

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: August 10, 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 “Notice of Violation and Order for Corrective Action” issued to Sunrise Utilities, LLC by the Florida Department of Health – Polk County. Please file the attached document in the documents tab of the above-referenced docket file.

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

KFC

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts .



Rick Scott
Governor

Celeste Philip, MD, MPH
State Surgeon General

Vision: To be the Healthiest State in the Nation

August 9, 2016

SENT FEDEX TRACKING NO. 7769 5519 5199

NOTICE OF VIOLATION AND ORDER FOR CORRECTIVE ACTION

Stuart Sheldon, Registered Agent
Sunrise Utilities, LLC
20 W. Tropical Way
Fort Lauderdale, FL 33317

Re: Sunrise Utilities, LLC, PWS ID No. 6531739

Dear Mr. Sheldon and Mr. Szabo:

This letter is to advise you of multiple violations of the above-indicated drinking water system, which services a population of approximately 700 through approximately 258 active service connections, and the actions which must be undertaken to immediately address the problems at hand.

On July 19, 2016, the Department received notice, through complaints provided by customers of Sunrise Utilities, LLC, of interruptions in the drinking water supplies to the system. Upon investigation, it was discovered that the smaller hydropneumatic tank (Tank 1) of your public water system (PWS) developed a leak, specifically the 3000 gallon tank of your 9000 gallon, dual tank PWS.

This 3000 gallon tank had previously been due for maintenance (interior blast cleaning and recoating) no later than December, 2015. It has now come to the Department's attention, that the 6000 gallon hydropneumatic tank (Tank 2) was likewise overdue for maintenance (interior blast cleaning and recoating) over three years ago.

The leak or hole constitutes a significant material breach to the integrity of the tank, resulting in greatly reduced pressure within the system, and effectively discontinuing or intermittently disrupting the water supply to customers throughout the distribution system lines. In response to this breach and loss of pressure, you secured a welder to cover or patch the hole with a metal plate.

The repair problem was then compounded or complicated by the lack of bypass piping. As a result, in addition to the loss of pressure created by the hole, the PWS had to be shut down in its entirety while applying the patch.

Stuart Sheldon, Registered Agent
Leslie Szabo
August 9, 2016
Page 2

It is the Department's position that the breach caused by the hole created emergency or abnormal operating conditions, and that you were obligated to promptly notify the Department of the repair work you undertook to patch the hole and thereby keep water flowing to your customers. The Polk County Health Department is included on the Emergency Notification List of your Emergency Response Plan, however you failed to provide any such notice to the Department. The Department only found out about the breach and disruption of services through secondary sources.

The Department sent you a letter on August 2, 2016, demanding information on the welding work completed on Tank 1, no later than COB August 4, 2016. You contact us by phone on August 3rd and confirmed the welder you secured for the repair was not authorized by the National Board of Boiler and Pressure Vessel Inspectors (National Board) to repair pressurized vessels, as required by FAC Rules. When tank repairs are conducted by unauthorized workers, tanks lose their American Society of Mechanical Engineers (ASME) certifications, also required by FAC rules. Tank 1 must now be recertified in order to meet ASME standards.

Furthermore, you have failed to issue boil water notices according to Department of Health "Guidelines for the Issuance of Precautionary Boil Water Notices" as adopted in Rule 62-555.335, FAC. Guidelines call for Tier 1 media broadcast notices; reverse 911 calls; or individual door-to-door contact (e.g., doorknob notices). Boil water notices are particularly important for a PWS such as Sunrise, where individual home units lack backflow preventers. Boil water and recession notices were simply posted in a local convenience store to be disseminated by word of mouth. This is not satisfactory for Department or FAC purposes.

Subsequently, a second breach in the system occurred on July 20, 2016, when a resident broke a line while installing a fence. The breach occurred down one of the distribution lines, which extends from the 6000 gallon back-end tank (Tank 2). The repair was completed the following day; however, you again failed to properly contact or issue individual boil water notices to affected customers.

The Department had entered into a Consent Order with you on January 14, 2016, (Consent Order) finding you in violation of Department of Environmental Protection (DEP) Rules, and requiring you to complete Tank 1 maintenance as soon as possible, in the face of increasing monthly fines and costs.

As indicated in the Consent Order, the Department of Health has contracted with DEP to administer their drinking water programs in Polk County, and is thereby the state agency responsible for ensuring that these types of community drinking water systems are being operated correctly; that they are providing safe drinking water to all residences connected to the system; and that the system is properly maintained such that it does not pose any actual or potential health hazard.

The conditions and actions described above constitute violations of Rules 62.320, 62.330, 62.350, 62.520, 62.555 and 62-560, Florida Administrative Code (FAC), as outlined below:

- Tank 1 has a small hole, causing failure in the pneumatic air-tight seal. Rule 62-555.350(2), FAC, requires that all equipment be maintained in good operating condition.
- Repairs to the small hole on Tank 1 were completed by an unauthorized person or organization. Rule 62.555.330, FAC, *Recommended Standards for Water Works, 1997 Edition*, states that all hydropneumatic tanks must

Stuart Sheldon, Registered Agent

Leslie Szabo

August 9, 2016

Page 3

meet applicable ASME code requirements, and that repairs to hydropneumatic tanks can only be performed by an organization holding a National Board "R" stamp.

- Inadequate boil water and recession notices provided. Rule 62-555.350(11), FAC, requires boil water notices be issued when there are breaches and disruptions in the water supply, and that recession notices be provided once water supply and quality has been restored, according to Department of Health guidance provided in Rule 62-555.335(18), FAC.
- Sunrise failed to notify the Department of the hole in Tank 1, and consequent disruption of the PWS water supply. Rule 62-555.520(d), FAC, holds suppliers of water responsible for notifying the Department about emergency or abnormal operating conditions.
- Tank 2 has deteriorated and is overdue for maintenance (interior blast cleaning and recoating). Rule 62-555.350(2), FAC, requires that all equipment must be maintained in good operating condition. Tank 2 must be revamped to prevent further corrosion, or larger breakdowns as exemplified by Tank 1.

Not only did the Consent Order find you in violation of the Clean Water Act, it was also an opportunity for you to come into compliance with FAC requirements, before a structural failure of this type could occur with Tank 1. Incentives in the form of increasing fines over time were provided so you would take corrective action in the form of proactive maintenance of the holding tank as soon as possible. In addition to increasing the near term assurance of continuous and uninterrupted water supply to your customers, this maintenance requirement would also have had the effect of extending the functional use and life of the tank.

It may now be that this maintenance opportunity is no longer available as an option with Tank 1. External patches to pressurized water storage tanks are typically not an acceptable means of long-term maintenance, permanent repair, construction or alteration of any public water system storage component. With the breach and unauthorized repairs, interior blast cleaning and recoating of Tank 1 may not meet the operating standards required of Rule 62-555, FAC.

Whether the current tank can be salvaged can only be determined by a National Board authorized person or organization, or by a State of Florida licensed engineer. Please provide the Department with a report to this effect **no later than Thursday, August 18, 2016**. The Department is requiring you to take any and all actions necessary to bring Tank 1 into compliance **within the subsequent 30 days, or by September 18, 2016**.

Any repair would then need to be completed by a person or company authorized by the National Board. Please be advised that you must notify the Department of any tank replacements and provide the Department with the tank's specifications and/or a manufacturer's statement ensuring the tank meets ASME code requirements. A permit will be necessary if the replacement is not "like for like."

Meanwhile, you may want to consider installing bypass pipeline to your PWS, to allow for other regular and routine maintenance and repair of both tanks without service interruptions to your customers. Please recall that Tank 2 is also now three years overdue for cleaning and recoating. Rule 62-555.320(20), FAC, and Section 7.2 in *Recommended Standards for Water Works, 1997 Edition*, since 2003 have required that all new public water systems be constructed with bypass piping to allow operation of the system whenever tank repairs or painting is needed.

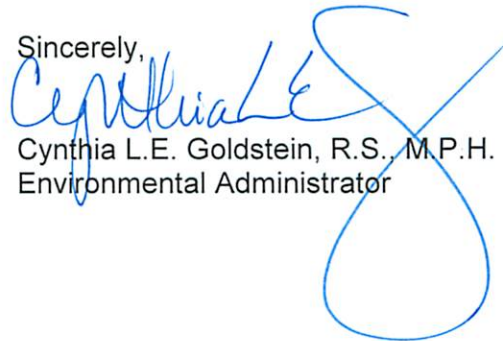
Stuart Sheldon, Registered Agent
Leslie Szabo
August 9, 2016
Page 4

Finally, when you take Tank 1 out of commission for inspection and/or repair and/or replacement, you will be required to notify the Department of the (temporary) decrease in your storage capacity.

Meanwhile, you will continue to be in noncompliance until all of these corrections have been completed. Your annual operating PWS license fee of \$700 is now past due as of July 1, 2016. In addition, the Department will expect some monetary settlement related to the Consent Order indicated above.

Please contact Gerald Robinson at (863) 519-8330, ext. 12135, to assist you in the application process and Ron Stadelbacher for boil water notices and operational issues. Failure to contact our office within 24 hours will result with enforcement, including fines, administrative complaints, and injunctive action.

Sincerely,



Cynthia L.E. Goldstein, R.S., M.P.H.
Environmental Administrator

dlb

- cc: Leslie Szabo
Sunrise Utilities, LLC
P.O. Box 2608
Eaton Park, FL 33840
Email: l.szabo@rogers.com
- cc: Kelley Corbari, Esquire
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Email: KCorbari@psc.state.fl.us
- cc: Danielle Roth
Office of the Public Counsel
Email: Roth.Danielle@leg.state.fl.us
- cc: Charles Murphy
Public Service Commission
Email: cmurphy@psc.state.fl.us
- cc: Jeffrey Lawson, Program Administrator
Department of Environmental Protection
Drinking Water and Aquifer Protection
Email: jeffrey.lawson@dep.state.fl.us
- cc: Ethan Mixon
2561 Edmond Circle
Auburndale, FL 33823
Email: eiriandwren@gmail.com