years, or the period of delegation, whichever is less. 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 water system. Records on bacteriological samples submitted for clearance of water distribution systems shall be maintained.

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G. DEP reserves the right to revoke the delegation if DEP determines that Hernando County has failed to operate and maintain its water systems in compliance with DEP regulations or has failed to comply with the terms of this order.

H. The Hernando County Utilities Department shall maintain a record of actual flow, committed flow, and permitted flow of its water treatment facilities served by water distribution systems independently regulated under this order.

I. The Hernando County Utilities Department shall plan for, design, permit, and construct additional capacity for its water treatment facilities in a timely manner to service the growth associated with these systems. Hernando County shall not allow connection to its water treatment facilities by any water distribution system which would cause the respective facilities to exceed their permitted capacities, or otherwise violate applicable permit conditions or water quality standards. If at any time Hernando County approves for connection or allows connection of a project to any of its water treatment facilities which causes an exceedance of permitted capacity, or otherwise violates applicable permit conditions or water quality standards, it will be subject to enforcement action by DEP pursuant to chapter 403 of the

Florida Statutes. Enforcement action may include revocation of this order and penalties of up to \$5,000 per violation per day.

2. This delegation does not relieve Hernando County from any requirement to obtain the necessary permits for construction activities in waters of the state or of the United States or from complying with all other provisions of chapter 403 of the Florida Statutes and rules promulgated thereunder.

3. DEP will periodically review this delegation for compliance, including but not limited to site inspections where applicable, and may initiate enforcement actions deemed appropriate for any violation of the conditions or requirements contained herein or violations of applicable rules or requirements of DEP.

4. The provisions of this order shall void conflicting provisions of other orders or agreements between DEP and Hernando County applicable to the functions defined here.

Any party to this order has the right to seek judicial review of this designation pursuant to section 120.68 of the Florida Statutes by the filing of a notice of appeal pursuant to rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of DEP 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 on which this notice is filed with the clerk of DEP.

DONE and ENTERED this 24<sup>th</sup> day of March, 1994,  
in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

Virginia B. Wetherell  
Virginia B. Wetherell  
Secretary  
Department of Environmental  
Protection  
3900 Commonwealth Boulevard  
Tallahassee, FL 32399-3000

FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to §120.52  
Florida Statutes, with the designated Depart-  
ment Clerk, receipt of which is hereby acknow-  
ledged.

Bonnie C. Hyde 3/28/94  
Clerk Date