


MEMORANDUM

To: Honorable Chair Leslie Curran and City Council Members

From:  Kim Streeter, Senior Assistant City Attorney

Re: Underground Injection Wells – Authorizing the Mayor to Execute the Fourth Amendment to Consent Orders

Date: February 8, 2010

The City operates a total of ten (10) Class I underground injection wells at its four (4) wastewater treatment facilities. These wells were first permitted by the Florida Department of Environmental Protection (“FDEP”) in the early 1980's and provide a backup disposal method to the City's reclaimed water system. Those permits authorized the City to inject treated effluent into a deep, underground saline aquifer that cannot be utilized for a potable water supply.

In 1991, FDEP notified the City that a technical violation of the Class I injection well rules was taking place because the injected water was migrating upward into an “underground source of drinking water” as defined by regulation. In actuality, there is no reliable source of drinking water in the vicinity of the injection wells. The City entered into Consent Orders with FDEP in 1995 allowing the continued operation of the injection wells while the City sought to reclassify the injection wells to Class V. Under the existing regulatory framework for Class V wells, the upward migration issue does not exist. Those Consent Orders, which authorized the use of Class I wells, initially expired on February 15, 2000. However, as provided for in the Consent Orders with FDEP, the City sought extensions to allow the continued operation of the injection wells. On December 27, 1999, FDEP approved the City's request and granted extensions to the Consent Orders until February 14, 2003. FDEP subsequently approved additional extensions of the Consent Orders to February 14, 2005.

FDEP did not act on the City's pending Class V permit applications (although the applications had been deemed complete), pending the adoption of proposed regulatory amendments to the Underground Injection Control rules by the Federal Environmental Protection Agency (“EPA”) that were expected to address the City's regulatory problem. A draft rule regarding Underground Injection programs in certain parts of Florida was published by EPA in 2000. Over the next several years, City representatives attended public hearings and provided comments to the draft rule, pointing out that the rule would not be applicable to the City or address the City's situation. The Consent Orders extensions permitted the City to continue to use the Injection Wells pending finalization of an EPA rule which would allow Class I Injection Wells to continue to operate even though there was upward migration of fluids into an underground source of drinking water. The EPA final rule was published November 22, 2005 and subsequently incorporated by reference into FDEP rules in 2006. Those rules allowed Class I Injection Wells experiencing upward migration of fluids to continue to operate provided certain treatment requirements were

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO ENTER INTO AMENDMENTS TO CONSENT ORDERS WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; AUTHORIZING THE CONTINUED USE OF INJECTION WELLS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 14, 1995 the City of St. Petersburg ("City") and the Florida Department of Environmental Protection ("FDEP") entered into Consent Orders authorizing the continued use of underground injection wells at the City's four (4) water reclamation facilities for a term of five (5) years; and

WHEREAS, those Consent Orders were extended for additional terms in 1999, 2003 and 2005; and

WHEREAS, those Consent Orders will expire on February 14, 2010; and

WHEREAS, the City has timely filed a request for additional extensions of the Consent Orders authorizing the continued use of the injection wells pending DEP action on the City's injection well permit applications; and

WHEREAS, FDEP has agreed to extend the Consent Orders in conjunction with the issuance of Class I Injection Well Permits in order to allow the City additional time to meet the regulatory criteria for Class I Injection Wells by extending Consent Order No. 92-0092 (SWWRF) until December 22, 2010, Consent Order No. 92-0090 (NWWRF) until July 16, 2011, Consent Order No. 92-0084 (NEWRF) until August 25, 2011, and Consent Order No. 92-0091 (AWWRF) until June 30, 2014.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of St. Petersburg that the Mayor or his designee is authorized to execute amendments to the Injection Well Consent Orders granting extensions of the Consent Orders and authorizing the continued operation of injection wells.

This Resolution shall become effective immediately upon adoption.

APPROVED AS TO FORM AND CONTENT:



City Attorney (Designee)