

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN RE: City of Tallahassee)
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)
-----)

DOCKET NO. 93-2946

FINAL ORDER

This matter is before me pursuant to the authority of the Department of Environmental Protection (Department) 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, 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 that the municipality requesting the authorization wholly owns the water and sewage facilities served by the distribution, collection, and transmission systems in question.

FINDINGS OF FACT

1. The applicant is the City of Tallahassee. Permits issued by the City of Tallahassee pursuant to this order will be through the Tallahassee Water and Sewer Department.
2. The City of Tallahassee is a municipality incorporated under the Laws of Florida, and is eligible for the delegation pursuant to section 403.1815 of the Florida Statutes.

3. The City of Tallahassee wholly owns the water and sewage facilities to which the water distribution and sewage collection and transmission systems will be connected.

4. The water and sewage facilities owned by the City of Tallahassee are in substantial compliance with applicable laws and standards.

5. The City of Tallahassee has demonstrated the administrative, technical, and legal capabilities to independently regulate the construction of water distribution and sewage collection and transmission systems.

6. On February 16, 1993, the City of Tallahassee requested delegation 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 of the Florida Statutes.

7. On September 27, 1993, the Department gave notice of its intent to delegate to the City of Tallahassee the 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, sewage force mains of 12 inches or less in diameter, and pump stations appurtenant to such force mains that connect to water and sewage facilities wholly owned by the City of Tallahassee, and to exempt such systems from applicable Department permit requirements, subject to the following conditions:

A. The City of Tallahassee shall ensure that all distribution, collection, and transmission systems connecting to

its water and sewage facilities comply with applicable design standards in Florida Administrative Code chapters 17-555 and 17-604. Such standards shall be specified in interlocal agreements between the City of Tallahassee and other jurisdictions receiving water or sewer service from the City of Tallahassee, and copies of new or updated interlocal agreements shall be promptly provided to the Department. Water distribution and sewage collection and transmission systems in other jurisdictions receiving water or sewer service from the City of Tallahassee without an interlocal agreement with the City of Tallahassee shall be subject to Department 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 City of Tallahassee 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 City of Tallahassee 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 City of Tallahassee shall not independently regulate any after-the-fact permit applications, or permit applications that include any distribution, collection, or transmission line greater than 12 inches in diameter (or pump station appurtenant to such transmission lines), or permit applications for systems connecting to water or sewage facilities

not wholly owned by the City of Tallahassee, or permit applications for systems involving innovative design or having features not complying with design/performance criteria in Florida Administrative Code chapters 17-555 and 17-604, or permit applications for systems connecting to water or sewage facilities which the Department has deemed to be in substantial noncompliance with applicable laws or standards if the Department has so notified the City of Tallahassee. Such permit applications shall be subject to Department permitting procedures and state permit fees.

D. The City of Tallahassee shall be responsible for a timely and effective compliance inspection and enforcement program for the construction of water distribution and sewage collection and transmission systems related to these permitting matters.

E. The City of Tallahassee 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, 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 on bacteriological samples submitted for clearance of water distribution systems shall be maintained.

F. The City of Tallahassee shall submit to the Department's Tallahassee Branch Office monthly reports (by the third Monday of the following month) indicating the number of all connections to its water and sewage systems, with a listing of the project name, location, type of service, applicable treatment

plant, design flow, and miniaturized project map 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 and sewage collection and transmission systems indicating extensions of such systems constructed during the prior twelve months ending June 1.

G. The Department reserves the right to revoke the delegation if the Department determines that the City of Tallahassee 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. The City of Tallahassee shall maintain a record of actual flow, committed flow, and permitted flow of its water and sewage treatment facilities served by water distribution and sewage collection and transmission systems independently regulated under this order.

I. The City of Tallahassee shall plan for, design, permit, and construct additional capacity for its water and sewage treatment facilities in a timely manner to service the growth associated with these systems. The City of Tallahassee shall not allow connection to its water and sewage 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. If at any time the City of Tallahassee approves for connection or allows connection of a project to any of its water or sewage 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 the Department pursuant to chapter 403 of the Florida Statutes. Enforcement action may include revocation of this order and penalties of up to \$10,000 per violation per day.

8. The notice of the intent to delegate to the City of Tallahassee the 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, sewage force mains of 12 inches or less in diameter, and pump stations appurtenant to such force mains was published in the Tallahassee Democrat newspaper on October 27, 1993. 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 City of Tallahassee the 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, 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 of the 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 of the Florida Statutes.

3. The Department 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, 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 or sewage facilities wholly owned by the county or municipality.

4. The relevant provisions of the following Department rules shall apply to the delegation. Florida Administrative Code chapter 17-4 contains general procedures and requirements for obtaining permits from the Department. Florida Administrative Code chapter 17-555 contains specific design criteria and permitting requirements for water distribution systems. Florida Administrative Code chapter 17-604 contains specific design criteria and permitting requirements for sewage collection

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 City of Tallahassee is delegated 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 water and sewage facilities wholly owned by the City of Tallahassee, and such systems are exempt from applicable Department permit requirements, subject to the following conditions:

A. The City of Tallahassee shall ensure that all distribution, collection, and transmission systems connecting to its water and sewage facilities comply with applicable design standards in Florida Administrative Code chapters 17-555 and 17-604. Such standards shall be specified in interlocal agreements between the City of Tallahassee and other jurisdictions receiving water or sewer service from the City of Tallahassee, and copies of new or updated interlocal agreements shall be promptly provided to the Department. Water distribution and sewage collection and transmission systems in other jurisdictions receiving water or sewer service from the City of Tallahassee without an interlocal agreement with The City of Tallahassee shall be subject to Department 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 City of Tallahassee 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 City of Tallahassee 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 City of Tallahassee shall not independently regulate any after-the-fact permit applications, or permit applications that include any distribution, collection, or transmission line greater than 12 inches in diameter (or pump station appurtenant to such transmission lines), or permit applications for systems connecting to water or sewage facilities not wholly owned by the City of Tallahassee, or permit applications for systems involving innovative design or having features not complying with design/performance criteria in Florida Administrative Code chapters 17-555 and 17-604, or permit applications for systems connecting to water or sewage facilities which the Department has deemed to be in substantial noncompliance with applicable laws or standards if the Department has so notified the City of Tallahassee. Such permit applications shall be subject to Department permitting procedures and state permit fees.

D. The City of Tallahassee shall be responsible for a timely and effective compliance inspection and enforcement program

for the construction of water distribution and sewage collection and transmission systems related to these permitting matters.

E. The City of Tallahassee 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, 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 on bacteriological samples submitted for clearance of water distribution systems shall be maintained.

F. The City of Tallahassee shall submit to the Department's Tallahassee Branch Office monthly reports (by the third Monday of the following month) indicating the number of all connections to its water and sewage systems, with a listing of the project name, location, type of service, applicable treatment plant, design flow, and miniaturized project map 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 and sewage collection and transmission systems indicating extensions of such systems constructed during the prior twelve months ending June 1.

G. The Department reserves the right to revoke the delegation if the Department determines that the City of Tallahassee 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. The City of Tallahassee shall maintain a record of

actual flow, committed flow, and permitted flow of its water and sewage treatment facilities served by water distribution and sewage collection and transmission systems independently regulated under this order.

I. The City of Tallahassee shall plan for, design, permit, and construct additional capacity for its water and sewage treatment facilities in a timely manner to service the growth associated with these systems. The City of Tallahassee shall not allow connection to its water and sewage 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. If at any time the City of Tallahassee approves for connection or allows connection of a project to any of its water or sewage 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 the Department pursuant to chapter 403 of the Florida Statutes. Enforcement action may include revocation of this order and penalties of up to \$10,000 per violation per day.

2. This delegation does not relieve the City of Tallahassee 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. The Department 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 the Department.

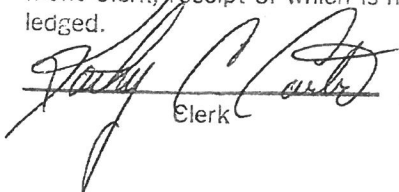
4. The provisions of this order shall void conflicting provisions of other orders or agreements between the Department and the City of Tallahassee applicable to the functions defined here.

Any party to this order has the right to seek judicial review 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 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 on which this order is filed with the clerk of the Department.

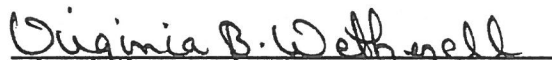
DONE and ENTERED this 14th day of December, 1993,
in Tallahassee, Florida.

FILING AND ACKNOWLEDGEMENT

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

 12.7.93
Clerk Date

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


Virginia B. Wetherell
Secretary
Department of Environmental
Protection
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