



Interoffice Memorandum

May 24, 2021

TO: Mayor Jerry Demings
-AND-
County Commissioners

FROM: Ed Torres, MS, PE, LEED AP, Director
Utilities Department

A handwritten signature in black ink, appearing to read "Ed Torres", with a date "5/24/21" written below it.

**SUBJECT: BCC Agenda Item – Consent Agenda
June 8, 2021 BCC Meeting
Consent Order
Department of Environmental Protection v. Orange County
Utilities Water Reclamation Division OGC File No.: 21-0209
OCUD/South WRF, FLA107972
Contact Person: Michael J. Hudkins, P. E., Manager
Water Reclamation Division
Utilities Department
(407) 254-9685**

Under Chapter 403, Florida Statutes, and Title 62, Florida Administrative Code, the Florida Department of Environmental Protection (FDEP) has jurisdiction over the operation of the County's water reclamation system. Pursuant to that authority, FDEP has initiated this Consent Order to provide for payment of civil penalties for an unauthorized public access reclaimed water discharge during the period of September 24, 2020 and September 30, 2020.

The 42-inch reclaim water transmission main from the County's South Water Reclamation Facility (SWRF), which is part of the Water Conserv II (WC II) system, experienced a pipeline failure on September 22, 2020, which resulted in an unauthorized reclaimed water discharge. The SWRF was able to discharge to other approved locations until September 24, 2020, when there were no other options except an unauthorized discharge to Shingle Creek. The emergency repair on the 42-inch WC II reclaimed water main was completed on September 30, 2020. The Consent Order requires the County to pay \$24,000 in civil penalties and \$500 for costs and expenses incurred for a total payment of \$24,500 for this unauthorized discharge.

It was established with FDEP that due diligence was provided in the operation and maintenance of the 42-inch reclaimed water transmission main and that the pipeline failure was beyond the reasonable control of the County. In lieu of making a cash payment of \$24,000 in civil penalties, OCU proposed to offset this amount by implementing and completing a FDEP-approved Pollution Prevention (P2) project. The P2 project will add four new electrical vehicle charging stations at County Utility Department sites. The County demonstrated that the P2 project was at least one and a half times the civil penalty off-set amount. The remaining \$500 in administrative costs must be paid within 30 days of the effective date of the Consent Order.



Interoffice Memorandum

June 8, 2021 BCC Meeting Consent Agenda – Department of Environmental Protection v.
Orange County Utilities Water Reclamation Division OGC File No.: 21-0209, Consent Order
May 24, 2021
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The County Attorney's Office has reviewed the Consent Order prepared by FDEP and has approved it as to form. Utilities Department staff has reviewed the Consent Order and recommends approval.

Action Requested: **Approval and execution of Florida Department of Environmental Protection v. Orange County Utilities Water Reclamation Division, OGC File No.: 21-0209 OCUD South WRF, No. FLA107972 Consent Order and authorization for the County Administrator to execute the Consent Order; approval of the P2 project adding four new electrical vehicle charging stations at County Utility Department sites; and authorization to pay costs and expenses in the amount of \$500.**

District 6.

BCC Mtg. Date: June 8, 2021



FLORIDA DEPARTMENT OF Environmental Protection

CENTRAL DISTRICT OFFICE
3319 MAGUIRE BLVD., SUITE 232
ORLANDO, FLORIDA 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

May 4, 2021

Orange County Utilities Water Reclamation Division
Byron Brooks, County Administrator
County Administrator's Office
County Administration Building, 5th Floor
201 S. Rosalind Avenue
Orlando, FL 32801-3527
michael.hudkins@ocfl.net

SUBJECT: Department of Environmental Protection v. Orange County Utilities
Water Reclamation Division, OGC File No.: 21-0209
OCUD/South WRF, FLA107972

Mr. Brooks:

The State of Florida Department of Environmental Protection ("Department") finds that Orange County Utilities Water Reclamation Division ("Respondent") had an unauthorized discharge of approximately 143,220,000 gallons of treated wastewater from September 24, 2021 to September 30, 2021 into Shingle Creek, in violation of Section 403.161, Florida Statute (F.S.) and Rule 62-620.300, Florida Administrative Code (F.A.C.). Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violation. These actions have since been completed. However, due to the nature of the violation, the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

The Department's Offer

Based on the violations described above, the Department is seeking \$24,000.00 in civil penalties and \$500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$ 24,500.00. The civil penalty in this matter includes one violation of \$2,000.00 or more.

However, in lieu of paying the full civil penalty, the Department has determined that \$24,000.00 of the civil penalty may be offset through implementation of the Pollution Prevention Project (P2 Project) described in the attached Exhibit. This amount is referred to as the "offset amount."

Respondent's Acceptance

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Department at Central District Office, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803 by **May 7, 2021**. The Department will then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

By accepting this offer you, Mr. Byron Brooks:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final; and
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.

The Department acknowledges that the Respondent's acceptance of this offer does not constitute an admission of liability for the violation(s) referenced above.

Respondent's Performance

After signing and returning this document to the Department,

- (1) Upon signing this letter, you must implement the P2 Project in accordance with the requirements identified in the attached Exhibit. You must begin the P2 Project within 30 days, and fully complete the P2 Project within 180 days of your signing this letter. Your failure to timely start or complete the P2 Project, or timely provide the Department with the Final Report, will cause the P2 Project option to be forfeited and the balance of the civil penalty shall be due within 10 days of notice from the Department.
- (2) Respondent shall pay \$500.00 within 30 days of the effective date of this Order.

- (3) 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" shall include the OGC Number assigned above 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 is final and effective to be filed with the Clerk of the Department before ability to make an online payment is available.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, F.S.

Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondent, whose interests will be substantially affected.

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.

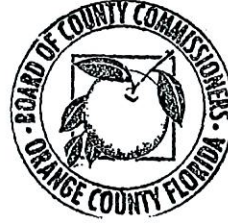
Please be aware that if the Respondent declines to respond to the Department's offer, the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

If you have any questions, please contact Jenny E. Farrell at 407-897-4173 or at jenny.e.farrell@dep.state.fl.us.

Sincerely,



Aaron Watkins
Director
Central District



FOR THE RESPONDENT:

I, Burton W. Brooks [Type or Print Name], HEREBY ACCEPT
THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By: Burton W. Brooks
[Signature]

Date: JUN 08 2021

Title: County Administrator
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 15 day of June, 2021, in Orange County,
Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

on behalf of

Aaron Watkins
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.

June 15, 2021

Clerk

Date

Attachments: Notice of Rights
P2 Exhibit received on 04/06/2021

Final clerked copy furnished to:

Lea Crandall, Agency Clerk (lea.crandall@dep.state.fl.us)

NOTICE OF RIGHTS

Persons who are not parties to this 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 Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this 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 Order;
- d) A statement of when and how the petitioner received notice of the 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 Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the 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 Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, 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 the address indicated above. 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. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.

Exhibit A

P2 Project Summary

Orange County South Water Reclamation Facility
FLA107972 OGC # 0209 Short Form Consent Order
4760 Sand Lake Road Orlando, FL 32819
407-254-7724
Chris Fasnacht Project Manager

A. Project Description:

This P2 project is intended to meet the requirements of SFCO OGC# 21-0209. The proposed project is the installation of four (4) electric vehicle charging stations. The Charging Stations will be Ward Pro Series, 30 RPH, Dual Pedestal, 40 amp or equivalent.

B. Environmental and Economic Benefits:

The installation of 4 electric vehicle charging stations supports the Utilities goals of reducing its carbon footprint by providing infrastructure enabling a transition away from internal combustion engine driven vehicles. Each internal combustion engine vehicle that is replaced with a fully electric vehicle reduces carbon emissions by 2,430 lbs. per year. (EPA Office of Transportation and Air Quality: Greenhouse Gas Emissions from a Typical Passenger Vehicle; March 2018).

<i>Electric Vehicle Charging Stations</i>							
Annual Resource Consumption Comparison							
Item	Quantity Used (gal/lb/kwh-specify)			Purchasing Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Water							
Chemicals							
Materials							
Energy							
Total Annual Cost Savings =							
Annual Waste Generation Comparison							
Item	Quantity Generated (gal/lb/tons-specify)			Disposal Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Hazardous Waste							
Industrial Wastewater							
Solid Waste							
Air Emissions	10.188 lbs. Co2/Year Per Vehicle	0	100%				

Total Annual Cost Savings =
Total Annual Avoided Cost Savings =

Summary of All P2 Projects							
Annual Resource Consumption Comparison							
Item	Quantity Used (gal/lb/kwh-specify)			Purchasing Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Water							
Chemicals							
Materials							
Energy							
Total Annual Cost Savings =							
Annual Waste Generation Comparison							
Item	Quantity Generated (gal/lb/tons-specify)			Disposal Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Hazardous Waste							
Industrial Wastewater							
Solid Waste							
Air Emissions							
Total Annual Cost Savings =							
Total Annual Avoided Cost Savings =							

C. Project Cost:

Charging Stations Installed: 4 @ \$7,000.00 Each = \$28,000.00

D. Project Reporting:

1. Within 30 days of completing the P2 Project, the Respondent shall submit to the Department a P2 Project Final Report that includes the following:
 - a. A confirmation that the information presented in Sections A-C of the Summary is unchanged, or an updated version with the sections changed appropriately. A statement that the Project(s) was/were implemented successfully. An explanation of any problems encountered and corrections applied. *A statement indicating the date the Project was started and also the date completed.*
 - b. Attached expense reports, receipts, purchasing instruments and other documents itemizing costs expended on preparing and implementing the Project.
2. The Department shall review the Final Report and determine:
 - a. Whether the project was properly implemented; and
 - b. Which expenses apply toward pollution prevention credits.

3. A \$1.00 pollution prevention credit for each \$1.00 spent on applicable costs will be applied against the portion of the civil penalty that can be offset.
- a. The following costs *are applicable as P2 credits* toward the civil penalty offset amount:
- i. Preparation of the P2 Project;
 - ii. Design of the P2 Project;
 - iii. Installation of equipment for the P2 Project;
 - iv. Construction of the P2 Project;
 - v. Testing of the P2 Project;
 - vi. Training of staff concerning the implementation of the P2 Project; and
 - vii. Capital equipment needed for the P2 Project.
- b. The following costs *shall not apply as P2 credits* toward the civil penalty offset amount:
- i. Costs incurred in conducting a waste audit;
 - ii. Maintenance and operation costs involved in implementing the P2 Project;
 - iii. Monitoring and reporting costs;
 - iv. Salaries of employees who perform their job duties;
 - v. Costs expended to bring the facility into compliance with current law, rules and regulations;
 - vi. Costs associated with a P2 Project that is not implemented;
 - vii. Costs associated with a P2 Project that has not been approved by the Department; and
 - viii. Legal costs.
- c. If any balance remains after the entire P2 credit is applied to the allowable portion of the civil penalty, Respondent shall pay the difference within 30 days of written notification by the Department to the Respondent that the balance is due.
4. The Department may terminate the P2 Project at any time during the development or implementation of it, if the Respondent fails to comply with the requirements in this document, act in good faith in preparing and implementing the project, or develop and implement the P2 Project in a timely manner. The Respondent may terminate the P2 Project at any time during its development or implementation.
5. If the P2 Project is terminated for any reason, Respondent shall pay the full balance of the allowable portion of the civil penalty within 10 days of written demand by the Department.