

WATER WELL PERMITTING DELEGATION AGREEMENT

This Agreement is made this MAY 24, 2007, between the St. Johns River Water Management District (“District”) and the Florida Department of Health-Volusia County Health Department (“Health Department”).

WHEREAS:

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

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

The District is authorized to delegate the duty to administer and enforce the statutes and rules regulating water well construction, abandonment, and repair, with concurrence of the Department; and

The Health Department has sufficient authority to exercise the powers delegated by this Agreement; and

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

The Health Department has the requisite regulatory experience, and the parties desire to avoid any duplication or overlapping of permitting requirements between the District and the Health Department; and

The parties desire to accomplish the regulation of water wells in the County less than six inches in diameter and not located within an area delineated by the Department, through delegation of the implementation of Part III of Chapter 373, Florida Statutes, and the applicable portions of Chapters 40C-3, 62-532, and 62-555, Florida Administrative Code, to the Health Department.

THEREFORE, based upon the mutual consideration contained in this agreement, the Parties agree as follows:

I. RESPONSIBILITIES OF THE HEALTH DEPARTMENT

1. The Health Department shall administer the program for regulation of water well construction standards for water wells less than six inches in diameter pursuant to Chapters 40C-3, 62-532, and 62-555, Florida Administrative Code, within the geographical boundaries of Volusia County, unless these wells are within a Chapter 62-524, F.A.C., delineated area.

2. The Health Department shall enforce the well construction standards set forth in Chapters 40C-3, 62-532, and 62-555, F.A.C.

3. The Health Department shall use application and permit forms including completion report forms supplied or approved for use by the District.

4. The Health Department shall maintain permanent records of all permit applications reviewed by the Health Department in accordance with Chapter 119, Florida Statutes, (the Florida 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 Chapters 1B-24 and 1B-26, F.A.C.

5. The Health Department shall collect and retain permit 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 fee amounts are set forth in Volusia County Resolution Number 2004-121. Nothing in this provision shall preclude the Health Department from assessing additional administrative fees deemed necessary above the base fee set by the District to recover the costs of processing, monitoring, and inspecting for compliance.

6. The Health Department shall maintain a full time staff sufficient to fulfill its obligations under this Agreement. This water well staff shall be organized as a functional unit to ensure permitting consistency and coordination. The Health Department shall also conduct internal working group meetings among appropriate staff.

7. The Health Department shall submit a quarterly permitting and compliance information report to the District's Altamonte Springs Service Center within fifteen (15) days after the end of each quarter. This information is to be used for the statewide water well clearinghouse and shall include:

a. A list of permits issued by the Health Department, including project name, property owner and location.

b. A list of all wells under review by the Health Department that may also require other District permits.

c. A list of compliance inspections made, including project name, property owner and location, and name of well contractor/installer.

d. A list of any warning letters issued by the Health Department.

e. Copies of all completion reports received by the Health Department.

8. The Health Department may not further delegate its authority under this Agreement.

II. RESPONSIBILITIES OF THE DISTRICT

1. The District shall continue to permit both public and private wells six inches in diameter or greater, and all wells within delineated areas as set forth in Chapter 62-524, F.A.C.

2. While this agreement is in effect, the District shall not enter into any Agreement regarding implementation of Chapter 40C-3, F.A.C., with any other local government within the boundaries of Volusia County, unless the Health Department consents.

3. The District shall provide the Health Department with all necessary information to support the Health Department's implementation of the Chapter 40C-3, F.A.C., program. This support shall include:

a. Providing notification of all proposed changes to Chapters 40C-1, 40C-2, and 40C-3, F.A.C.

b. Providing 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 regarding Chapter 40C-2, F.A.C., that may affect well permitting,

c. Providing information regarding the statewide clearinghouse and the District's water well contractor licensing program, including a list of all licensed water well contractors working licensed in the State of Florida.

d. Providing technical assistance as necessary to enable proper review of permit applications or to resolve compliance problems with existing wells.

e. Providing educational training programs as required to maintain minimum review and inspection standards to support implementation of this Delegation.

4. The District shall take appropriate enforcement action against water well contractors as set forth in Chapter 62-531, F.A.C., and implemented by the Department's Water Well Contractor Disciplinary Guidelines and Procedures Manual.

5. The District shall maintain responsibility to administer examinations and issue licenses for water well contractors who construct, repair and abandon wells within Volusia County.

6. The District, or Contractors working for the District, will not be required to obtain a permit from the Volusia County Health Department when constructing, repairing or abandoning a well less than 6 inches within the boundaries of Volusia County. The District or its representative will inform the Health Department of its intent to do work within Volusia County, and will file a completion report with the Health Department.

III. COMPLIANCE

1. The Health Department shall maintain an effective compliance program, which includes investigating all unpermitted well construction, repair and abandonment activities and monitoring in order to ensure compliance with permit terms and conditions for permits issued by the Health Department. The compliance program must be consistent with the authority delegated to the Health Department by the District herein.

2. The District and the Health Department shall coordinate their compliance activities to maximize the staff resources available to each including the provision of radio/cellular/beeper communications for field personnel, if available.

3. Nothing in this Agreement shall limit the independent enforcement authority of either party.

4. In the event legal action becomes necessary beyond the initial 15-day informal warning letter to gain compliance with the District rules, the District may initiate a formal Notice of Violation action under subsection 373.333(2), F.S. 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 an enforcement action. The Health Department shall provide the necessary administrative and technical support to resolve its enforcement cases in cooperation with the District's regulatory staff and Office of General Counsel.

IV. DISTRICT/COUNTY COORDINATION

1. The water well supervisory staff of the District and the Health Department shall meet to review water well activities and clarify procedures. Frequency of such meetings 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 must receive District approval prior to implementation.

2. Applications submitted to the Health Department for wells which exceed the Health Department 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.

3. The District shall submit a monthly clearinghouse report to the Health Department by the last day of each month, setting forth the most recent enforcement activities undertaken by the Health Department and the District, including any water well contractor enforcement actions.

4. The Health Department's Program Administrator or designee, and the District's Water Well Permitting Supervisor or designee, shall coordinate this program to ensure consistent and effective implementation of Chapter 40C-3, F.A.C.

5. To promote consistency, the District may review any permit application that the Health Department is reviewing. The District may also make field inspections in cooperation with the Health Department.

V. TERMINATION

Either party may terminate this Agreement upon one hundred and twenty (120) days prior written notice to the other party. Not less than sixty (60) days prior to the effective date of termination of the Agreement, the Health Department shall transfer all permit applications to the District.

VI. EFFECTIVE DATE

Upon execution of this Delegation by the District and the Health Department, the District shall initiate rulemaking to adopt an amendment to Rule 40C-3.035, F.A.C., implementing the provisions of this Delegation and deleting the reference to the existing Delegation between the District and Volusia County. The rule adopted by the District shall identify the effective date of this Delegation and the effective date of the termination of the Volusia County Delegation.

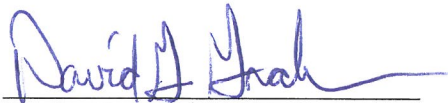
This Delegation shall become effective upon the effective date of the District's rule incorporating this Delegation by reference. The Delegation between Volusia County and the District dated April 21, 1996, shall remain in full force and effect until the effective date of this Delegation.

VII. EXCLUSIVE AUTHORITY

Nothing in this Agreement shall be construed to impede, interfere with or supersede the exclusive authority of the District under Part II, Chapter 373, F.S., to regulate the consumptive use water, and no rights are created in the Health Department regarding such authority.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

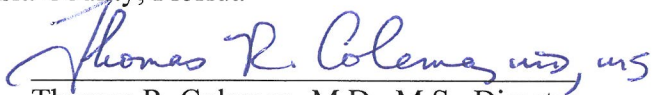
ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT




David G. Graham, Chair

(Seal)

FLORIDA DEPARTMENT OF HEALTH-
VOLUSIA COUNTY HEALTH DEPARTMENT
Volusia County, Florida

By: 
Thomas R. Coleman, M.D., M.S., Director
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