

**WATER WELL PERMITTING DELEGATION AGREEMENT
FLORIDA DEPARTMENT OF HEALTH IN ORANGE COUNTY**

This Water Well Permitting Delegation Agreement (“Agreement”) is made between the St. Johns River Water Management District (“District”) and the Florida Department of Health (“FDOH”) (collectively “the Parties”).

WHEREAS:

It is the desire of the Parties to enter into a Water Well Permitting Delegation Agreement pursuant to Rule 40C-3.035, Florida Administrative Code (“F.A.C.”) covering Orange County within the jurisdictional boundaries of the District; and

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

The Department of Environmental Protection (“Department”) has delegated to the District the authority to implement Chapters 62-524, 62-531, 62-532, and certain portions of Chapter 62-555, F.A.C., related to the permitting and regulation of water wells; and

The District is authorized by Sections 373.046, 373.308, and 373.309, F.S., to delegate the duty to administer and enforce the statutes and rules regulating water well construction, repair, and abandonment to the FDOH; and

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

The FDOH has demonstrated to the District that it has procedures in effect to protect the rights of permit applicants and persons whose rights may be substantially affected by the FDOH's administration of the program; and

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

The Parties desire to accomplish the regulation of water wells in Orange County within the jurisdictional boundaries of the District that are: (1) less than 6 inches in diameter; (2) not located within an area delineated by the Department, and (3) not earth-coupled geothermal well systems (an underground heat exchanger that circulates transfer fluid within pressurized tubing installed and grouted in the earth), through delegation to the FDOH of the implementation of Part III of Chapter 373, F.S., and the applicable portions of Chapters 40C-3, 62-532, and 62-555, F.A.C.

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

I. RESPONSIBILITIES OF THE FDOH

1. The FDOH shall administer the program for regulation of water well construction, repair, and abandonment standards pursuant to Chapters 40C-3, 62-532, and 62-555, F.A.C., in Orange County within the jurisdictional boundaries of the District, unless these wells are: (1) 6 inches or more in diameter; (2) within a Chapter 62-524, F.A.C., delineated area; or (3) part of an earth-coupled geothermal well system.

2. The FDOH shall regulate water well construction, repair, and abandonment using the standards set forth in Chapters 40C-3, 62-532, and 62-555, F.A.C.

3. The FDOH shall use the permit application and Well Completion Report forms supplied or approved for use by the District.

4. The FDOH shall maintain records of all permit applications reviewed by the FDOH in accordance with Chapter 119, F.S. (the Florida Public Records Law), and procedures consistent with the District's Bureau of Regulatory Support, Division of Regulatory Services. Copies of records may be maintained as official scanned copies in accordance with Chapters 1B-24 and 1B-26, F.A.C.

5. The FDOH may establish a schedule of permit fees which shall not exceed the cost to the FDOH for permit processing, monitoring, and inspecting wells for compliance with the permit.

6. The FDOH shall organize and train its staff as a functional unit and shall maintain sufficient staffing to fulfill its obligations under this Agreement.

7. The FDOH shall submit a quarterly report to the District by email to delegatedcountysupport@sjrwmd.com within fifteen days after the end of each quarter, which describes the FDOH's permitting, monitoring and compliance inspection activities for the previous quarter. The report shall include:

- a. A list of water well construction, repair, and abandonment permits issued or under review by FDOH, including permit number, name of property owner, well location, and name of water well contractor or other person authorized by statute to conduct such activity; and
- b. A list of water well construction, repair, and abandonment monitoring and compliance inspections conducted, violations found, current status of the violation, including well permit number, name of property owner, well location, and name of the water well contractor or other person who performed such activity.

8. FDOH shall ensure that a properly completed Well Completion Report is submitted by the water well contractor or other person authorized by statute to construct, repair or abandon a water well.

9. FDOH shall enter all Well Completion Reports as they are received into the District's E-permitting system using the administrative E-permitting account that has been created for FDOH's use (OCHDadmin).

10. FDOH shall conduct random water well construction, repair, and abandonment inspections of at least twenty percent (20%) of all wells permitted by FDOH in Orange County within the jurisdictional boundaries of the District, calculated on a 12-month running average.

11. FDOH may not further delegate its authority under this Agreement.

12. Nothing in this Agreement shall be construed to limit or delegate the District's exclusive authority to review, issue, or take any action regarding consumptive use permits pursuant to Chapter 373, F.S., and applicable rules. FDOH shall withhold issuance of any water well construction, repair, or abandonment permit if the application indicates, or if FDOH staff verifies, that the proposed or existing well requires a District consumptive use permit, until such time as the District has notified the FDOH in writing that the water well permit can be issued. FDOH shall notify the District by email upon receipt of an application for the construction, repair, or abandonment of any water well, regardless of diameter, if the proposed or existing water well will require a District consumptive use permit.

II. RESPONSIBILITIES OF THE DISTRICT

1. The District shall issue permits for the construction, repair, and abandonment of all wells 6 inches or more in diameter.

2. The District shall issue permits for the construction, repair, and abandonment of all wells within delineated areas as enumerated in Chapters 62-524 and 40C-3, F.A.C.

3. The District shall issue permits for the construction, repair, and abandonment of all wells associated with earth-coupled geothermal well systems.

4. While this Agreement is in effect, the District shall not enter into any agreement regarding the implementation of Chapter 40C-3, F.A.C., with any other local government within the jurisdictional boundaries of Orange County without the written consent of the FDOH.

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

- a. Providing the FDOH 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., which may affect well permitting; and

- b. Providing information regarding pending water well construction, repair, and abandonment enforcement activities in Orange County within the jurisdictional boundaries of the District; and
 - c. Providing technical assistance and training as necessary to enable an accurate and consistent review of water well construction, repair, and abandonment permit applications or to resolve compliance problems with existing wells.
6. The District shall be responsible for handling those matters involving water well contractors and unlicensed persons who unlawfully have engaged in water well contracting.
7. The District shall be responsible for administering examinations and issuing licenses for water well contractors who construct, repair, or abandon wells within Orange County.
8. The District and contractors working for the District will not be required to obtain a permit from the FDOH when constructing, repairing, or abandoning a water well within Orange County. The District will inform the FDOH of its intention to perform these activities within the county and will file a well completion report with the FDOH upon completion of the work.

III. COMPLIANCE

1. As part of the regulation of water well construction, repair, and abandonment, the FDOH shall:
- a. Verify compliance with water well construction, repair, and abandonment standards pursuant to Chapters 40C-3, 62-532, and 62-555, F.A.C., and permit conditions; and
 - b. Report all water well contractors and unlicensed persons who unlawfully have engaged in water well contracting to the District so that the District may pursue appropriate enforcement action; and
 - c. Issue a warning letter when unable to resolve a water well construction, repair, or abandonment violation; and
 - d. Refer to the District for enforcement action all violations that are not resolved within the fifteen-day response time specified in the initial warning letter; and
 - e. Refer to the District for enforcement action in lieu of issuing a warning letter a violation involving a water well contractor who is found to have committed repetitive violations; and
 - f. Assist the District, as needed, in any enforcement action regarding a violation.

2. As part of the regulation of water well construction, repair, and abandonment, the District shall:

- a. Direct FDOH to issue a warning letter if the District finds that a violation was not identified by FDOH; and
- b. Upon request, assist the FDOH with the identification of well construction, repair, and abandonment violations and rule interpretation; and
- c. Issue a Notice of Violation (NOV), at the District's discretion, pursuant to Section 373.333(2), F.S., for unresolved compliance actions referred to the District by FDOH; and
- d. Report the appropriate water well contractor enforcement information to the Statewide Clearinghouse.

IV. DISTRICT/FDOH COORDINATION

1. The District's Water Well Construction Program staff and FDOH staff shall meet to review and approve new or modified water well permitting procedures and to promote regulatory consistency. Frequency of such meetings shall be determined by mutual agreement of the parties. New or modified regulatory procedures must receive District approval prior to implementation.

2. Applications submitted to the FDOH for any water wells that exceed the authority delegated to FDOH shall be forwarded to the District within five (5) days of receipt. The FDOH shall notify the permit applicant that the District will process the application.

3. The District shall submit to the FDOH, within fifteen days following the end of each quarter, a quarterly report that describes the status of all recent water well enforcement activities within the District.

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

5. The District may assist in the review of any water well construction, repair, or abandonment permit application that the FDOH is reviewing. In cooperation with FDOH, the District may also conduct inspections of water wells permitted by the FDOH.

V. TERMINATION

Either party may terminate this Agreement upon one hundred twenty days prior written notice to the other party. Not less than sixty days prior to the effective date of termination of the Agreement, the FDOH shall transfer all permit applications to the District and shall provide comments on the appropriate course of action for any pending compliance activities.

VI. EFFECTIVE DATE


This Agreement shall become effective upon the effective date of the District's rule incorporating this Agreement by reference.

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 of Chapter 373, F.S., to regulate the consumptive use of water, and no delegation of this exclusive District authority is granted to FDOH. FDOH agrees not to regulate the consumptive use of water in any manner.

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

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT




Hans G. Tanzler III, Executive Director

Date: 8/19/13

(Seal)

FLORIDA DEPARTMENT OF HEALTH



Dr. Kevin Sherin, MD, MBA, MPH
Director and Health Officer
Florida Department of Health
Orange County

Date: 7-31-13