



Legislation Text

File #: 24-1520, **Version:** 1

Interoffice Memorandum

DATE: October 2, 2024

TO: Mayor Jerry L. Demings and County Commissioners

THROUGH: N/A

FROM: Ed Torres, M.S., P.E., LEED AP, Director, Utilities

CONTACT: Mark Ikeler, P.E., Manager, Water Reclamation Division

PHONE: 407-254-9705

DIVISION: Water Reclamation Division

ACTION REQUESTED:

Approval and execution of Florida Department of Environmental Protection v. Orange County, Florida OGC File No.: 23-1787 Orange County Utilities Division - Eastern Water Reclamation Facility, Facility ID No.: FL0038849 Consent Order; authorization for the County Administrator to execute the Consent Order; approval of the P2 project adding three new electrical vehicle charging stations at County Utility Department sites; and authorization to pay costs and expenses in the amount of \$250. District 4. (Water Reclamation Division)

PROJECT: N/A

PURPOSE: Under Chapter 403, Florida Statutes, and Title 62, Florida Administrative Code, the Florida Department of Environmental Protection (FDEP) has jurisdiction over operation of the County's water reclamation system. Pursuant to that authority, FDEP initiated this Consent Order to provide for payment of civil penalties for violations that were found during a compliance evaluation inspection on May 26, 2023. As noted in the Consent Order, the County has resolved all violations.

Corrective action has been taken to help prevent future violations. The FDEP has provided Orange County with their inspection checklist. Each facility Manager is now required to perform a self-inspection using the FDEP checklist monthly. Water Reclamation Management is auditing these inspections periodically to make sure they are being performed and any deficient items are being addressed in a timely manner.

Orange County Utilities proposed to offset the civil penalties by implementing and completing the

FDEP-approved Pollution Prevention (P2) project. The P2 project will add three new electrical vehicle charging stations at County Utilities Department sites. The County demonstrated that the P2 project will offset the value of the \$49,738 civil penalty. The remaining \$250 in administrative costs must be paid within 30 days of the effective date of the Consent Order.

The County Attorney's Office has reviewed the Consent Order prepared by FDEP and has approved it as to form. Utilities Department staff reviewed the Consent Order and recommended approval.

BUDGET: N/A



OFFICE OF COMPTROLLER

**ORANGE
COUNTY
FLORIDA**

Phil Diamond, CPA
County Comptroller as
Clerk of the Board of County Commissioners
201 South Rosalind Avenue
Post Office Box 38
Orlando, FL 32802
Telephone: (407) 836-7300
Fax: (407) 836-5359

DATE: October 31, 2024

TO: Mark Ikeler, Manager
Utilities Department, BCC

FROM: David Rooney, Manager *RE for DR*
Comptroller Clerk of BCC

SUBJECT: Request for Execution of Document, Utilities Department Consent Item 1,
Legislative File # 24-1520, October 29, 2024

Enclosed is Florida Department of Environmental Protection v. Orange County Utilities Water Division, OGC File No. 23-1787 Consent Order (1 original) which was approved by the Board of County Commissioners (BCC) at its regular meeting held on October 29, 2024.

Please forward the documents to all required parties for signature.

Email copies of the fully-executed documents to ClerkofBCC@occompt.com and copy jennifer.mcgill@ocfl.net. Note: ClerkofBCC@occompt.com is **used only for County staff submission of pending documents.**

Please include in cover memo or subject line identification of the documents by name, agenda item number, and date of BCC approval. Emailed copies must be in full-size PDF format. The document will be processed and filed for the record upon receipt.

If you are unable to return a copy of the fully-executed document before November 29, 2024, notify Jennifer Lara-Klimetz by email of the reason for the delay prior to that date.

If you have any questions, please do not hesitate to call.

dr:re

Enclosures (1)

dl: Ed Torres, Director, Utilities Department, BCC [email]
Jon Weiss, Deputy County Administrator, BCC [email]
Nicole Robinson, Executive Assistant, Utilities Department, BCC [email]
Pending File

BCC Mtg. Date: October 29, 2024



FLORIDA DEPARTMENT OF Environmental Protection

Central District Office
3319 Maguire Blvd., Suite 232
Orlando, Florida 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

September 19, 2024

Byron Brooks, County Administrator
County Administrator's Office
County Administration Building, 5th Floor
201 S. Rosalind Avenue
Orlando, FL 32801-3527
MarkC.Ikeler@ocfl.net

SUBJECT: Department of Environmental Protection v. Orange County Florida,
OGC File No.: 23-1787
Orange County Utilities Division – Eastern Water Reclamation Facility,
Facility ID No.: FL0038849

Mr. Brooks:

The State of Florida Department of Environmental Protection ("Department") finds that Orange County Utilities Division ("Respondent"): failed to take flow based influent samples in accordance with the permit, in violation of Rule 62-600.660(3)(b), F.A.C.; failed to document the acceptability of for routine calibration verification of the D.O. meter at the contracted laboratory, in violation of incorporated Rules 62-160.800(3)(b), F.A.C. and 62-160.800(a)(24); submitted several DMRs with inconsistencies including miscalculations and transcriptions errors within the DMR review period, in violation of Rule 62-620.610(18)(a), F.A.C.; failed to provide documentation of the RPZ certification, in violation of Rule 62-620.350(1), F.A.C.; failed to provide documentation of calibration for the flow meter, in violation of Rule 62-620.350(1), F.A.C.; exceeded the annual average permitted flow for ten consecutive months to R-003 which consists of the permitted discharge to combined man-made/natural receiving wetlands, in violation of 403.161(1)(b), F.S.; failed to prevent an unauthorized discharge when cleaning the pad beneath the headworks, in violation of Rule 62-620.300(5), F.A.C.; failed to maintain equipment including mixers, spray heads, and weeping basins, in violation of 62-620.610(7), F.A.C.; exceeded effluent permit limitations in Total Phosphorus parameters, in violation of 403.161(1)(b), F.S.; exceeded effluent permit limitations in Fecal Coliform percent less than detect, in violation Rule 62-600.440(6)(a), F.A.C.; exceeded effluent permit limitations in Total Suspended Solids, in violation of 403.161(1)(b), F.S.; exceeded groundwater permit limitations in Fecal Coliform, in violation of 403.161(1)(b), F.S.; exceeded groundwater permit limitations in Total Dissolved Solids, in violation of

403.161(1)(b), F.S. Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violation(s). These actions have since been completed. However, due to the nature of the violation(s), 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 \$42,500 in civil penalties, \$863 for economic benefit, \$6,375 for history of non-compliance, and \$250 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$49,988. The civil penalty in this matter includes 10 violations of \$2,000.00 or more.

However, in lieu of paying the full civil penalty, the Department has determined that \$49,738 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, 3319 Maguire Blvd. Ste 232, Orlando, FL 32803 by **November 30, 2024**. 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, 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;
- (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 \$250 by **December 31, 2024**. The payment must be made payable to the Department of Environmental Protection by cashier's check or money order and shall include the OGC File Number assigned above and the notation "Water Quality Assurance Trust Fund." Payment shall be sent to Central District, 3319 Maguire Blvd, Ste 232, Orlando, FL 32803.

- (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" 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 is final, effective and filed with the Clerk of the Department before ability to make 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 Gina Laddick at (407) 897-4309 or at Gina.Laddick@FloridaDEP.gov.

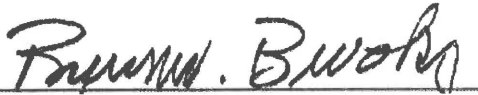
Sincerely,



Aaron Watkins
District Director
Central District

FOR THE RESPONDENT:

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

By: 
[Signature]

Date: October 29, 2024

Title: County Administrator
[Type or Print]



-----FOR DEPARTMENT USE ONLY-----

DONE AND ORDERED this ___ day of _____, 2024, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Aaron Watkins
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.

Clerk

Date

Attachments: Notice of Rights

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 name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

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

P2 Project Summary

Stipulated Penalties 7/23/2024 for
FLA010798 OGC 20-1495, FLA107972 OGC # 20-1494 & FL0038849 OGC # 20-1194
and Short Form Consent Order for OGC 23-1787

4760 Sand Lake Road Orlando, FL 32819
1621 South Alafaya Trail Orlando, FL 32828
701 West McCormick Road Apopka, FL 32703

Chris Fasnacht Project Manager
407-254-7724

A. **Project Description:**

This P2 project is intended to meet the requirements of the stipulated penalties assessed as part of the above cited consent orders for subsequent SSO events, as well as the SFCO for the Eastern Water Reclamation Facility OGC 23-1787 (July 2024). The proposed project is the installation of three (3) electric vehicle charging stations at:

Eastern Regional Water Supply Facility

9100 Curry Ford Road
Orlando, FL 32825

Southern Regional Water Supply Facility

13000 S. Orange Avenue
Orlando, FL 32824

Western Regional Water Supply Facility

2552 Lakeville Road
Apopka, FL 32703

B. **Environmental and Economic Benefits:**

The installation of 3 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).

Orange county Utilities continues to migrate towards zero combustion, electric vehicles and additional charging stations are needed to meet the increased charging demands.

<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	2,430 lbs. Co2/Year Per Vehicle	0	100%				
Total Annual Cost Savings =							
Total Annual Avoided Cost Savings =							

<i>Summary of All P2 Projects</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							
Total Annual Cost Savings =							
Total Annual Avoided Cost Savings =							

C. Project Cost:

Charging Stations:	3 @ \$23,448.00	= \$23,448.00
Installation:	3 @ \$20,000 Each	= \$60,000.00
Total:		= \$83,448.00

D. Project Reporting:

1. Within ___ 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.