



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

BEFORE THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

In Re:

Petition for Variance
City of Vero Beach
Vero Beach Reverse Osmosis WTF
P.O. Box 1389
Vero Beach, Florida 32961

Indian River County
FL0042544
OGC File No.: 05-0415

Mr. Lawrence J. Keating
Water and Sewer Director

AGENCY ACTION ON PETITION FOR VARIANCE UNDER SECTION 403.201, F.S.

BY THE DEPARTMENT:

The Department of Environmental Protection (Department) hereby grants a variance to the City of Vero Beach from the acute toxicity requirements of Rules 62-302.500(1)(a)4, and 62-4.244(3)(a), Florida Administrative Code (F.A.C.), for waters discharging from the Vero Beach Reverse Osmosis Facility Outfall D-001 to the Indian River Farms Control District Main Relief Canal which then flows into the Indian River Lagoon, located in Indian River County, Florida.

On February 21, 2005, the City of Vero Beach filed with the Department a Petition for Variance, pursuant to section 403.201(1)(a), Florida Statutes (F.S.). The \$6,000 processing fee was submitted in accordance with Rule 62-4.050(4)(p)2, F.A.C.

The Department hereby grants this variance subject to the following findings and conditions.

Findings:

1. The City of Vero Beach owns and operates the Vero Beach Reverse Osmosis (RO) Water Treatment Facility (WTF) located at 2515 Airport North Drive, Vero Beach, Florida, which operates under conditions specified in Wastewater Permit Number FL0042544-002 which

expired on October 22, 2005. The City applied for renewal of the permit in a timely manner and, therefore, the permit has been administratively continued while resolving outstanding permitting issues.

2. The City of Vero Beach requested the variance from the acute toxicity limitations of rules 62-302.500(1)(a)4 and 62-4.244(3)(a), F.A.C., in the waters discharging from the Vero Beach RO WTF. The facility discharges through Outfall D-001. Outfall D-001 is located in Main Relief Canal, just downstream of the salinity barrier and approximately 4300 feet upstream from the confluence of the canal and the Indian River, a Class III marine water.

3. The City provided the following documentation in support of the variance petition:

a. The City and its contractor submitted the following reports to the Department: Results of a Study conducted for the City of Vero Beach, December 16, 1998, and Toxicity Tests for Vero Beach concentrate dated December 20, 1998. Additional toxicity test results for Vero Beach concentrate were submitted May 24, 2006.

b. The Department reviewed and concurred with the findings of those reports and has determined that the acute toxicity is the result of the imbalances of marine ions, specifically calcium and fluoride, in the discharge.

4. Granting this variance is contingent upon the City's ability to obtain a mixing zone for chronic toxicity for the demineralization concentrate discharge. The City submitted requests for a mixing zone for chronic toxicity to the Department's Central District Office. A mixing zone for chronic toxicity has been granted by rule to allow the discharge to mix with ambient waters. The requirements of Rule 62-302.530(62), F.A.C., for chronic toxicity, must be met as specified in the concurrently issued Wastewater Permit No. FL0042544-003.

5. The City of Vero Beach has addressed all of the variance requirements of Rule 62-110.104, F.A.C.

6. The City of Vero Beach has demonstrated to the satisfaction of the Department that there is no practicable means known for the adequate control of the ion imbalances of calcium and fluoride noted in the discharge to the Main Relief Canal/Indian River Lagoon that will allow the City of Vero Beach to meet the acute toxicity criterion.

Conditions:

1. The variance is granted under Section 403.201(1)(a), F.S., which limits the variance to cases where no practicable means are known or available for the adequate control of the pollution at the site. The Department grants this variance for a period not to exceed five years or the life of the permit. This variance shall be implemented with permit number FL0042544-003, and expire concurrently with expiration of this permit.

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2. If the City of Vero Beach intends to seek renewal of this variance, application for renewal shall be made no less than 180 days prior to the expiration date applicable in Condition #1.

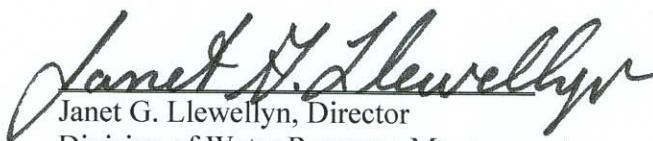
3. A new multi-port (minimum 5 ports) diffuser will be constructed within 180 days to better disperse the effluent into the receiving Canal.

4. A variance is a temporary change to water quality standards within the affected area. Requirements of Rule 62-302.500(1)(a)4, F.A.C., must be met at a distance no greater than two meters upstream and downstream from the discharge point after installation of the multi-port diffuser. Requirements of Rule 62-4.244(3)(a) must be met at a distance no greater than 15 meters upstream and 91 meters downstream after installation of the multi-port diffuser.

5. For the duration of this variance, the City of Vero Beach shall be required to meet a chronic toxicity mixing zone limitation of a No Observed Effect Concentration (NOEC) $\geq$ 12.5% effluent as defined in Wastewater Permit No. FL0042544-003.

A party to this order has the right to seek judicial review of it under Section 120.68, Florida Statutes, by filing a notice of appeal under Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, 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 must be filed within thirty days after this order is filed with the clerk of the Department.

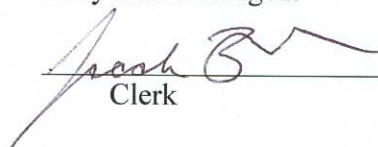
DONE AND ORDERED this 19th day of Sept. 2007 in Tallahassee, Florida.



Janet G. Llewellyn, Director
Division of Water Resource Management
Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, Florida

FILING AND ACKNOWLEDGMENT

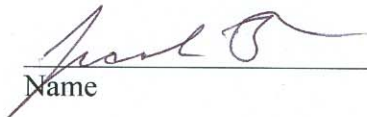
FILED, on this date, under Section 120.52, Florida Statutes, with the designated Deputy Clerk, receipt of which is hereby acknowledged.

 09/20/07
Clerk Date

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that this Final Agency Action and all copies were mailed before the close of business on Sep 21, 2007 to the persons listed below.


Name

09/21/07
Date

Certified copies furnished to:

Mr. Lawrence J. Keating, Water and Sewer Director, City of Vero Beach

Copies furnished by electronic mail to:

Stacey Cowley, DEP/OGC/Tallahassee
Christianne Ferraro, DEP/Central District
Al Hubbard, DEP/WRM/Tallahassee
Ali Kazi, DEP/IW/Central District
Frank Nearhoof, DEP/WQSSPP/Tallahassee
Elsa Potts, DEP/WRM/Tallahassee
Justin Wolfe, DEP/OGC/Tallahassee