



**Interoffice Memorandum**

January 28, 2019

**TO:** Mayor Jerry L. Demings  
and Board of County Commissioners

**FROM:** Raymond E. Hanson, P.E., Director  
Utilities Department

A handwritten signature in black ink, appearing to read "R. Hanson", positioned to the right of the "FROM:" field.

**SUBJECT: BCC Agenda Item – Consent Agenda  
February 12, 2019 BCC Meeting  
Florida Department of Environmental Protection v. Orange  
County Utilities Water Reclamation Division, OGC File No.: 19-  
0034 Consent Order  
Contact Person: Michael J. Hudkins, P. E., Manager  
Utilities Water Reclamation Division  
(407) 254-9685**

Under Chapter 403, Florida Statutes, and Chapters 62-4 and 62-604, 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 discharge of approximately 1,031,219 gallons of partially treated wastewater that did not affect waters of the state and approximately 2,000,000 gallons of partially treated wastewater that was discharged into waters of the state, which also resulted in the unauthorized filling of wetlands in violation of Sections 403.161 and 373.430, Florida Statutes, and Chapters 62-620.300 and 62-330.020, Florida Administrative Code.

Orange County Utilities (OCU) operates the South Water Reclamation Facility (SWRF). This facility is currently under construction for treatment capacity expansion. During the construction period, the plant is often having to operate in modes which do not provide the typical operational flexibility that operating in the standard mode provides. Additionally, at the time of these overflows, the plant instrumentation and control system was not fully functional. Both of these were major contributing factors to the facility overflow. The Consent Order requires the County pay \$7,500 in civil penalties and \$500 for costs and expenses incurred for a total payment of \$8,000.



## Interoffice Memorandum

February 12, 2019 BCC Meeting Consent Agenda – Department of Environmental Protection v. Orange County Utilities Water Reclamation Division, OGC File No.: 17-0034 Consent Order  
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In lieu of making a cash payment of \$7,500 in civil penalties, OCU proposed to offset this amount by implementing and completing a FDEP-approved in-kind penalty project. The in-kind project, referred to as a Pollution Prevention Project (P2 Project), involves changing the existing facility roadway lighting system to a more efficient LED lighting system. The County demonstrated that the in-kind penalty project was at least one and a half times the civil penalty off-set amount, which in this case is the equivalent of at least \$11,250. The P2 Project was accepted by FDEP. The remaining \$500 in costs and expenses must be paid within 30 days of the effective date of the Consent Order.

Orange County Attorney's Office staff 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.: 19-0034 OCUD South WRF, FLA107972 Consent Order; approval of Exhibit A P2 Project Plan South Water Reclamation Facility; and authorization to pay costs and expenses in the amount of \$500.**

**District 6.**



# FLORIDA DEPARTMENT OF Environmental Protection

Ron DeSantis  
Governor

Jeanette Nuñez  
Lt. Governor

Noah Valenstein  
Secretary

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

January 11, 2019

APPROVED BY ORANGE  
COUNTY BOARD OF COUNTY  
COMMISSIONERS

BCC Mtg. Date: February 12, 2019

Orange County Utilities Water Reclamation Division  
Byron Brooks, County Administrator  
County Administrator's Office  
County Administration Building, 5<sup>th</sup> Floor  
201 S. Rosalind Ave.  
Orlando, FL 32801-3527  
[Byron.brooks@ocfl.net](mailto:Byron.brooks@ocfl.net)

SUBJECT: Department of Environmental Protection v. Orange County Utilities  
Water Reclamation Division, OGC File No.: 19-0034  
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 the following unauthorized discharges of partially treated wastewater: 1) 1,031,219 gallons that did not affect waters of the state, and 2) 2,000,000 gallons that was discharged into waters of the state, which also resulted in the unauthorized filling of wetlands, in violation of Sections 403.161 and 373.430, Florida Statutes (F.S.), and Chapters 62-620.300 and 62-330.020, Florida Administrative Code (F.A.C.). 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 \$7,500.00 in civil penalties and \$500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$ 8,000.00. The civil penalty in this matter includes 1 violation of \$2,000.00 or more.

However, in lieu of paying the full civil penalty, the Department has determined that \$7,500.00 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 within **20 days** of receipt. 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 A. You must begin the P2 Project within 45 days, and fully complete the P2 Project within 90 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 Consent 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" 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 and effective 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.

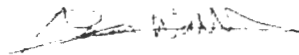
Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order 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 Jenny E. Farrell at 407-897-4173 or at [jenny.e.farrell@dep.state.fl.us](mailto:jenny.e.farrell@dep.state.fl.us).

Sincerely,



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Aaron Watkins  
Director  
Central District

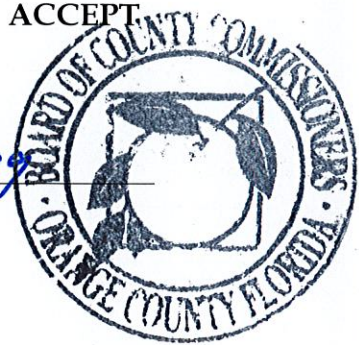
FOR THE RESPONDENT:

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

By: Byron W. Brooks  
[Signature]

Date: 12 February 2019

Title: County Administrator  
[Type or Print]



FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 25<sup>th</sup> day of February, 2019, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

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.

U. R.

Clerk

2/25/19

Date

Attachments: Notice of Rights

Final clerked copy furnished to:

Lea Crandall, Agency Clerk ([lea.crandall@dep.state.fl.us](mailto: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 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.

APPROVED BY ORANGE  
COUNTY BOARD OF COUNTY  
COMMISSIONERS

Exhibit A

DEP vs. Orange County Utilities Water Reclamation Division

BCC Mtg. Date: February 12, 2019

OGC File No. 19-0034

# LOGO

**P2 Project Plan (Plan)**

**South Water Reclamation Facility \_ SWRF**

Orange County Government

4760 W. Sand Lake Rd.  
Orlando, FL 32819  
(407) 254-7701

Prepared by:  
Ada A. Levy



**A. Project Description:**

Orange County Government will like to present the details for the selected pollution prevention project. Orange County owns and operates South Water Reclamation Facility (SWRF) and will like to implement the pollution prevention project at this facility. The selected project is LED roadway lighting upgrade at SWRF. The scope of work includes changing out the facility roadway lights from the current 250 hps lights to 120-watts led lights. There are 30 fixtures that compose the roadway lighting for the facility; the proposed project will exchange the 30 light fixtures with LED lights. The lighting upgrade will have the same coverage area as the current lights. The LED lamps will be installed on the existing poles and connections from the current lamps. County personnel will be performing the installation of the new equipment.

**B. Environmental and Economic Benefits:**

Orange County expects energy savings from this project. The roadway lights run all night and are controlled via photocell. With the proposed changes the lights will still continue to operate under the current conditions, turn on and off controlled by photocell, but the changes from 250 hps lights to led lights will lower the amount of energy used to run the lights.

In addition to the energy consumption savings that this project will provide Orange County will benefit by reducing the recurrence on maintenance to the equipment and by lowering the environmental impact of disposing of this equipment. The life expectancy of the LED lights is 50,000 hrs compared with the 15,000 - 35,000 hrs on the existing light fixtures.

The upgrade of lighting to LED lights annual saving in energy resource is expected to be \$2,663.

<i>SSWWTF roadway lights upgrade to LED</i>
<b>Annual Resource Consumption Comparison</b>

Item	Quantity Used (kWh)			Purchasing Cost (\$)			Percent (%)
	Before	After	Reduction	Before	After	Reduction	Reduction
Energy	91,250	47,800	48%	9,125	4,780	4,345	48%
<b>Total Annual Cost Savings = 2,663</b>							

**C. Project Cost:**

The cost of equipment for this project is calculated at \$29,181.90. The expected payback period is 4.9 years with a reduction of 48% kWh used to run the lights. This project will be completed by the Orange County Utilities Department and their time is not taken onto consideration on the calculations.

**Project Cost**

Total Project Cost	Net Project Cost (\$)	10 Yr Operating Savings (\$)	Payback Period (Yrs)	NPV (\$)	IRR (%)
21,181.90	29,181.90		4.9		

Visionaire Lighting LED Area Lighting 120watt fixture at \$972.73ea (30 units) for a total of \$29,181.90. (item BLX-II-3-T3-96L-10-5K-UNV-KM-BZ)

Please refer to the attached documents for detailed information.

**D. Implementation Schedule:**

Orange County Government will be diligently working on this project upon receipt of approval of the pollution prevention plan. The project tasks are estimated to be completed as follows:

Request quotes from three vendors	3 days from approval
Vendor selection process	7 days from approval
Submit Purchase Request	7 days from approval
Purchase/Order equipment	15 days from approval
Lighting upgrades start	45 days from approval
Completion of project	75 days from approval
Progress report submittal to FLDEP	90 days from approval
Completion report submittal to FLDEP approval	90 days from approval

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**E. Project Reporting:**

(1. Within 90 days of approval of the Project Plan, the Respondent shall submit a P2 Project Progress Report to the Department that describes the Respondent's progress in implementing the P2 Project and meeting the requirements in the Plan, and includes a list of equipment ordered, purchased, and/or installed.

2. Within 180 days of approval of the Plan, 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.

b. Attached expense reports, receipts, purchasing instruments and other documents itemizing costs expended on preparing and implementing the Project.

3. 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.

4. 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 allowable to offset the allowable amount of the civil penalty:

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 toward P2 credit:

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.*

5. *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.)*

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