



Interoffice Memorandum

October 11, 2021

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Ed Torres, MS, P.E., LEED AP, Director
Utilities Department

A handwritten signature in black ink, appearing to be "Ed Torres", written over the "FROM:" line.

SUBJECT: BCC Agenda Item – Consent Agenda
October 26, 2021 BCC Meeting
Consent Order Department of Environmental Protection v. Orange
County Utilities Water Reclamation Division OGC File No.: 21-0920
OCUD/South WRF, FLA107972
Contact Person: Michael J. Hudkins, P.E., Manager
Utilities Water Reclamation Division
(407) 254-9685

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 an unauthorized public access reclaimed water discharge that occurred at the South Water Reclamation Facility (SWRF) during the period from April 25, 2021 through April 28, 2021.

SWRF utilizes four independent process trains to treat 56.0 million gallons per day annual average daily flow of wastewater. One of those trains was not in operation due to construction at the facility, and grit removal maintenance was being performed at another train in April.

With only two remaining process trains online the facility could not meet plant effluent limitations during a high strength loading, causing the unauthorized discharge. On August 6, 2021, FDEP notified the County that the unauthorized discharge resulted in a short form consent order and monetary penalty of \$49,000 plus an additional \$500 in administrative fees from FDEP for a payment of \$49,500.

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 recommends approval.

Action Requested: Approval and execution of Florida Department of Environmental Protection v. Orange County Utilities Water Reclamation Division, OGC File No.: 21-0920 OCUD/South WRF, FLA107972 Consent Order; authorization for the County Administrator to execute the Consent Order; and authorization to pay costs and expenses in the amount of \$49,500.

District 6.

BCC Mtg. Date: October 26, 2021



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 29, 2021

Orange County Florida
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.: 21-0920
OCUD/South WRF, FLA107972.

Mr. Brooks:

The State of Florida Department of Environmental Protection ("Department") finds that Orange County Florida ("Respondent") discharged substandard public access reuse water to the South Service Area (SSA) distribution system from April 25, 2021 through April 28, 2021 and did not report this incident to the Department within 24 hours as required, in violation of Section 403.161, Florida Statute (F.S.), Rule 62-620.610(20-21), Florida Administrative Code (F.A.C.), Rule 62-610.463(2), F.A.C., Rule 62-600.420(3)(b)3 & 4, F.A.C., Rule 62-600.440(6)(a)3, F.A.C., and Rule 62-600.440(6)(b), F.A.C. Although there are no actions required to correct the violations, the Respondent remains subject to civil penalties as a result of the violations. 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 \$ 49,000.00 in civil penalties and \$ 500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$ 49,500.00. The civil penalty in this matter includes 3 violations of \$2,000.00 or more.

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 **October 20, 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;
- (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) Respondent must pay \$ 49,500.00 within 30 days of the effective date of this Order.
- (2) 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 Jenny E. Farrell at 407-897-4173 or at jenny.e.farrell@dep.state.fl.us.

Sincerely,



Aaron Watkins
Director
Central District

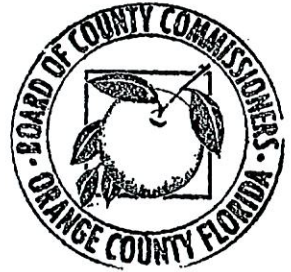
FOR THE RESPONDENT:

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

By: Bryan W. Brooks
[Signature]

Date: October 26, 2021

Title: County Administrator
[Type or Print]



FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 4 ^{November} day of 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.

Clerk

November 4, 2021

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.