



Memorandum

Memorandum No: 22-120

Date: October 21, 2022

To: Honorable Mayor, Vice Mayor, and Commissioners

From: Greg Chavarria, City Manager 
Greg Chavarria (Oct 25, 2022 10:28 EDT)

Re: Settlement with Florida Department of Environmental Protection for Failure to Complete Level II Assessment in Timely Manner

As part of its regulatory responsibilities, the City of Fort Lauderdale Water Utility conducts routine sampling of water provided through our water system. On July 11, 2022, the City notified the Florida Department of Environmental Department of Environmental Protection (FDEP) that eight distribution samples tested total coliform positive in the July 2022 monthly bacteriological analysis, which was more than 5% of the distribution samples tested. This triggered a requirement for the utility to complete a Level 2 Assessment of the system within 30 days of the date of notification, which was due by August 10, 2022. Due to specific requirements involved, the City was unable to do the assessment in-house and assigned it to a consultant through a task order. The assessment was not completed by the August 10th deadline, resulting in FDEP issuing a warning letter on Sept 2, 2022. The assessment was submitted to FDEP on September 15, 2022.

On October 14, 2022, FDEP issued the City a Short Form Consent Order, finding that Fort Lauderdale failed to submit the Level 2 Assessment triggered by July 2022's bacteriological sampling results within 30 days after Departmental notification, in violation of Rule 62-550.830. FDEP recognized improvements made by the City, including completion of 20 dedicated sampling points, completion of a unilateral flushing plan, looping of some parts of the system, and completion of the Level 2 Assessment. The FDEP mandated the City pay \$1,000 in civil penalties and \$250 for costs and expenses incurred in their investigation.

To prevent further violations of Rule 62-550.830, the City will be updating the bacterial monitoring plan and testing procedures, as well as implementing changes to our task order process to allow consultants to begin assessments immediately upon notification.

For additional information, please contact Alan Dodd, Public Works Director at ADodd@fortlauderdale.gov

Attachment

Florida Department of Environmental Protection Letter, Subject: Department of Environmental Protection v. City of Fort Lauderdale, OGC File No.: 22-2663, PWS ID: 4060486, Broward County

c: Anthony G. Fajardo, Assistant City Manager
Susan Grant, Assistant City Manager
Alain E. Boileau, City Attorney
David R. Soloman, City Clerk
Patrick Reilly, City Auditor
Department Directors
CMO Managers



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

October 14, 2022

City of Fort Lauderdale Public Water System
Greg Chavarria, City Manager
100 N. Andrews Ave.
Fort Lauderdale, FL 33301
gchavarria@fortlauderdale.gov

SUBJECT: Department of Environmental Protection v. City of Fort Lauderdale
OGC File No.: 22-2663, PWS ID: 4060486
Broward County

Mr. Chavarria:

The State of Florida Department of Environmental Protection (“Department”) finds that the City of Fort Lauderdale (“Respondent”) failed to submit the Level 2 Assessment, which was triggered by July 2022’s bacteriological sampling results, within 30 days after Departmental notification, in violation of Rule 62-550.830. Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violation(s). These actions have since been completed. However, due to the nature of the violation(s), the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

The Department’s Offer

Based on the violations described above, the Department is seeking \$1,000.00 in civil penalties and \$250.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$1,250.00. The civil penalty is apportioned as follows: \$1,000.00 for violation of Rule 62-550.830, F.A.C.

Respondent’s Acceptance

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Department at 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406 or via e-mail at SED.Drinkingwater@floridadep.gov within 15 calendar days of the mailing date of this order. The Department will then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated

clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

By accepting this offer you, Greg Chavarria:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final; and
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.

The Department acknowledges that the Respondent's acceptance of this offer does not constitute an admission of liability for the violation(s) referenced above.

Respondent's Performance

After signing and returning this document to the Department,

- (1) Respondent must pay \$1,250.00 in full by within 30 calendar days of the effective date of this order.
- (2) Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>
It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, F.S.

Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondent, whose interests will be substantially affected.

Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

Please be aware that if the Respondent declines to respond to the Department's offer, the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

If you have any questions, please contact Jena Seidemann at 561-681-6603 or at Jena.Seidemann@floridadep.gov.

Sincerely,



Jason Andreotta
Director, Southeast District

ec: Greg Kennedy, DEP/SED
Jocelyn Labbe, DEP/SED
Jena Seidemann, DEP/SED
Alan Dodd, City of Fort Lauderdale,
Talal Abi-Karam, City of Fort Lauderdale,
Garry Brandy, City of Fort Lauderdale,
James Crawford, City of Fort Lauderdale,

Greg.A.Kennedy@floridadep.gov
Jocelyn.Labbe@floridadep.gov
Jena.Seidemann@floridadep.gov
adodd@fortlauderdale.gov
tabi-karam@fortlauderdale.gov
gbrandy@fortlauderdale.gov
JCrawford@fortlauderdale.gov

FOR THE RESPONDENT:

I, _____ [Type or Print Name], **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: _____ Date: _____
[Signature]

Title: _____
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this ____ day of _____, 2021, in _____ County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jason Andreotta
Director, Southeast District

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk Date

Attachments: Notice of Rights

Final clerked copy furnished to:

- | | |
|---|--|
| Lea Crandall, Agency Clerk | Lea.Crandall@floridadep.gov |
| Greg Kennedy, DEP/SED | Greg.A.Kennedy@floridadep.gov |
| Jocelyn Labbe, DEP/SED | Jocelyn.Labbe@floridadep.gov |
| Jena Seidemann, DEP/SED | Jena.Seidemann@floridadep.gov |
| Alan Dodd, City of Fort Lauderdale, | adodd@fortlauderdale.gov |
| Talal Abi-Karam, City of Fort Lauderdale, | tabi-karam@fortlauderdale.gov |
| Garry Brandy, City of Fort Lauderdale, | gbrandy@fortlauderdale.gov |
| James Crawford, City of Fort Lauderdale, | JCrawford@fortlauderdale.gov |

NOTICE OF RIGHTS

Persons who are not parties to this Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner's substantial interests will be affected by the Order;
- d) A statement of when and how the petitioner received notice of the Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at the address indicated above. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.