

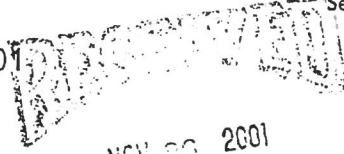
# Department of Environmental Protection

Jeb Bush  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David B. Struhs  
Secretary

November 14, 2001



Dept. of Environmental Protection  
Domestic Wastewater Section

Ms. Susan N. Hughes, P.E.  
Vice President, Environmental Services  
JEA - Jacksonville  
21 West Church Street  
Jacksonville, Florida 32202-3139

Dear Ms. Hughes:

Please find enclosed with this letter a copy of the Final Order for JEA to independently regulate certain water and sewer lines 12 inches or less in diameter pursuant to Section 403.1815, Florida Statutes (F.S.). This Final Order, along with the Memorandum of Agreement dated September 18 that implements a third party audit program, authorizes JEA independent regulation of the water and sewer lines specified.

We look forward to working with JEA in implementing the drinking water and domestic wastewater programs. If you have any questions, please contact Richard Addison, P.E., of our Domestic Wastewater Section at 850/922-5494 or Suncom 292-5494.

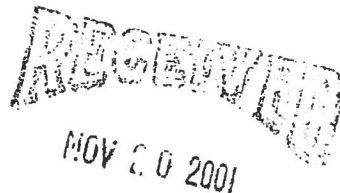
Sincerely,

Richard D. Drew, Chief  
Bureau of Water Facilities Regulation

RDD/ra

Enclosures

cc: Jerry Owen, DEP/Jacksonville  
Cynthia Christen, DEP/Tallahassee  
Elsa Potts, DEP/Tallahassee  
Van Hoofnagle, DEP/Tallahassee



Dept. of Environmental Protection  
Bureau of Wastewater Management

"More Protection, Less Process"

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BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN RE: JEA-Jacksonville Request for )  
Authority to Independently Regulate )  
the Construction of Water Distribution )  
and Sewage Collection and )  
Transmission Systems Twelve )  
Inches or Less in Diameter In Duval )  
County under Section 403.1815, F.S. )  
----- )

OGC Case Number: 01-1438  
JEA-Jacksonville

FINAL ORDER

This matter is before me pursuant to the authority of the Department of Environmental Protection (Department) under Section 403.1815, Florida Statutes, F.S., to allow counties and municipalities 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, provided the county requesting the authorization wholly owns the water and wastewater treatment facilities served by the collection and transmission systems in question.

FINDINGS OF FACT

1. The applicant is JEA-Jacksonville (JEA). Construction authorized by JEA pursuant to this order will be through JEA.
2. JEA, a body politic and corporate, is eligible for this approval pursuant to Section 403.1815, F.S.
3. JEA wholly owns the water and wastewater treatment facilities to which the water distribution and sewage collection/transmission systems will be connected.
4. The water and sewage facilities owned by JEA are in substantial compliance with applicable laws and standards.
5. JEA has demonstrated the administrative and engineering capabilities to independently regulate the construction of water distribution and sewage collection and transmission systems. JEA adopted a "Water and Sewer Standards, Details and Materials Manual" dated April 30, 2001 and has authority to enforce requirements included in the Manual. Further, JEA has developed and submitted procedures dated March 28, 2001 for construction of water distribution and sewage collection and transmission systems.
6. On February 2, 2001, JEA requested approval 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 in accordance with Section 403.1815, F.S.

7. On September 18, 2001, the Department and JEA entered into a Memorandum of Agreement to provide for implementation of a third party quality assurance/quality control audit program, hereby incorporated as Attachment I.

8. On October 26, 2001, the Department gave notice of its intent to allow JEA to independently regulate the construction of water distribution mains of 12 inches or less in diameter located in Duval County, provided JEA wholly owns the water treatment facilities serving the above described transmission systems pursuant to Section 403.1815, F.S. Also, the Department gave notice of its intent to allow JEA to independently regulate the construction of 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 located in Duval County, provided JEA wholly owns the wastewater treatment facilities serving the above described collection and transmission systems pursuant to Section 403.1815, F.S., and provided JEA will own the collection and transmission facilities to be constructed.

9. The notice of the intent to allow JEA to independently regulate the construction of water distribution and sewage collection and transmission systems, as described in Item 8 above, was published in the Florida-Times Union newspaper on October 8, 2001. No petition for administrative hearing was filed pursuant to Sections 120.569 and 120.57, F.S.

#### CONCLUSIONS OF LAW

1. The processing of the request to allow JEA 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 and the issuance of this Final Order are governed by the provisions of Chapter 120, F.S.

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

3. The Department is authorized by Section 403.1815, F.S. (2000), to 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, which will be connected to water and wastewater treatment facilities wholly owned by the county or municipality.

4. The relevant provisions of Department rules shall apply to the independent regulation. Chapters 62-555 and 62-604, Florida Administrative Code (F.A.C.), contain specific design criteria for water distribution and sewage collection/transmission systems. For those systems not subject to JEA independent regulation, Chapters 62-4 and 62-620, F.A.C.), contain general procedures and requirements for obtaining permits from the Department. Also, Chapters 62-555 and 62-604, F.A.C., contain specific permitting requirements for water distribution and sewage collection/transmission systems, respectively.

#### ORDER

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

1. In accordance with Section 403.1815, F.S., JEA is authorized to independently regulate the construction of water distribution mains of 12 inches or less in diameter located in Duval County, provided JEA wholly owns the water treatment facilities serving the above described transmission systems pursuant to Section 403.1815, F.S. Also, JEA is authorized to independently regulate the construction of 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 located in Duval County, provided JEA wholly owns the wastewater treatment facilities serving the above described collection and transmission systems pursuant to Section 403.1815, F.S., and provided JEA will own the collection and transmission facilities to be constructed. Such systems are exempt from applicable Department permit requirements, subject to the following conditions:

A. JEA shall ensure that all distribution, collection, and transmission systems connecting to its water and wastewater treatment facilities comply with applicable design standards in Chapters 62-555 and 62-604, F.A.C. Review of the engineering features of plans and specifications for such systems shall be performed under the supervision of a licensed professional engineer registered in the State of Florida in accordance with Chapter 471, F.S.

B. JEA 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. JEA 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 this independent regulation. JEA shall not independently regulate any after-the-fact construction, or any distribution, collection, or transmission line greater than 12 inches in diameter (or pump station appurtenant to such transmission lines), or construction for systems connecting to water or wastewater treatment facilities not wholly owned by JEA, or sewage collection and transmission systems not owned by JEA, or systems involving innovative design or having features not complying with design/performance criteria in Chapters 62-555 and 62-604, F.A.C., or systems located outside of Duval County, or systems connecting to water or wastewater treatment facilities which the Department has deemed to be in substantial noncompliance with applicable laws or standards if the Director of District Management has so notified JEA. Such construction shall be subject to Department permitting procedures and state permit fees.

D. JEA shall be responsible for a timely and effective compliance inspection and enforcement program for the construction of water distribution and sewage collection/transmission systems related to this independent regulation.

E. JEA shall maintain and make available for Department review adequate records, including project drawings. Records for each project shall be kept on file for at least ten years after the date of approval of construction for each project. For each project, the type of service provided (residential, commercial, and industrial) and design flow for the project shall be recorded, along with dates of approval of construction and connection to the water or sewage system. Records of bacteriological samples submitted for clearance of water distribution systems shall be maintained.

F. JEA shall submit to the Department's Northeast District Office a copy of each "Letter of Completion" issued for new projects; monthly reports (by the third Monday of the following month) indicating the number of connections to its water and sewage systems, with a

listing of the project name, location, type of service, applicable treatment plant, and design flow; and a yearly updated map (by July 1 of each year) of its water distribution and sewage collection/transmission systems including extensions of such systems during the prior twelve months ending June 1.

G. The Department reserves the right to revoke this approval if the Department determines that JEA has failed to operate and maintain its water and sewage systems in compliance with Department statutes and rules, has failed to maintain an adequate program in accordance with JEA's program description of its administrative and engineering capabilities, or has failed to comply with the terms of this order, or the requirements of the MOA hereby incorporated as Attachment I.

H. JEA shall maintain a record of actual flow, committed flow, and permitted flow of each water and wastewater treatment facility served by water distribution and sewage collection/transmission systems independently regulated under this order.

I. JEA shall plan for, design, permit, and construct additional capacity for its water and wastewater treatment facilities in a timely manner to service the growth associated with the systems associated with this independent regulation. JEA shall not allow connection to its water and wastewater treatment facilities by any water distribution or sewage collection or transmission system which would cause the respective facilities to exceed their permitted capacities, or otherwise violate applicable permit conditions or water quality standards. Upon determination of the Director of District Management, Northeast District, that a JEA water or wastewater facility has exceeded its capacity or violated an applicable permit condition or water quality standard because of JEA's having approved or allowed a connection pursuant to this independent regulation, the Department may take enforcement action against JEA under Chapter 403, F.S. Enforcement action may include revocation of this order and penalties of up to \$10,000 per violation per day.

2. This approval to independently regulate water distribution and sewage collection/transmission lines is only applicable within the boundaries of Duval County.

3. This approval does not relieve JEA from any responsibility to comply with any local ordinance, rule or regulation.

4. This approval does not relieve JEA 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, F.S., and rules promulgated thereunder.


5. The Department will periodically review this order for compliance, including but not limited to site inspections, where applicable.

6. The provisions of this order shall supercede conflicting provisions of other orders or agreements between the Department and JEA applicable to the specific functions set forth here.

Any party to the order has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the 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 of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department.

DONE AND ENTERED this 14 day of November, 2001, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
\_\_\_\_\_  
David B. Struhs  
Secretary  
Department of Environmental Protection  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

**FILING AND ACKNOWLEDGMENT**

**FILED**, on this date, pursuant to Section 120.52(7), Florida Statutes, with the designated Department clerk, receipt of which is hereby acknowledged.

Bonnie Hyde      11-14-01  
Clerk                      Date

# MEMORANDUM OF AGREEMENT

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION/JEA-JACKSONVILLE

It is the intent of the State of Florida Department of Environmental Protection (Department) to allow JEA-Jacksonville (JEA) to independently regulate the construction of water distribution mains of 12 inches or less in diameter located in Duval County, provided JEA wholly owns the water treatment facilities serving the above described transmission systems, pursuant to Section 403.1815, Florida Statutes (F.S.). It is also the intent of the Department to allow JEA to independently regulate the construction of 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 located in Duval County, provided JEA wholly owns the wastewater treatment facilities serving the above described collection and transmission systems, pursuant to Section 403.1815, F.S., and provided JEA will own the collection and transmission facilities to be constructed. The Department and JEA enter into this Memorandum of Agreement (MOA) to provide for implementation of a third party audit program.

## PART I

### ADMINISTRATION

1.1 The parties to this MOA are the Department of Environmental Protection and JEA. The District Director of the Department's Northeast District Office and the JEA Vice President of Environmental Services are each empowered to enter into this MOA and perform any act which it requires.

1.2 Specific Department authorization to independently regulate the construction of water distribution and sewage collection/transmission systems, in place of the Department's 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 MOA will become effective upon execution of the Final Order.

1.3 This MOA can be modified only in writing, in whole or in part, at any time upon mutual consent of the Department and JEA. This MOA and any written modifications shall be filed in the Department's Office of General Counsel.

1.4 This MOA will be implemented by and through the District Director of the Department's Northeast District Office and the JEA Vice President of Environmental Services, or other such persons as designated in writing by the District Director and the JEA Vice President of Environmental Services. Either party may terminate this MOA upon written notice to the other party at least ninety days prior to the effective date of such termination. JEA's unilateral termination may be grounds for the Department to revoke or suspend the Final Order providing

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JACKSONVILLE

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authorization for JEA to independently regulate the construction of water distribution and sewage collection/transmission systems.

1.5 The parties will jointly review this MOA at least yearly to determine the adequacy of this MOA and the need for any modifications.

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

## PART II

### SELF AUDIT PROGRAM

2.1 JEA has agreed to implement a third party quality assurance/quality control audit program. The audit program will have two primary objectives: (a) Evaluate JEA's procedures for independent regulation for compliance with applicable Department regulations and guidance, and; (b) Evaluate the implementation of JEA's independent regulation process to assess whether JEA is following its rules and policies.

2.2 Within 60 days after execution of the Final Order granting authorization to JEA to independently regulate water and sewage collection/transmission systems, JEA will submit to the Department detailed audit procedures. The proposal will include the following conditions: (a) The audits will be conducted a minimum of two times per year by a third party selected by JEA and approved by the Department, (b) Department staff will be notified at least two weeks prior to a scheduled audit, (c) A final report will be submitted by the third party to the Department within four weeks of each audit, and; (d) JEA will submit a response to each final report to the Department within eight weeks of each audit. The response will note all deficiencies contained in the final report and will specify necessary corrective actions with a schedule for implementation.

## PART III

### LEGAL AND ADMINISTRATIVE CONSIDERATIONS

3.1 The parties agree that the Department reserves the right to periodically review the performance of JEA pursuant to this MOA, including but not limited to, site inspections where applicable, and review of enforcement actions to determine if such actions were timely and appropriate.

3.2 JEA shall maintain books, records, documents and other evidence directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles and practices consistently applied. The Department, the State or their authorized representatives shall have access, without cost, except reasonable costs associated with photocopying such records, to such records for audit purposes during the term of this Agreement. This includes



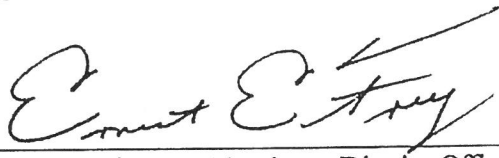
access to the quality assurance/quality control program reports and supporting documentation.  
Records to be retained for four years past current fiscal year or the completion of each project.

AGREED TO on this 18 day of SEPT., 2001.

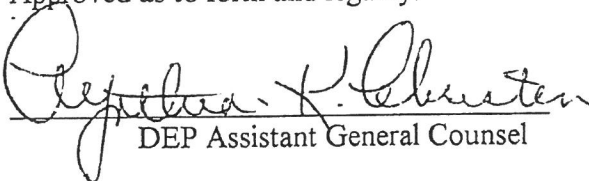
JEA-JACKSONVILLE

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
\_\_\_\_\_  
JEA Vice President, Environmental Services

  
\_\_\_\_\_  
District Director, Northeast District Office

Approved as to form and legality:

  
\_\_\_\_\_  
DEP Assistant General Counsel