

WATER WELL PERMITTING DELEGATION AGREEMENT

This Agreement is made this 24th ^{July} day of ~~May~~ 2002, between the St. Johns Water Management District ("District") and the Florida Department of Health, Brevard County Health Department Environmental Health Services ("Health Department").

WHEREAS;

The District is a special taxing district created by Chapter 373, Florida Statutes (F.S.), and is charged with the duty to prevent harm to the water resources of the District, and to administer and enforce Chapter 373, F.S., and the rules promulgated thereunder; and

Pursuant to delegation from the Department of Environmental Protection, the District is authorized to implement certain portions of Chapters 62-524, 62-531, 62-532, and 62-555, Florida Administrative Code (F.A.C.); and

With the concurrence of the Florida Department of Environmental Protection, the District is authorized to delegate the duty to administer and enforce the statutes and rules regulating water well construction, abandonment, and repair; and

Brevard County Resolution No. 02-033, which is administered and enforced by the Health Department, Environmental Health Services, adopts the well construction standards contained in Chapter 40C-3 F.A.C.; and

The Health Department has sufficient legal authority and requisite regulatory experience to exercise the powers delegated to it by this agreement; and

The Health Department has provided evidence that it has procedures in effect to protect the rights of the permit applicants and persons whose rights may be substantially affected by the Health Department's administration of the program; and

The District and the Health Department desire to avoid any duplication or overlapping of permitting requirements between their two agencies; and

WHEREAS the District desires to accomplish the regulation of certain small water wells in Brevard County through delegation of the implementation of Part III of Chapter 373, F.S., and the applicable portions of Chapter 40C-3, 62-532 and 62-555, F.A.C., to the Health Department.

THEREFORE, based upon the mutual considerations contained in this Agreement, the District and the Health Department agree as follows:

I. RESPONSIBILITIES OF THE HEALTH DEPARTMENT

- A. The Health Department shall administer the Chapter 373, Part III, F.S., program for the regulation of water well construction for wells less than six inches in diameter pursuant to Chapters 40C-3, 62-532 and 62-555, F.A.C., within the geographical

- boundaries of Brevard County, Florida unless these wells are within a Chapter 62-524, F.A.C., delineated area.
- B. The Health Department shall enforce the Well Construction Standards as set forth in Chapter 40C-3, F.A.C.
 - C. The Health Department shall use the application, permit, and well completion report forms supplied or approved for use by the District.
 - D. The Health Department shall maintain permanent records of all permit applications reviewed by the Health Department in accordance with Chapter 119, F.S., Public Records Law, and procedures consistent with the District's Division of Permit Data Services, Department of Resource Management. Copies of records may be maintained on microfilm in accordance with the National Records Institute rules, Chapters 1B24 and 1B26, F.A.C.
 - E. The Health Department shall collect and retain permit application fees in accordance with Section 373.109, F.S., for use in supporting the Health Department's administration of the program delegated by this agreement. The application fees to be charged shall be as provided in Brevard County Resolution 02-033. Nothing in this provision shall preclude the Health Department from assessing additional administrative fees deemed necessary to recover the costs of processing, monitoring and inspecting for compliance.
 - F. The Health Department shall maintain staff sufficient to fulfill its obligations under this agreement. The staff shall be organized as a functional unit to ensure permitting consistency and coordination.
 - G. The Health Department shall provide compliance information for the preceding month to the District's Altamonte Springs Service Center by the end of the first week of each month. This information is to be used for the statewide water well clearinghouse.
 - H. The Health Department shall submit a quarterly report to the District's Headquarters in Palatka within fifteen days after the end of each quarter, which describes the Health Department's permitting and enforcement activities for the previous quarter. The report shall include:
 - 1. A list of all permits issued by the Health Department, including project name, and property owner and location,
 - 2. A list of all applications currently under review by the Health Department,
 - 3. A list of all compliance inspections made, including project name, property owner and location, and water well contractor name,
 - 4. A list of any violation warning letters issued by the Health Department, and
 - 5. Copies of all completion reports received by the Health Department.

II. RESPONSIBILITIES OF THE DISTRICT

- A. The District shall continue to permit all water wells six inches in diameter or greater and all wells within delineated areas as enumerated in Chapters 62-524 and 40C-3, F.A.C.
- B. While this Agreement is in effect, the District shall not enter into any other agreement regarding the implementation of Chapter 40C-3, F.A.C., with any political subdivision within the boundaries of Brevard County, unless the Health Department approves.

- C. The District shall provide the Health Department with all necessary information to support the Health Department's implementation of this Chapter 40C-3, F.A.C., program as follows:
1. The District shall notify the Health Department of all proposed changes to Chapters 40C-1, 40C-2, and 40C-3, F.A.C.;
 2. The District shall provide the Health Department with information regarding the District's current technical and administrative procedures for review of water well permit applications, including the coordination of activities under Chapter 40C-2, F.A.C., that may affect water well permitting;
 3. The District shall provide information regarding the statewide clearinghouse, the District's water well contractor licensing program and a list of all licensed water well contractors working within the District,
 4. The District shall provide technical assistance as necessary to facilitate the proper review of permit applications and resolution of compliance issues with existing wells;
 5. The District shall provide education and training as necessary to maintain minimum review, inspection levels and the Health Department's expertise; and
 6. The District shall take appropriate enforcement action against water well contractors as set forth in Chapter 62-531, F.A.C., implemented by the Disciplinary Guidelines and Procedures Manual, October 1992.
- D. The District shall maintain responsibility to administer examinations and issue licenses for water well contractors to drill within Brevard County.
- E. The District or contractors working for the District will not be required to obtain a permit from the Health Department when drilling a well with an inside diameter less than 6" within the County. The District or their representative will inform the Health Department of its intent to do work within the County and will file a completion report with the Health Department.

III COMPLIANCE

- A. The Health Department shall maintain an effective compliance program, which includes investigating all non-permitted activities and monitoring compliance with permit terms and conditions for permits issued by the Health Department, as well as issuance of violation warning letters. The compliance program may be pursuant to Brevard County Resolution No. 02-033, but must be consistent with the authority delegated herein to the Health Department by the District. The Health Department shall provide administrative and technical support to resolve its enforcement cases in cooperation with the District's regulatory and legal staff.
- B. The District and the Health Department shall coordinate their compliance and enforcement activities to maximize the staff resources available to each including the provision of radio/cellular/beeper communications for field personnel if available.
- C. Nothing in this Agreement shall limit the independent enforcement authority of either the District or the Health Department.

- D. In the event enforcement action becomes necessary beyond the initial violation warning letter in order to gain compliance with District rules, the District may initiate a Notice of Violation (NOV) action under subsection 373.333(2), F.S., and applicable rules. In such instances, if Health Department technical staff have investigated the violation, they shall assist the District in prosecution of the case. The District will notify the Health Department in advance of its intent to pursue such as enforcement action. The Health Department shall provide the necessary administrative and technical support to resolve its enforcement case in cooperation with the District's regulatory staff and Office of General Counsel.

IV. IMPLEMENTATION SCHEDULE

- A. Upon execution of this agreement by the parties, the District shall initiate rulemaking to amend section 40C-3.035, F.A.C. The rule adopted by the District shall identify the effective date of this amended agreement.
- B. Immediately upon adoption of a rule amendment by the District, appropriate District staff will train appropriate Health Department staff. The training phase shall continue until all Health Department permitting and enforcement staff have executed permitting and enforcement procedures under the guidance of the District's water well program supervisory staff.

V. DISTRICT/HEALTH DEPARTMENT COORDINATION

- A. Once the training phase is complete, the District's water well program supervisory staff and the Health Department water well program staff shall meet once every two weeks for a period of eight weeks to review program activities and clarify procedures. The frequency of such meetings after the initial eight-week period shall be determined by mutual agreement between the parties. New or modified procedures by the District or the Health Department shall be reviewed at these meetings and shall require District approval prior to implementation.
- B. Applications submitted to the Health Department for wells which exceed its permitting thresholds shall be forwarded to the District within five days of receipt and the Health Department shall notify the applicant that the District will process the application.
- C. The District shall submit a monthly clearinghouse report to the Health Department by the last day of each month, which describes water well enforcement activities within the District during the previous month including a list of water well contractor enforcement actions taken by the District or Health Department in accordance with Chapter 62-531 F.A.C., Statewide Clearinghouse.
- D. The Health Department Director or designee, and the District's Water Well Permitting Supervisor or designee shall coordinate this program to ensure the consistent and effective implementation of Chapter 40C-3, F.A.C.
- E. To promote consistency, the District may review and comment on any permit application which the Health Department is reviewing. The District may also make field inspections in conjunction with the Health Department.

VI. TERMINATION

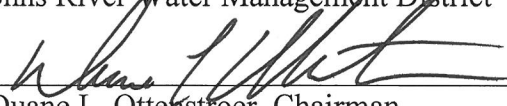
Either party may terminate this Agreement upon one hundred twenty (120) days prior written notice to the other party. Once a party gives notice of its intent to terminate this agreement, both parties shall make a good faith effort to resolve their differences. If after sixty (60) days of the date of notification the parties have not resolved their differences, the Health Department shall transfer all permit applications to the District not less than sixty (60) days prior to the effective date of termination.

VII. EFFECTIVE DATE

This Agreement shall become effective upon the District's adoption of a rule providing for the delegation of authority to the Health Department and incorporating this Agreement by reference.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

St. Johns River Water Management District

By:  Date: 5-8-02
Duane L. Otterstroer, Chairman

Brevard County Health Department, Brevard County Florida

By:  Date: 4-22-02
Heidar G. Heshmati, M.D., M.P.H., Ph.D.
Director