



Florida Department of Environmental Protection

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DEP #16-0894

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Jonathan P. Steverson
Secretary

FINAL ORDER GRANTING VARIANCE

PETITIONER:

City of Punta Gorda
326 West Marion Avenue
Punta Gorda, Florida 33950

PROJECT INFORMATION:

Project Name: Drinking Water TDS Variance
PA File No.: 303487-002-WC/V1
OGC File No.: 16-0202
PWS ID: 6080051
County: Charlotte

FINAL ORDER BY THE DEPARTMENT:

The Department of Environmental Protection (Department) hereby grants, to the City of Punta Gorda (City), a variance from the requirements of Rule 62-550.320, Florida Administrative Code (F.A.C.), in accordance with Rule 62-560.510, F.A.C.

This variance allows the City of Punta Gorda's Shell Creek Drinking Water Treatment Plant, a community public water system, to exceed the Total Dissolved Solids (TDS) secondary maximum contaminant level (MCL) of 500 milligrams per liter (mg/L) for the drinking water that it distributes to the City's customers. The Department hereby establishes an alternative TDS MCL of 1,000 mg/L. This variance is valid for five years and expires on August 15, 2021.

Findings of Fact

After reviewing the Petition for Variance and the administrative record, the Department concluded the Petitioner provided reasonable assurance of compliance with the requirements for a variance from a MCL that are listed in Rule 62-560.510(2) and (3), F.A.C.

1. The Department finds that the requested variance will not result in an unreasonable risk to the health of persons served by the public water system because TDS is a secondary drinking water contaminant and no adverse health effects are generally associated with secondary drinking water contaminants. The alternative TDS MCL of 1,000 mg/L will not pose an unreasonable health risk.
2. The Petitioner intends to install reverse osmosis treatment to lower TDS, scheduled to be completed in June 2019. The Department finds that reverse osmosis treatment is effective in lowering TDS.
3. The Department finds that alternative sources of water are not reasonably available. The City evaluated alternative source water and interconnection with the Peace River

Manasota Water Supply Authority in a Water Supply Study. The Water Supply Study determined that construction of a reverse osmosis treatment plant to produce blend water to meet the TDS MCL was the only alternative option that would be able to meet the TDS MCL 100% of the time.

Notice of Rights

Notice of receipt of the Petition for Variance was published in the Florida Administrative Register on May 16, 2016, Vol./No. 42/95. No comments have been received.

On July 1, 2016, the Department issued a NOTICE OF INTENT TO GRANT VARIANCE to notify the City of the Department's proposed agency action and of its right to a hearing pursuant to Sections 120.569 and 120.57, F.S. On July 8, 2016, notice was given in the Charlotte Sun newspaper, and on July 13, 2016, notice was given in the Florida Administrative Register, Vol./No. 42/135, informing the public of the Department's intended action and offering an opportunity for hearing pursuant to Sections 120.569 and 120.57, F.S. No comments nor petitions have been received.

The Petitioner and interested parties having been advised of their rights under Chapter 120, F.S., and having failed or declined to file a Petition pursuant to Sections 120.569 and 120.57, F.S., are hereby deemed to have waived those rights.

Acceptance of the variance constitutes notice and agreement that the Department will periodically review this variance for compliance, including site inspections where applicable, and may initiate enforcement action for violation of the conditions and requirements thereof. It is therefore:

ORDERED that the Petition for Variance be and is hereby granted, subject to the following eight conditions:

1. This variance is valid for five years and expires on August 15, 2021.
2. While this variance is valid, the TDS concentration of the drinking water distributed to the City's customers from the City of Punta Gorda's Shell Creek Drinking Water Treatment Plant shall not exceed 1,000.0 mg/L. During this time, the City shall utilize any reasonable means that are reasonably available to try to comply with the TDS MCL of 500 mg/L established by Rule 62-550.320, F.A.C., for drinking water distributed to the City's customers.
3. After this variance has expired, the TDS concentration of the drinking water distributed to the City's customers shall not exceed 500 mg/L. [Rule 62-550.320, F.A.C.].
4. In accordance with Rule 62-560.510(8), F.A.C., the City shall give public notice consistent with the method of delivery requirements of Rule 62-560.410(3), F.A.C., within 30 days of being granted this variance, and shall repeat the public notice every 3 months while the variance is in effect. The notice shall contain: (a) an explanation of the reason(s) for the variance; (b) the date on which the variance was issued; (c) a brief status report on the steps the system is taking to install treatment, find alternative sources of

water, or otherwise comply with the terms of the variance; (d) a notice of any opportunity for public input in the review of the variance; and (e) the name, business address, and phone number of the water system owner, operator or designee of the public water system as a source of additional information concerning the notice. The City shall provide proof of public notification using DEP Form 62-555.900(22) to the Department postmarked (or preferably electronically submitted to SouthDistrict@dep.state.fl.us) by no later than the 10th day following the end of each calendar quarter for as long as the variance remains in effect.

5. The City shall include any and all exceedances of the MCL of 500 mg/L for Total Dissolved Solids in the Consumer Confidence Report (CCR) for all customers served in accordance with the requirements of Rule 62-550.824, F.A.C. The City may include reference to this variance in the CCR as a mitigating factor.
6. The City shall sample the finished water monthly from its water treatment plant for Total Dissolved Solids and report the results in an annual report for the life of this variance. The City shall provide an annual report to the Department, not later than January 31, of the following year. The report shall include a trend analysis, including an estimate for anticipated future results. The report shall include a summary of all customer complaints that could be reasonably attributed to the elevated total dissolved solids levels. The City must also include a growth and demand projection in the annual report.
7. This variance does not relieve the City from liability for harm or injury to human health or welfare, animal, or plant life, or property, or from penalties therefore; nor does it allow pollution in contravention of Florida Statutes or Department rules.
8. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department.

Any Party to this Order has the right to seek judicial review of the Order Pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of the Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, 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 of Appeal must be filed within 30 days from the date this Order is filed with the clerk of the Department.

DONE AND ORDERED this 16th day of August, 2016, in Lee County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jon M. Iglehart
Director of District Management

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this Final Order Granting Variance, including all copies, were emailed before the close of business on August 16, 2016, to the listed persons below.

FILING AND ACKNOWLEDGMENT FILED, on this date, pursuant to s. 120.52(7), Florida Statutes, with the designated Agency Clerk, receipt of which is hereby acknowledged.

Mandakini Patel
Clerk

August 16, 2016
Date

JMI/GM/

Copies furnished to:

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