

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 19, 2016
TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Kelley F. Corbari, Senior Attorney, Office of the General Counsel *KFC*
RE: **Docket No. 140220-WU** – Application for staff-assisted rate case in Polk County by Sunrise Utilities, LLC.

Attached please find a copy of a Consent Order executed by Sunrise Utilities, LLC with the Polk County Health Department (o/b/o Department of Environmental Protection). Please file the attached in the documents tab of the docket file.

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to contact me.

KFC

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2016 JAN 19 AM 9:58
COMMISSION
CLERK

Kelley Corbari

From: Reis, Roland <Roland.Reis@flhealth.gov>
Sent: Thursday, January 14, 2016 2:50 PM
To: Kelley Corbari; roth.danielle@leg.state.fl.us
Cc: Collazo Alicea, Beatriz
Subject: Sunrise Utilities / Leslie Szabo
Attachments: 16-01-14 CO.pdf

Ms. Corbari and Ms. Roth,

Sorry I did not get a chance to touch base with either of you earlier today. Attached is the Consent Order, though it is still missing one signature.

Please feel free to call if you would like to discuss...

Regards,

Roland Reis, Chief Legal Counsel
Department of Health
1290 Golfview Ave., 4th Floor
Bartow, FL 33830
Tel. (863) 519-7900, ext. 11005
Fax. (863) 519-7626
Email: Roland.Reis@flhealth.gov

**BEFORE THE FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

**FLORIDA DEPARTMENT OF HEALTH IN
POLK COUNTY**

**IN THE OFFICE OF THE
SOUTHWEST DISTRICT**

Complainant,

OGC CASE NO. 15-653PW1739

Vs.

**Leslie Szabo
Sunrise Utilities, LLC
P.O. Box 2608
Eaton Park, FL 33840**

Respondent.

CONSENT ORDER

This Consent Order is made and entered into between the Florida Department of Health in Polk County ("Department"), and Sunrise Utilities, LLC – Leslie Szabo ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

1. The Department, pursuant to Interagency Agreement with the Department of Environmental Protection (DEP), is the administrative agency of the State of Florida charged with the duty to administer and enforce the provisions of the Florida Safe Drinking Water Act, Sections 403.850, et seq., Florida Statutes, and the rules promulgated thereunder, Florida Administrative Code Title 62, within Polk County, Florida. The Department has jurisdiction over the matters addressed in this Consent Order.
2. Respondent is a person within the meaning of Section 403.852(5), Florida Statutes.
3. Respondent is owner of a Community Public Water System located in Auburndale, Polk County, Florida.
4. Respondent failed to abrasively blast clean and recoat the interior of the drinking-water storage tank, with an NSF-approved interior coating system for potable water. Typical coating systems are detailed in AWWA D102. These repairs were noted under recommendations of The Colinas Group, Inc. Tank Inspection dated December 13, 2012 which concluded that the tank would have to be cleaned and recoated within 36 months of the inspection date. In accordance with Chapter 62-555.350(2) of the Florida Administrative Code (F.A.C.), suppliers of water shall keep all necessary public water components in operation and shall maintain such components in good operating condition so as the components function as intended.

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Respondent (Sunrise Utilities, LLC – Leslie Szabo) and the Department met on January 14, 2016 at the Florida Department of Health in Polk County, Bartow and reached resolution of the matter, pursuant to Florida Administrative Code Rule 62-103.110(3) (F.A.C.). Respondent and the Department mutually agree and it is

ORDERED:

5. Respondent shall submit to the Department a copy of the completion report noting the tanks interior has been abrasively blast cleaned and recoated as identified above. The tank shall be inspected on or before the 5 year anniversary of the last inspection which in December 13, 2017.
6. The fine and administrative costs associated with this violation shall be based on the date of the completion report for the tank repairs, according to the following schedule:

Date	Fine	Admin Cost
1/14/16 – 2/28/16	\$0.00	\$250.00
3/1/16 – 4/30/16	\$250.00	\$275.00
5/1/16 – 6/30/16	\$500.00	\$300.00
7/1/16 – 8/31/16	\$750.00	\$325.00
9/1/16 – 10/31/16	\$1000.00	\$350.00
11/1/16 – 12/31/16	\$1250.00	\$375.00
1/1/17 – Thereafter	\$2500.00	\$500.00

7. Thirty days (30) after the tank interior has been abrasively blast cleaned and recoated as executed in this Consent Order, Respondent shall pay the Department stipulated fines and administrative cost as outlined in the above table. These amounts include civil penalties for alleged violations of Section 403.859, Florida Statutes, and of the Department's rules for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. Payment shall be made by check or money order. The instrument shall be made payable to the Florida Department of Health in Polk County and shall include thereon the OGC number assigned to this Consent Order. The payment shall be sent to the Florida Department of Health in Polk County, 2090 East Clower Street, Bartow, Florida 33830.
8. Entry of this Consent Order does not relieve Respondent of the need to comply with the applicable federal, state or local laws, regulations or ordinances.
9. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Section 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.859, Florida Statutes.
10. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties of up to \$5,000.00 per offense, and criminal penalties.
11. Respondent shall allow all authorized representatives of the Department access to the property and plant at reasonable times for the purpose of determining compliance with this Consent Order and the rules of the Department.

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12. All plans, applications, penalties, costs and expenses, and information required by this Consent Order to be submitted to the Department should be sent to the Florida Department of Health in Polk County, 2090 East Clower Street, Bartow, Florida.
13. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.
14. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations outlined in this Consent Order. Respondent acknowledges but waives the right to an administrative hearing pursuant to Section 120.57 Florida Statutes, on the terms of this Consent Order. Respondent acknowledges the right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, but waives that right upon signing this Consent Order.
15. The provisions of this Consent Order shall apply to and be binding upon the parties, their officers, their directors, agents, servants, employees, successors, and assigns and all persons, firms and corporations acting under, through or for them and upon those persons, firms and corporations in active concert or participation with them.
16. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent and the Department.
17. If all of the requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 14 days prior to a sale or conveyance of the property, (1) notify the Department of such sale or conveyance, and (2) provide a copy of this Consent Order with all attachments to the new owner.
18. This Consent Order is a settlement of the Department's civil and administrative authority arising from Chapters 403 and 376, Florida Statutes, to pursue the allegations addressed herein. This Consent Order does not address settlement of any criminal liabilities which may arise from Sections 403.161(3) through (5), 403.413(5), 403.727(3)(b), 376.302(3) and (4), or 376.3071(10), Florida Law, nor does it address settlement of any violation which may be prosecuted criminally or civilly under federal law.
19. This Consent Order is final agency action of the Department pursuant to Section 120.69, Florida Statutes, and Florida Administrative Code Rule 62-103.110 (3), and it is final and effective on the date filed with Clerk of the Department of Environmental Protection, unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

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 Section 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 of Environmental Protection, Office of General

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Counsel, 2600 Blair Stone Road, Tallahassee, Florida, 32399-2400, 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 Section 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 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 final action of the Department of Environmental Protection 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 of Environmental Protection. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 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 60Q-2.010, Florida Administrative Code.

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FOR THE RESPONDENTS:

I, on behalf of Sunrise Utilities, LLC, HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

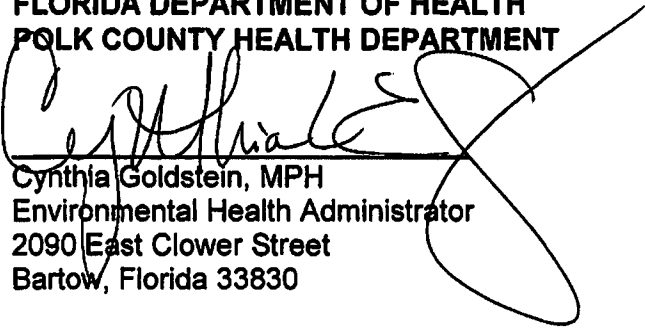
Signature: 

Print Name: ROLAND REIS

Date: 14 JAN 2016

DONE AND ORDERED this 14th day of January, 2016, in Bartow, Florida

**FLORIDA DEPARTMENT OF HEALTH
POLK COUNTY HEALTH DEPARTMENT**


Cynthia Goldstein, MPH
Environmental Health Administrator
2090 East Clower Street
Bartow, Florida 33830

Joy L. Jackson, MD, Director
Florida Department of Health in Polk County
1290 Golfview Avenue 4th Floor
Bartow, Florida 33830

FILED AND ACKNOWLEDGED this ___ day of _____, 2016.

Owen Devine
Environmental Specialist II

Copy furnished to:

Roland Reis, Chief Legal Counsel
Polk County Health Department
1290 Golfview Avenue, 4th floor
Bartow, Florida 33830