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DEC 06 1991

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION
SOUTHWEST DISTRICT TAMPA

IN RE:

Pasco County Request for)
Exemption From Permitting)
Requirements For Water Dis-)
tribution and Sewage Collection))
Systems Twelve Inches or Less)
in Diameter)
)
)
Request for Exemption)

Docket No. 91-47R

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 plant is owned by the county.

FINDINGS OF FACT

1. The applicant is Pasco County. Permits issued by the Pasco County Commission pursuant to this Order will be through the Pasco County Utilities Services Branch.
2. Pasco County is a county eligible for the authorization and exemption from Department permitting requirements pursuant to Section 403.1815, Florida Statutes.

3. Pasco County owns the water and sewage plants to which the water distribution and sewage collection systems will be connected.

4. Pasco County has demonstrated the engineering, administrative, and legal capabilities to independently regulate the construction of such water distribution and sewage collection systems.

5. On September 21, 1989, Pasco County requested authorization to independently regulate the construction of water distribution and gravity sewage collection systems of 10 inches or less in diameter, and to be exempt from applicable Department permitting requirements in accordance with Section 403.1815, Florida Statutes (1989).

6. On May 8, 1990, the Department issued its Final Order approving Pasco County's request. Subsequent to the issuance of that Order, Section 403.1815, Florida Statutes, was amended 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, and sewage force mains of 12 inches or less, and pump stations appurtenant to such force mains provided that the water and sewer plant is owned by the County. Pasco County has now requested authorization to expand its regulation program in accordance with the revised statutory authority.

7. On August 26, 1991, Pasco County and the Department entered into a Memorandum of Agreement (MOA) for the authorization (Exhibit 1). Authority to enter into a MOA for the 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 County's engineering, administrative, and legal responsibilities in the review of applications, plans, and specifications for the construction of water distribution and sewage collection systems and procedures for approval or denial of these systems.

8. On September 11, 1991, the Department gave notice of its intent to authorize Pasco County to independently regulate the construction of water distribution and sewage collection systems of 12 inches or less in diameter subject to the following conditions:

A. Pasco County 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 County related to these permitting matters.

B. Pasco County shall maintain and make available for Department review adequate records and submit monthly reports indicating the number of all connections to the County's water and sewage systems with a listing of the number and location of

new connections to these systems. Pasco County also agrees to submit a yearly updated map of the County's distribution and sewage collection systems.

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

9. A notice of the intent to grant the authorization and exemption was published in the Pasco Times on September 10, 1991, and no petition for administrative hearing was filed pursuant to Section 120.57, Florida Statutes.

CONCLUSIONS OF LAW

1. The processing of the request for authorization and exemption 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 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 and sewage collection systems of 12 inches or less in size which may be connected to any water system or sewage system owned by the county or municipality.

4. Chapter 17-4, Florida Administrative Code, contains general procedures and requirements for obtaining permits from the Department. Chapter 17-604, Florida Administrative Code, contains specific design criteria and permitting requirements for sewage collection system. Chapter 17-555, Florida Administrative Code, 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. Pasco County is authorized to independently regulate the construction of water distribution and sewage collection systems of 12 inches (including appurtenant pump station) or less in diameter, which water and sewer systems are owned by the County, and therefore is 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. Pasco County 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 County related to these permitting matters.

B. Pasco County shall maintain and make available for Department review adequate records and submit monthly reports indicating the number of new connections to the County's water and sewage systems. Pasco County also agrees to submit a yearly updated map of the County'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. Pasco County agrees to regulate the construction of water distribution and sewage collection systems under the terms of the MOA entered into on August 26, 1991. Failure to comply with the terms of the MOA may result in the revocation of the authorization.

3. The authorization does not exempt Pasco County from complying with all other applicable rules of the Department, including, but not limited to, Chapters 17-4, 17-555, and 17-604, Florida Administrative Code.

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 inspection where applicable, and may initiate those enforcement actions deemed appropriate for any violation to 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 thirty (30) days from the date of this Notice if filed with the Clerk of the Department.

DONE AND ORDERED this 27th day of November, 1991, in Tallahassee, Florida.

FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Ruby C. Carter 11-27-91
Clerk Date

Carol M. Browner
Carol M. Browner, Secretary
Department of Environmental
Regulation
2600 Blair Stone Road
Tallahassee, Florida 32399-2400
Telephone (904) 488-4805

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 Pasco County enter into this agreement to delineate the County's engineering, administrative, and legal responsibilities for authorization to independently regulate the construction of water distribution mains of twelve inches (12) or less, gravity sewage collection systems of twelve inches (12) or less, and sewage force mains of twelve inches (12) or less, and pump stations appurtenance to such force mains pursuant to Section 403.1815, Florida Statutes.

INTENT
PART 1

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, Florida Statutes, the Department may under certain conditions and upon request, allow any county or municipality to independently regulate the construction of water distribution and gravity sewage collection systems. The exemption from Department permitting requirements applies only to water distribution and sewage collection systems of twelve (12) inches or less in size which will be connected to water and sewage systems owned by the county or municipality. Those projects greater than twelve inches (12) 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 Rules 17-555 and 17-604, Florida Administrative Code.

1.3 It is the intent of this agreement to delineate Pasco County's engineering, administrative and legal responsibilities to administer and comply with the requirements of Section 403.1815, Florida Statutes.

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 County or any regulated party 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 Pasco County, a political subdivision of the State of Florida. The Director of District Management of the Department's Southwest District Office and the undersigned County 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 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, Florida Statutes. 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 County. This agreement and any modifications shall be filed in 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 Southwest District office and the County representative, or other such persons as designated in writing by the Director of District Management and the County representative. This agreement may be terminated by either party without cause upon written notice to the other party at least ninety (90) 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 County to independently regulate the construction of water distribution and sewage collection systems.

2.6 Permits issued pursuant to this agreement will be through the Pasco County Utilities Service Branch for the Pasco County Board of County Commissioners.

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, Florida Statutes.

3.2 The County shall review the water distribution and sewage collection 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 system are found in Rules 17-555 and 17-604, Florida Administrative Code, respectively.

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

3.4 The County 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 County shall not approve for construction, or allow connection to its water or wastewater systems, any water distribution or

sewage collection system 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 County 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 enforcement action by the Department pursuant to Chapter 403, Florida Statutes. Enforcement action may include termination of this agreement and/or penalties of up to Ten Thousand and 00/100 Dollars (\$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 systems.

3.5 The County 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 County shall maintain adequate records of the water distribution and sewage collection 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 County's water or sewage systems. The County shall also maintain records on the bacteriological samples submitted for clearance of water distribu-

tion systems.

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

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

3.9 Prior to execution of this agreement, the County 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 systems in a format acceptable to the Department.

3.10 On a monthly basis, the County shall submit to the Department a listing of new extensions to the water and sewage systems. This listing shall include the name of the project, location, type of service provided, design flows, name of the plant serving the project, and permitted, committed, and actual flows to the plant. These listings shall be submitted by the 15th day of the following month, and be provided in a format acceptable to the Department.

3.11 The County shall prepare and submit to the Department a suitable updated Utility Map of any water distribution and swage collection system extensions to the County's water and sewage

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

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

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

4.4 The County 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 County shall immediately notify the Department if it receives such an application.

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

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

4.7 The exemption from Department permitting requirements pursuant to 403.1815, Florida Statutes, as specified in this agreement and authorized by Final Order of the Secretary shall not apply, if the Department has so notified the County, 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 County 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 20 day of August, 1991.

[SEAL]

BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

ATTEST:

BY

Jed Pittman
Jed Pittman
Clerk

BY

Mike Wells
Mike Wells
Chairman

Don Eastman

[SEAL]

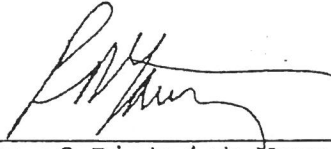
STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION

ATTEST:

By

8/26/91

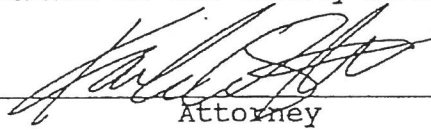
By



Director of District Management
Southwest District Office

APPROVED AS TO LEGAL FORM AND CONTENT
Office of the County Attorney

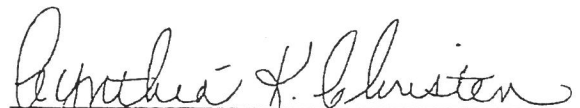
By



Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to John J. Gallagher, County Administrator, 7530 Little Road, New Port Richey, Florida 34654-5598; Douglas S. Bramlett, Assistant County Administrator, Utilities Services Branch, Pasco County Government Complex, 7536 State Street, New Port Richey, Florida 34654; Richard Garrity, Department of Environmental Regulation Southwest District, 7451 Golf Course Blvd., Punta Gorda, Florida 33982-9359 and Michael Hickey, Water Facilities Administrator, Department of Environmental Regulation Southwest District, 7451 Golf Course Blvd., Punta Gorda, Florida 33982-9359 on this 27th day of November, 1991.



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