

Memorandum



Date: July 10, 2007

To: Honorable Chairman Bruno A. Barriero and
Members, Board of County Commissioners

From: George M. Burgess
County Manager

Agenda Item No. 12B4

Subject: Authorized Negotiations and Settlements of Enforcement Actions of Violations against
Miami-Dade County resulting from the Operation of the County's Water and Sewer
System

On July 18, 2006, the Board of County Commissioners (Board) approved Resolution R-874-06 authorizing the County Manager or his designee to negotiate and settle enforcement actions or notices of violation less than \$10,000 brought against Miami-Dade County resulting from the operation of the County's water and sewer system. The resolution requires that these negotiations and settlements be presented to the Board for ratification.

Since the approval of Resolution R-874-06, the Miami-Dade Water and Sewer Department (MDWASD) has entered into two (2) settlements with the Florida Department of Environmental Protection (FDEP), requiring the payment of a total \$18,000 in penalties and expenses.

In the first settlement, Consent Order File Number OGC 06-2308, MDWASD agreed to pay \$9,000 in penalties plus \$500 for the administrative costs and expenses incurred by the FDEP, for a total of \$9,500. The settlement was for three (3) unauthorized discharges of wastewater from the sewage collection and transmission system that occurred on May 17, May 18, and June 13, 2006, as specified in the first paragraph of FDEP's Consent Order File Number 06-2308 letter dated January 17, 2007, as attached. One (1) discharge was caused by a grease blockage in a gravity sewer and the other two (2) discharges were the result of sewage force main breaks due to age related deterioration and external pipe damage that occurred either during the installation of the pipe or subsequent excavations.

In the second settlement, Consent Order File Number OGC 06-2309, MDWASD agreed to pay a total of \$8,000 in penalties plus \$500 for the administrative costs and expenses incurred by the FDEP, for a total of \$8,500. This settlement was for four (4) unauthorized discharges of wastewater from the sewage collection and transmission system that occurred on June 15, August 16, September 6, and October 13, 2006, as specified in the first paragraph of FDEP's Consent Order File Number 06-2309 letter dated January 17, 2007, as attached. Of the four (4) discharges, two (2) discharges took place near the small valves on sewage force mains, one break was caused by a pressure spike and the other by traffic vibration, the other two (2) discharges were sewage force main breaks discharges were sewage force main breaks caused by improper installation in 1988, before MDWASD assumed ownership of the system.

MDWASD will continue to keep the Board apprised of any other settlements of enforcement actions in the amount of \$10,000 or less brought against Miami-Dade County resulting from the operation of the County's water and sewer system.

A handwritten signature in black ink, appearing to read "G. Burgess", written over a horizontal line.

Assistant County Manager

FOR THE RESPONDENT:

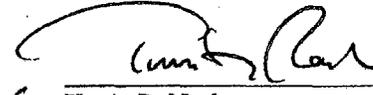
I, John Renfrow, on behalf of Miami-Dade Water and Sewer Department,

HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

FOR THE RESPONDENT:

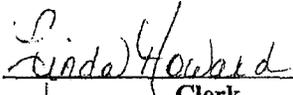
FOR THE DEPARTMENT:

By:  31 JAN 2007
Mr. John Renfrow, Director Date
Miami-Dade Water and Sewer Department


for Kevin R. Neal
District Director
Southeast District

DONE AND ENTERED this 9 day of FEBRUARY, 2007, in West Palm Beach, Florida.

FILED, on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.


Clerk
(B) AB
KRN/LAH/TRB/mp

2-12-07
Date

Attachment: Warning Letter #WL 06-0171 DW 13 SED

Copies furnished to:

Agustin Socarras, Miami-Dade County DERM
Mike Tanski, DEP / Tallahassee
David O'Brien, DEP / Tallahassee
Tim Powell, DEP / W.P.B.

SocarA@miamidade.gov
Mike.Tanski@dep.state.fl.us
David.O'Brien@dep.state.fl.us
Tim.Powell@dep.state.fl.us

NOTICE OF RIGHTS

Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and 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 named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.



Florida Department of Environmental Protection

Southeast District
400 N. Congress Avenue, Suite 200
West Palm Beach, Florida 33401

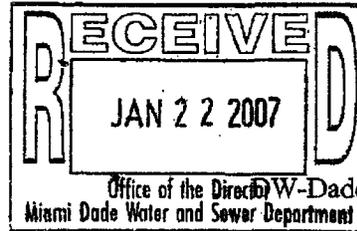
Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary-Designee

JAN 17 2007

CERTIFIED MAIL #7001 2510 006 1575 2329
RETURN RECEIPT REQUESTED



RECEIVED

FEB 02 2007

DEPT OF ENV PROTECTION
WEST PALM BEACH

Mr. John Renfrow, Director
Miami-Dade Water and Sewer Department
P.O. Box 330316
Miami, Florida 33233-0316

SUBJECT: Proposed Settlement of DEP vs. Miami-Dade Water and Sewer Department
OGC No. 06-2309

Dear Mr. Renfrow:

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter dated September 29, 2006, a copy of which is attached, and the unauthorized discharge which occurred on October 13, 2006, which was discussed during a teleconference meeting between M-D WASD staff and Department staff conducted on October 19, 2006. The corrective actions required to bring your facility into compliance have been performed. The Department finds that you are in violation of the rules and statutes cited in the attached Warning Letter. In order to resolve the matter regarding the unauthorized wastewater discharges which occurred on June 15, August 16, September 6, and October 13, 2006, you are assessed civil penalties in the amount of \$8,000.00, along with \$500.00 to reimburse the Department costs, for a total of \$8,500.00.

The Department acknowledges that the payment of these civil penalties by you does not constitute an admission of liability. This payment must be made payable to the Department of Environmental Protection by cashier's check or money order and shall include the OGC File Number assigned above and the notation "Ecosystems Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, Water Facilities Compliance/Enforcement, 400 North Congress Ave., Suite 200, West Palm Beach, Florida, 33401, within 30 days of the execution of this letter.

Your signing this letter constitutes your acceptance of the Department's offer to resolve this matter on these terms. If you elect to sign this letter, please return it to the Department at the address indicated above. The Department will then countersign the letter and file it with the Clerk of the Department. When the signed letter is filed with the Clerk, the letter shall constitute final agency action of the Department which shall be enforceable pursuant to Section 120.69 and 403.121, Florida Statutes.

If you do not sign and return this letter to the Department at the District address within 15 days of your receipt of this letter, the Department will assume that you are not interested in settling this matter on the above described terms, and will proceed accordingly. None of your rights or substantial interests are determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,

for Kevin R. Neal
District Director
Southeast District

Date

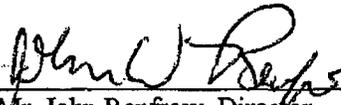
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FOR THE RESPONDENT:

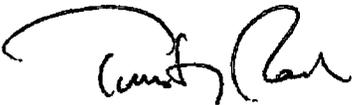
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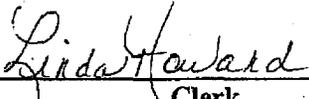
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for Kevin R. Neal
District Director
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 - Mike Tanski, DEP / Tallahassee Mike.Tanski@dep.state.fl.us
 - David O'Brien, DEP / Tallahassee David.O'Brien@dep.state.fl.us
 - Tim Powell, DEP / W.P.B. Tim.Powell@dep.state.fl.us

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