

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN RE: Port St. Lucie Utility Systems )  
Department Request for Delegation )  
of Authority to Independently )  
Regulate the Construction of Water )  
Distribution and Sewage Collection )  
and Transmission Systems Twelve )  
Inches or Less in Diameter )  
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OGC Case Number: 09-2886  
Port St. Lucie Utility Systems Department

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 municipality requesting the authorization wholly owns the treatment facilities served by the water distribution and sewage collection/transmission systems in question.

FINDINGS OF FACT

1. The applicant is Port St. Lucie Utility Systems Department. Construction authorized by Port St. Lucie Utility Systems Department pursuant to this order will be through Port St. Lucie Utility Systems Department.
2. Port St. Lucie Utility Systems Department is a local government body eligible for this approval pursuant to Section 403.1815, F.S.
3. Port St. Lucie Utility Systems Department wholly owns the treatment facilities to which the water distribution and sewage collection/transmission systems will be connected.
4. The treatment facilities owned by Port St. Lucie Utility Systems Department are in substantial compliance with applicable laws and standards.

5. Port St. Lucie Utility Systems Department has demonstrated the administrative, technical, and legal capabilities to independently regulate the construction of water distribution and sewage collection/transmission systems. Port St. Lucie Utility Systems Department adopted a "2009 Utility Standards Manual" and has authority to enforce requirements included in the Manual. Further, Port St. Lucie Utility Systems Department has developed and submitted procedures dated March 11, 2009 for construction of water distribution and sewage collection/transmission systems.

6. On March 11, 2009, Port St. Lucie Utility Systems Department 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 28, 2009, the Department gave notice of its intent to allow Port St. Lucie Utility Systems Department 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 located in St. Lucie County, provided Port St. Lucie Utility Systems wholly owns the treatment facilities serving the above described water distribution and sewage collection/transmission systems.

8. The notice of the intent to allow Port St. Lucie Utility Systems Department to independently regulate the construction of water distribution and sewage collection/transmission systems, as described in Item 7 above, was published in the St. Lucie News-Tribune newspaper on October 10, 2009. No petition for administrative hearing was filed pursuant to sections 120.569 and 120.57 of the Florida Statutes.

#### CONCLUSIONS OF LAW

1. The processing of the request to allow Port St. Lucie Utility Systems Department 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., 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 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 Port St. Lucie Utility Systems Department independent regulation, Chapter 62-4, F.A.C., contains general procedures and requirements for obtaining permits from the Department. Also, Chapters 62-555 and 62-604, F.A.C., contain specific design criteria and permitting requirements for water distribution and sewage collection/transmission systems.

### 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., Port St. Lucie Utility Systems Department is authorized 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 that connect to treatment facilities wholly owned by Port St. Lucie Utility Systems Department. Such systems are exempt from applicable Department permit requirements, subject to the following conditions:

A. Port St. Lucie Utility Systems Department shall ensure that all water distribution and sewage collection/transmission systems connecting to its treatment facilities comply with applicable design standards in Chapters 62-555 and 62-604, F.A.C. Review of the engineering features 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. Port St. Lucie Utility Systems 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. Port St. Lucie Utility Systems 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 this independent regulation. Port St. Lucie Utility Systems Department shall not independently regulate any after-the-fact permit applications, or permit applications that include any water distribution or sewage collection/transmission line greater than 12 inches in diameter (or pump station appurtenant to such transmission lines), or permit applications for systems connecting to treatment facilities not wholly owned by Port St. Lucie Utility Systems Department, or permit applications for systems involving innovative design or having features not complying with design/performance criteria in Chapters 62-555 and 62-604, F.A.C., or permit applications for systems connecting to facilities which the Department has deemed to be in substantial noncompliance with applicable laws or standards if the Department has so notified Port St. Lucie Utility Systems Department. Such permit applications shall be subject to Department permitting procedures and state permit fees. This includes projects that include both lines sizes over and under 12 inches.

D. Port St. Lucie Utility Systems Department 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. Port St. Lucie Utility Systems Department 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 the previous ten years after the date of approval of construction for each project. For each project, the permit application stamped with the date received, the permit, the certification of completion by the Engineer of Record, record drawings, test results and letters of acceptance of system for operation shall be maintained. Records of bacteriological samples submitted for clearance of water distribution systems shall also be maintained.

F. Port St. Lucie Utility Systems Department shall submit to the Department's Southeast Office on a monthly basis; a copy of each approval letter and permit issued, a copy of each letter of completion/acceptance, and a capacity tracking report for water and wastewater. Port St. Lucie Utility Systems Department shall submit to the Department's Southeast Office on an annual basis; a yearly updated map (by July 1 of each year) of its water distribution and sewage collection/transmission systems exhibiting extensions of such systems during the prior twelve months ending June 1, updated table of organization and budget for the next year.

G. The Department reserves the right to revoke this approval if the Department determines that Port St. Lucie Utility Systems Department 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 this order.

H. Port St. Lucie Utility Systems Department shall maintain a record of actual flow, committed flow, and permitted flow of each treatment facility served by water distribution and sewage collection/transmission systems independently regulated under this order.

I. Port St. Lucie Utility Systems Department shall plan for, design, permit, and construct additional capacity for its treatment facilities in a timely manner to service the growth associated with the systems associated with this independent regulation. Port St. Lucie Utility Systems Department shall not allow connection to its treatment facilities by any water distribution or sewage collection/transmission system which would cause the respective facilities to exceed their permitted capacities, or otherwise violate applicable rules, permit conditions or water quality standards. If at any time Port St. Lucie Utility Systems Department approves for connection or allows connection of a project to any of its facilities which causes an exceedance of permitted capacity, or otherwise violates applicable rules, permit conditions or water quality standards, it will be subject to enforcement action by the Department pursuant to Chapter 403, F.S. Enforcement action may include revocation of this order and penalties of up to \$10,000 per violation per day.

2. The approval to independently regulate water distribution and sewage collection/transmission systems is only applicable within the boundaries of St Lucie County.

3. This approval does not relieve Port St. Lucie Utility Systems Department from any responsibility to comply with any local ordinance, rule or regulation.

4. This approval does not relieve Port St. Lucie Utility Systems Department 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.

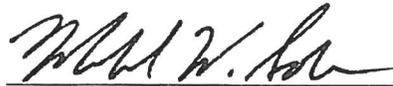
5. The Department will periodically review this approval for compliance, including but not limited to site inspections, where applicable.

6. The provisions of this order shall supersede conflicting provisions of other orders or agreements between the Department and Port St. Lucie Utility Systems Department 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 of the Florida Statutes, 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 20<sup>th</sup> day of November, 2009, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



Michael W. Sole  
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.

Cynthia Chandler 12/2/09  
Clerk Date