



Memorandum

Memorandum No: 24-154

Date: October 23, 2024

To: Honorable Mayor, Vice Mayor, and Commissioners

From: Susan Grant, Acting City Manager *Susan Grant*

Re: Completion of Florida Department of Environmental Protection Water Consent Order, OGC File No: 19-1637

This memorandum is to inform you that the City has completed Water Consent Order, OGC File No: 19-1637 (Consent Order) as ordered by the Florida Department of Environmental Protection (FDEP). The City entered into the Consent Order with FDEP on July 24, 2020, following an incident when the source water pipe feeding the Fiveash Water Treatment Plant was damaged and the City was unable to quickly isolate the pipe resulting in a Citywide boil water notice.

The Consent Order required the City to develop a preventive maintenance plan for the water distribution system, exercise water line valves yearly with 100% completed in the first year and 20% per year for the following six (6) years, complete a plan to develop a water system map, and complete the City's water Geographic Information System (GIS) mapping for better location accuracy of assets and valves in case of future breaks.

All requirements of the Consent Order have been completed prior to the deadline of December 31, 2024, and FDEP has closed Water Consent Order OGC File No: 19-1637 on October 18, 2024.

Attachment 1 – OGC No 19-1637 Case Closure

Attachment 2 – OGC No. 19-1637 Water Consent Order

c: Anthony G. Fajardo, Assistant City Manager
Laura Reece, Acting Assistant City Manager
Ben Rogers, Acting Assistant City Manager
Christopher Cooper, Acting Assistant City Manager
D'Wayne M. Spence, Acting City Attorney
David R. Soloman, City Clerk
Patrick Reilly, City Auditor
Department Directors
CMO Manager



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 18, 2024

Susan Grant, Acting City Manager
City of Fort Lauderdale
100 N. Andrews Ave.
Fort Lauderdale, FL 33301
sugrant@fortlauderdale.gov

Re: City of Fort Lauderdale Public Water System
PW Facility ID#: 4060486
Broward County

Dear Mrs. Grant:

The purpose of this letter is to inform you that the Department's enforcement case against the City of Fort Lauderdale has been closed. A records review conducted on October 18, 2024, found that the requirements of Consent Order OGC File No.: 19-1637 have been satisfied.

The Department appreciates your efforts and cooperation in bringing this facility into compliance with state and federal rules. Should you have any questions or comments, please contact Jena Seidemann at (561)681-6603 or via e-mail at jena.seidemann@floridadep.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sirena Davila".

Sirena Davila
Director, Southeast District
Florida Department of Environmental Protection

ec: Lea Crandall, OGC,
Alan Dodd, City of Fort Lauderdale,
Miguel Arroyo, City of Fort Lauderdale,
Talal Abi-Karam, City of Fort Lauderdale,
Vivana Useche, DEP SED,
Jacob Stevens, DEP SED,
Jena Seidemann, DEP SED,

Lea.Crandall@dep.state.fl.us
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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

Noah Valenstein
Secretary

July 24, 2020

Chris Lagerbloom, City Manager
City of Fort Lauderdale
100 N. Andrews Ave.
Fort Lauderdale, FL 33301
clagerbloom@fortlauderdale.gov

Re: City of Fort Lauderdale Public Water System
PW Facility ID #4060486
OGC Case #19-1637

Dear Mr. Lagerbloom:

Enclosed is the executed Consent Order to resolve the above referenced case. This copy is for your records. Please be mindful of all required deadlines within the Order to ensure compliance.

Should you have any questions or comments, please contact Zach Shulman at 561-681-6623 or via e-mail at Zachary.Shulman@floridadep.gov.

Your cooperation in this matter will be appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Andreotta", is written over a horizontal line.

Jason Andreotta
Director, Southeast District
Florida Department of Environmental Protection

Enclosure

ec: Lea Crandall, OGC Lea.Crandall@dep.state.fl.us
Raj Verma, Public Works Director rverma@fortlauderdale.gov
Alain Boileau, City Attorney aboileau@fortlauderdale.gov
Rick Johnson, Utilities Manager rjohnson@fortlauderdale.gov
Fred Aschauer, Attorney faschauer@llw-law.com

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	SOUTHEAST DISTRICT
)	
v.)	OGC FILE NO. 19-1637
)	
CITY OF FORT LAUDERDALE)	
)	
_____)	

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and the City of Fort Lauderdale (“Respondent”) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent neither admits nor denies the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s water resources and to administer and enforce the provisions of the Florida Safe Drinking Water Act, Sections 403.850, et seq., Florida Statutes (“F.S.”), and the rules promulgated and authorized in Title 62, Florida Administrative Code (“F.A.C.”). The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is a municipal corporation in the State of Florida and a person within the meaning of Section 403.031(5), F.S.
3. Respondent is the owner and is responsible for the operation of the City of Fort Lauderdale’s Community Water System, PWS No. 4060486, located at 4321 NW 9th Avenue, in Broward County, Florida (“System”).
4. The Department finds that the following violations occurred:
 - a) Respondent failed to properly exercise/maintain isolation valves in accordance with equipment’s manufacturing guideline or the System’s preventative maintenance program, in violation of sub-section 62-555.350(2), F.A.C. Specifically, on July 17th, 2019, a source water main break of the public water system occurred that led to the issuance of a city-wide boil water notice. Review of the incident report concluded that Respondent was unable to quickly isolate

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the damage and redirect flow. Inaccurate maps of valve locations contributed to the extended time it took to correct in addition to isolation valves not being properly exercised/maintained.

b) Respondent failed to submit notifications to the Department following events that required the issuance of a boil water notice, in violation of subsection 62- 555.350(10), F.A.C. Specifically, an office file review of other abnormal events concluded that from the time that the Department acquired regulatory jurisdiction of Broward County public water systems in 2018; there were a total of 3 events that required the issuance of a boil water notice where the Department received no notification. The events are as follows:

Date of Event	Location of Event	Population Impacted
February 13, 2019	NW 7 th Ave & NW 14 th Way	343 Service Connections
April 23, 2019	NE 6 th Ct (1942 NE 6 th Ct)	Greater than 200 Service Connections
December 27, 2019	Isle of Venice	Population Greater than 350

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

ORDERED:

5. Respondent shall comply with the following corrective actions within the stated time periods:

a) Within 60 days of the effective date of this Order, the Respondent shall submit a preventative maintenance plan to the Department for review that, at a minimum, exercises 100% of the source water line valves within the first year and 20% of the source water line valves annually thereafter, with the purpose of exercising all such source water line valves in a 5-year period. If the Department has any comments on the proposed plan, it will provide such comments within 15 days of receipt.

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b) Beginning no later than January 1, 2021, Respondent shall implement the preventative maintenance plan referenced in sub-paragraph 5(a) above.

c) Upon implementation of the preventative maintenance plan referenced in sub-paragraph 5(a) above, Respondent shall submit annual reports for 2 years to the Department showing the number of source water line valves exercised. Upon implementation of the maintenance plan, reports shall be submitted to the Department no later than 13 months for the first year, and no later than 25 months for the second year. The reports shall demonstrate that 100% of source water line valves were exercised within the first year of the preventative maintenance plan and at least 20% of source water line valves were exercised in the second year of the preventative maintenance plan. Consistent with its permit for the System, Respondent shall also maintain annual records on the number of exercised valves and have such records available for Department review upon request.

d) Within 60 days of the effective date of this Order, Respondent shall submit a plan for developing a complete map of the existing water supply network within the city's geographic boundaries, including all existing source and distribution mains, control valves, and directional flow routes, to the Department for review and comment. Mapping of the services lines may be accomplished through mapping of the meters/meter boxes. If the Department has any comments on the proposed plan, it will provide such comments within 30 days of receipt. Directional flows, including flows to any facility not belonging to the Respondent, will be shown on the maps. Inactive mains and related appurtenances with shut-off valves should be illustrated and highlighted to define their unique operational status. Maps will be maintained in such a manner that they can be accessed quickly and easily by maintenance and repair crews at all times and from multiple locations, to facilitate a prompt and efficient response to emergencies. As new construction is completed, the Respondent will incorporate as-built drawings of the new components into the maps.

e) Within 36 months of the effective date of this Order, the Respondent shall complete all mapping and certify to the Department in writing that mapping is complete in accordance with the terms of sub-paragraph 5(d) above.

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6. Notwithstanding any other time periods described above, Respondent shall complete all corrective actions required by paragraph 5 on or before August 1, 2023 and be in full compliance with chapter 62-555, F.A.C., other than those excused delays agreed to by Parties, as described in Paragraph 12.

7. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$ 19,099.65 in settlement of the regulatory matters addressed in this Order. This amount includes \$ 5,000.00 for civil penalties, \$ 13,599.65 for a delayed economic benefit and \$ 500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The civil penalties are apportioned as follows: \$ 1,000.00 for each of the three water main breaks that were not reported to the Department, \$ 1,000.00 for a failure to maintain or update system maps and the preventative maintenance program; and \$ 1,000.00 for failure to adequately respond to an emergency.

8. 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 becomes final, effective and filed with the Clerk of the Department before ability to make online payment is available.

9. In lieu of making the cash payment of \$ 19,099.65 in civil penalties as set forth in paragraph 7 above, Respondent has elected to off-set this amount by implementing an in-kind penalty project, which has been approved by the Department. The proposed in-kind project attached hereto and incorporated herein as "Exhibit B" has been approved by the Department and involves the construction of 1,100 feet of exfiltration trench for flood mitigation within Hector Park at an estimated cost of \$ 600,000.00, which is at least one and a half times the civil penalty established in paragraph 7 of this Order. Notwithstanding the election to implement an in-kind project, payment of the remaining \$500.00 in costs must be paid within 30 days of

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the effective date of the Consent Order. Respondent shall comply with all the requirements and time frames in Exhibit A entitled In-Kind Projects.

10. Except as otherwise provided, all submittals and payments required by this Order shall be sent to the Department of Environmental Protection, Southeast District, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406 or via e-mail at SED.Drinkingwater@FloridaDEP.gov , attention Zach Shulman.

11. Respondent shall allow all authorized representatives of the Department access to the System at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

12. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph

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in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

13. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

14. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

15. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

16. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation, and criminal penalties.

17. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, F.S., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, F.S.

18. 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.

19. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, F.S. Failure to comply with the

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terms of this Order constitutes a violation of section 403.161(1)(b), F.S.

20. This Consent Order is a final order of the Department pursuant to section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF CONSENT ORDER

Persons who are not parties to this Consent 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 Consent Order means that the Department's final action may be different from the position it has taken in the Consent Order.

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

- a) The OGC Number assigned to this Consent 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 Consent Order;
- d) A statement of when and how the petitioner received notice of the Consent 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 Consent Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Consent Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action

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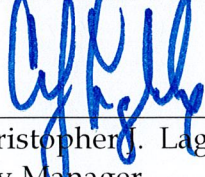
petitioner wishes the Department to take with respect to the Consent Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, 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 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406. 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. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

21. Rules referenced in this Order are available at

<http://www.dep.state.fl.us/legal/Rules/rulelist.htm>

FOR THE RESPONDENT:



Christopher J. Lagerbloom
City Manager

0721 2020
Date

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DONE AND ORDERED this 24th day of July, 2020, in Orange 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

July 24, 2020
Date

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35

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Exhibit A

In-Kind Projects

I. Proposal

a. Within 180 days of the effective day of this Order or in accordance with the approved schedule submitted, Respondent shall complete the entire in-kind project.

b. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

c. In the event Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$19,099.65 penalty, no additional penalties shall be assessed under paragraph 9 for failure to complete the requirement of this paragraph.

d. Within 15 days of completing the in-kind project, Respondent shall notify the Department, by electronic mail, of the project completion and request a verification letter from the Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

e. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified,

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in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalty shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$19,099.65, no additional penalties shall be assessed under paragraph 9 for failure to complete the requirements of this paragraph.

Exhibit B

In-kind Project, Proposed Consent Order, OGC Case # 19-1637

City of Fort Lauderdale

The City is proposing the following stormwater water quality improvements as an in-kind project required in the proposed consent order, OGC Case #19-1637.

The prospective project lies in the area bounded by Ponce de Leon Drive on the north, SE 11th Street on the south and east and SE 9th Avenue on the west. Within this area lies a small neighborhood park, called Hector Park. The topography of this area is like a bowl with high water table conditions. The neighborhood is old and is built upon predominantly fine sandy soils. With very little green area for retention, pollutants resulting from storm events are discharged directly into the Tarpon River. In December 2019, the City had two sewer force main breaks in the Rio-Vista neighborhood (in the vicinity of Hector Park) which spewed several million gallons of raw sewage into the Tarpon River.

Over the next six months, the City will complete installation of new wastewater pipes. Initially, it intended to restore the Hector Park to its original condition, clean the catchbasins and repave the streets. However, the City would be willing to include flood mitigation by creating approximately 1,100 feet of exfiltration trench at an estimated cost of \$600,000. This will not only minimize water logging in this low-lying area, it would also improve the water quality by trapping pollutants and sediments in the exfiltration system first before discharging into the Tarpon River. Additionally, this will improve our compliance with the NPDES permit.

If approved, staff will begin finalizing the construction plans and complete this work within 12 months of the project approval.

