



**AGENDA REPORT  
May 7, 2019**

**Legislative Intent and Permission to Advertise Amendment to modify  
Ordinance 99-17, Section 1 which sets forth the boundaries of the Barefoot  
Bay Water and Sewer District**

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**SUBJECT:**

Legislative Intent and Permission to Advertise a Public Hearing for an Amendment to modify Section 1 of Ordinance 99-17, and as subsequently amended, which sets forth the Barefoot Bay Water and Sewer District Boundary to include property owned by River Groves Mobile Home Village I & II. (District 3)

**FISCAL IMPACT:**

Cost of advertising and certifying of ordinance

**DEPT/OFFICE:**

Utility Services

**REQUESTED ACTION:**

It is requested that the Board of County Commissioners approve legislative intent and grant permission to advertise a Public Hearing for an amendment of Ordinance 99-17, and as subsequently amended, which sets forth the boundaries of the Barefoot Bay Water & Sewer District to include property owned by River Groves Mobile Home Village I & II.

**SUMMARY EXPLANATION and BACKGROUND:**

Ordinance 99-17, and as subsequently amended, established the Barefoot Bay Water and Sewer District as a Dependent Special District under Chapters 153 and 189, Florida Statutes. Section 1 of the Ordinance sets forth the boundary of the District.

Richard Bass, Utility Director of River Grove Mobile Home Village I & II, has requested that they be eligible to receive water service from the District. The basis of their request is due to the poor water condition provided by their current water system. The FDEP has issued a consent order (OGC No. 15-0211) which includes that River Grove Mobile Village I & II connect to the Barefoot Bay water system. The Barefoot Bay water system has capacity to include them into the District.

All customers receiving service from the District must be included within the boundaries of the District. A sketch of the proposed property, River Grove's request and FDEP Consent Order are attached. This amendment would allow River Groves Mobile Home Village to construct a water main to the nearest connection point within the current Barefoot Bay

Water and Sewer District.

Contact: Edward Fontanin, PE, Utility Services Director, 321-633-2091,  
Edward.fontanin@brevardfl.gov

**CLERK TO THE BOARD INSTRUCTIONS:**

Please e-mail Clerk Memo to [rose.lyons@brevardfl.gov](mailto:rose.lyons@brevardfl.gov) as soon as possible to advertise ordinance. Thank you!

**ATTACHMENTS:**

**Description**

- ▣ **River Grove Mobile Home Village Water Request**
- ▣ **FDEP River Grove Consent Order**
- ▣ **Revised map**



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

May 8, 2019

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

TO: Edward Fontanin, Utility Services Director

RE: Item J.1., Legislative Intent and Permission to Advertise Amendment to Modify Ordinance 99-17, Section 1 Which Sets Forth the Boundaries of the Barefoot Bay Water and Sewer District

The Board of County Commissioners, in regular session on May 7, 2019, approved legislative intent and granted permission to advertise for a public hearing for an amendment to Ordinance 99-17, and as subsequently amended, which sets forth the boundaries of the Barefoot Bay Water and Sewer District to include property owned by River Groves Mobile Home Village I & II.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*

Tammy Rowe, Deputy Clerk

/cmw

cc: County Attorney

**RIVER GROVE MOBILE HOME VILLAGE I & II**  
8440 U.S. Hwy 1, Micco, Florida 32976  
Phone: (772) 664-4560  
Fax: (772) 664-6840

April 1, 2019

Edward Fontanin, P.E.  
Utility Services Director  
Brevard County Utility Services  
2725 Judge Fran Jamieson Way  
Bldg. "A", Suite 213  
Viera, Florida 32940

Re: River Grove Water Connection

Mr. Fontanin

River Grove Mobile Home Village I & II is requesting to be incorporated into the Barefoot Bay Water/Sewer District in order to provide water service to our project.

Thank you

*Richard Bass*  
Richard Bass, Utility Director

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## Florida Department of Environmental Protection

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

Rick Scott  
Governor

Carlos Lopez-Cantera  
Lt. Governor

Jonathan P. Steverson  
Secretary

July 1, 2016

Stephen Douglas, Director  
River Grove Mobile Home Village, Inc.  
8440 S. U.S. Highway 1  
Micco, FL 32976  
[rivergrovevillage@att.net](mailto:rivergrovevillage@att.net)

Re: River Grove Mobile Home Village  
PW Facility ID #3054057  
OGC Case #15-0211

Dear Mr. Douglas:

Enclosed is the executed Consent Order to resolve the above referenced case. This copy is for your records.

Should you have any questions or comments, please contact Patrick Farris at 407-897-4137 or via e-mail at [Patrick.Farris@dep.state.fl.us](mailto:Patrick.Farris@dep.state.fl.us).

Your cooperation in this matter will be appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jeff Prather".

(on behalf of)

Jeff Prather  
Director, Central District

Enclosure

cc: Lea Crandall, OGC  
Kris Tulloch, Central District  
Caroline Shine, Central District  
Richard Bass, [rbass5992@gmail.com](mailto:rbass5992@gmail.com)  
Sterling Carroll, [sterling.carroll@frwa.net](mailto:sterling.carroll@frwa.net)  
Moises Villalpando, [moises.villalpando@frwa.net](mailto:moises.villalpando@frwa.net)

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT	)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION	)	CENTRAL DISTRICT
	)	
v.	)	OGC FILE NO. 15-0211
	)	
RIVER GROVE MOBILE HOME	)	
VILLAGE, INC	)	
_____	)	

**FIRST AMENDED CONSENT ORDER**

This Consent Order ("Order") is entered into between the State of Florida Department of Environmental Protection ("Department") and River Grove Mobile Home Village, Inc. ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent. This Order replaces and supersedes the Consent Order entered into between the Department and Respondent in OGC File No. 15-0211 on June 4, 2015.

The Department finds and Respondent admits 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 person within the meaning of Section 403.852(5), F.S.
3. Respondent is the owner of a community water system ("CWS"), PWS No. 3054057, located at 8440 South U.S. Highway 1, Micco, FL 32976, in Brevard County, Florida ("System").
4. The Department finds that the following violation(s) occurred:
  - a) Respondent is in violation of Rule 62-550.310(3), F.A.C, which establishes the maximum contaminant level ("MCL") for total trihalomethanes ("TTHMs") as 0.080 milligrams per liter ("mg/L"). The locational running annual average ("LRAA") results for samples collected from the System

on August 22, 2014, November 14, 2014 and February 25, 2015, and analyzed for TTHMs are 0.099 mg/L, 0.117 mg/L, and 0.130 mg/L, respectively.

- b) Respondent is in violation of Rule 62-550.320(3), F.A.C, which establishes the secondary maximum contaminant level ("SMCL") for Color as 15 color units and Total Dissolved Solids ("TDS") as 500 mg/L. The results for samples collected from the System on February 25, 2015 and analyzed for Color and TDS are 40 color units and 520 mg/L, respectively.
- c) Respondent is in violation of Rule 62-555.320(14), F.A.C, which requires a CWS to provide standby power capable of automatically starting and transferring electrical loads and to provide an audio-visual alarm system that is activated in the event any power source fails. On January 21, 2015, the System did not have standby power capable of starting automatically or automatically transferring the electrical loads. In addition, the System did not have an audio-visual alarm system that is activated in the event any power source fails.

5. The Department finds that Respondent retained the services of a professional engineer registered in the State of Florida, and on February 26, 2016, submitted a letter of intent to install a potable water interconnect with Brevard County Barefoot Bay Potable Water System (PWS No. 3050057) and abandon the Respondent's public water system.

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

**ORDERED:**

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

- a) Within 90 days of the effective date of this Order, Respondent shall retain the services of a professional engineer, registered in the State of Florida, to submit an

application, along with any required application fees, to the Department for a permit to construct and install an interconnect to Brevard County Barefoot Bay Public Water System (PWS No. 3050057)

b) Within 18 months of issuance of the required permits described in subparagraph 6(a) above, Respondent shall complete construction and submit a Certification of Completion for permitted modifications made pursuant to subparagraph (6)(a), prepared and sealed by a professional engineer registered in the State of Florida. Respondent shall receive written Department clearance prior to placing the permitted system modifications made pursuant to subparagraph (6)(a)-into service.

c) Effective immediately, Respondent shall continue to maintain the automatic flushing valves in good working order and optimize the hydrogen peroxide injection system to reduce TTHMs below the LRAA MCL.

d) Effective immediately, Respondent shall continue to optimize the hydrogen peroxide injection and Granular Activated Carbon ("GAC") filtration to reduce TDS and color below their respective SMCLs.

e) If the Department requires additional information, modifications, or specifications to process the permit application described in subparagraph (6)(a) above, the Department will issue a written request for information ("RFI") to Respondent. Respondent shall submit the requested information in writing to the Department within 15 days of receipt of the request. Respondent shall provide all information requested in any additional RFIs issued by the Department within 15 days of receipt of each request. Within 60 days of the Department's receipt of the application described in subparagraph (6)(a) above, Respondent shall provide all information necessary to complete the application.

f) Within two calendar years of the effective date of this Order, Respondent shall complete all corrective actions necessary to resolve the MCL and SMCLs exceedances described above and properly abandon the existing water treatment plant and wells.

g) Respondent shall continue to sample quarterly for TTHMs and Haloacetic Acids 5 (HAA5s) in accordance with Rule 62-550.514(2)(b), F.A.C., until the locational running



annual average at each monitoring location is no more than 0.060 mg/L and 0.045 mg/L for TTHMs and HAA5s, respectively, for four consecutive quarters, at which time Respondent shall return to routine monitoring in accordance with 40 CFR 141.621 and Chapter 62-550, F.A.C. Respondent shall submit all sampling results to the Department within 10 days following the month in which the samples were taken or within 10 days following Respondent's receipt of the results, whichever is sooner.

h) Respondent shall continue to issue public notices regarding the MCL violation(s) described above every 90 days, as required by Rule 62-560.410(1), F.A.C., until the Department determines that the System is in compliance with all MCLs. Respondent shall submit certification of delivery of public notices, using DEP Form 62-555.900(22), F.A.C. to the Department within 10 days of issuing each public notice.

i) Respondent shall submit written quarterly updates on the status of the permitted modifications. Updates shall be submitted to the Department within 10 days following the end of each calendar quarter (January 10, April 10, July 10, October 10) until the modifications are complete and cleared for service.

7. Within 180 days of the effective date of this Order, Respondent shall submit a written estimate of the total cost of the corrective actions required by this Order to the Department. The written estimate shall identify the information the Respondent relied upon to provide the estimate.

8. Respondent agrees to pay the Department stipulated penalties in the amount of \$250 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph (6) of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment, and shall do so as further described in paragraph (9), below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order.

9. 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 and effective filed with the Clerk of the Department before ability to make online payment is available.

10. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Patrick Farris, Environmental Specialist III, Compliance Assurance Program, Department of Environmental Protection, Central District, 3319 Maguire Blvd, Suite 232, Orlando, FL 32803.

11. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property 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. In the event of a sale or conveyance of the System or of the property upon which the System is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the System or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the System, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the System. The sale or conveyance of the System or the property does not relieve Respondent of the obligations imposed in this Order.

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

14. 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.

15. 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.

16. 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.

17. 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 \$5,000.00 per day per violation, and criminal penalties.

18. 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.

19. 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.

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

21. 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.

22. 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 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 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 Department of Environmental Protection, Central District, 3319 Maguire Blvd, Suite 232, Orlando, FL 32803. 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.

23. Rules referenced in this Order are available at  
<http://www.dep.state.fl.us/legal/Rules/rulelist.htm>

FOR THE RESPONDENT:



Charles Stephen Douglas  
Director, Vice President

6-27-16  
Date

DONE AND ORDERED this 1st day of July, 2016, in Orlando, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



-(on behalf of)

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Jeff Prather  
District Director  
Central District

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk,  
receipt of which is hereby acknowledged.



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Clerk

7/1/2016  
Date

Copies furnished to:

Lea Crandall, Agency Clerk  
Mail Station 35

