



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 12, 2023

Crissy Stile, Mayor
City of Mount Dora
510 North Baker St
Mount Dora, FL 32757
stilec@cityofmounddora.com

Re: Mount Dora #2 James Snell WRF
DW Facility ID #FLA268542
OGC Case No: 23-0151
Lake County

Dear Ms. Stile:

Enclosed is a Consent Order ("Order") prepared by the Department for resolution of the referenced enforcement case. Please review this document and within 15 days of receipt, either: 1) return a signed copy to the Department or 2) provide comments and suggested changes. Once fully executed, a copy of the final document will be forwarded to you.

Should you have any questions or comments, please contact David Smicherko at 407-897-7169 or via e-mail at David.Smicherko@FloridaDEP.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Watkins", is written over a horizontal line.

Aaron Watkins, Director
Central District

Enclosure: Consent Order #23-0151

cc: Patrick Comiskey, City Manager comiskeyp@ci.mount-dora.fl.us

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	CENTRAL DISTRICT
)	
v.)	OGC FILE NO. 23-0151
)	
CITY OF MOUNT DORA)	
_____)	

CONSENT ORDER

This Consent Order (Order) is entered into between the State of Florida Department of Environmental Protection (Department) and City of Mount Dora (Respondent) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent neither admits nor denies the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (F.S.), and the rules promulgated and authorized in Title 62, Florida Administrative Code (F.A.C.). The Department has jurisdiction over the matters addressed in this Order.

2. Respondent is a person within the meaning of Section 403.031(5), F.S.

3. Respondent is the owner and is responsible for the operation of the Mount. Dora #2 – James Snell WRF, a 1.25 million gallon per day (MGD) annual average daily flow (AADF) permitted capacity Modified Ludzak-Ettinger (MLE) oxidation ditch domestic wastewater treatment facility(Facility) and its wastewater collection system (Collection System). The Facility/Collection System is operated under Wastewater Permit No. FLA268542 (Permit), which was issued on December 23, 2016 and will expire on December 22, 2026. The Facility is located at 1850 SR-46 Mount Dora, FL 32757, in Lake County, Florida (Property). Respondent owns the Property on which the Facility is located.

4. The Department finds that the following violations occurred:

a) Respondent failed to operate the Collection System in the Sullivan Ranch Subdivision in a manner to control objectionable odors. Odors were noted from the Collection System on September 15, 2022. This is in violation of Chapter 62-604.400(2)(c).

b) Respondent failed to operate the Facility in a manner to control objectionable odors. Odors were noted extending beyond the boundaries of the Facility on January 18, 2023, and on May 11, 2023. This is in violation of Chapter 62-600.400(2)(a), F.A.C.

5. A Compliance Evaluation Inspection conducted on April 21, 2023, noted the following violations:

a) The influent composite sampler program was not set up to collect a 16-hour flow proportioned composite sample in violation of Chapter 62-600.660(3)(b), F.A.C.

b) The sample volume for effluent composite sampler was less than the required 100 milliliters per aliquot, in violation of Chapter 62-160.210(1), F.A.C. and DEP-SOP-001/01 FS 2400.

c) The calibration of the HACH DR900 colorimeter was not being checked with primary standards. This check must be performed annually, in violation of Chapter 62-160.210(1), F.A.C. and DEP-SOP-001/01 FT 2000

d) The calibration verification of the HACH TL2300 turbidimeter was not recorded in the turbidimeter calibration logbook, in violation of Chapter 62-160.210(1), F.A.C. and DEP-SOP-001/01 FT 1600.

e) The calibrations of the continuous online turbidity analyzer and continuous online residual chlorine analyzer are not being performed at the frequency described in the approved reuse Operating Protocol, in violation of Chapter 62-610.463(2), F.A.C.

f) Nutrient samples are not being preserved immediately after the last sample collection cycle of the effluent composite sampler, in violation of Chapter 62-160.210(1), F.A.C. and DEP-SOP-001/01 FS 1000.

- g) The Discharge Monitoring Reports (DMRs) are not being filled out correctly. Data reported on Part A and Part B of the DMRs for May and October 2022 and January 2023 do not match, in violation of Chapter 62-600.650(5) F.A.C.
- h) Documentation of the current calibration for the flow meters was not available at the time of the inspection, in violation of Chapter 62-620.350(1), F.A.C.
- i) There was no Operations and Maintenance Manual for the Collection System available for review at the time of the inspection, in violation of Chapter 62-604.500(4), F.A.C.

The Respondent has resolved the violations noted in Paragraphs 5.a-h.

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

ORDERED:

6. Respondent shall comply with the following corrective actions within the stated time periods:

a) Within 45 days of the effective date of this Order, Respondent shall submit to the Department an Odor Control Plan prepared by a professional engineer registered in the state of Florida, of the Facility and the Collection System in the Sullivan Ranch subdivision, to discover the cause or causes of the violation identified in paragraph 4 above.

b) Within 15 days of the due date for submission of the Odor Control Plan in paragraph 6.a), Respondent shall initiate a 180-day Odor Control Study, conducted by a professional engineer registered in the state of Florida, to evaluate the facility, investigate potential causes or sources of odors, and mitigate odors on a daily basis. The Odor Control Study shall include at a minimum: monitoring at the points established in the approved Odor Control Plan and include the date, time, location, air temperature,

air pressure, wind speed and direction and a description of any odors detected during each monitoring event.

c) Within 60 days of completing the Odor Control Study, the Facility shall submit and obtain Department approval of, the results of the Odor Control Study and an Updated Odor Control Plan including necessary Facility and/or Collection System design modifications, prepared and submitted under seal by a professional engineer registered in the state of Florida, if such design modifications are required, to remedy the cause or causes of the violations identified in paragraph 4 above and ensure the Facility and Collection System will reliably function in compliance with all applicable rules.

d) Within 60 days of Department approval of the Updated Odor Control Plan in paragraph 6.c), Respondent shall submit a complete application for a Department wastewater permit to construct the modifications submitted pursuant to paragraph 6.c), if such a permit is required. In the event the Department requires additional information to process the permit application, the Respondent shall provide a written response containing the information requested by the Department within 30 days of the date of the request.

e) Within 180 days after issuance of the wastewater permit referenced in paragraph 6.d) above, or if no permit is required, within 180 days of the approval of the design modification(s) in paragraph 6.c), Respondent shall complete construction of the modification(s) submitted pursuant to paragraph 6.c).

f) Within 30 days after completion of the construction, Respondent shall submit to the Department a Certification of Completion, prepared and sealed by a professional engineer registered in the State of Florida, stating that modifications to the Facility, effluent disposal system, and collection system have been constructed in accordance with the provisions of the Permit or, if no Permit is required the design modification(s) submitted pursuant to paragraph 6.c).

g) Within 365 days of the effective date of this Order, Respondent shall submit an updated Operations and Maintenance Manual for the collection system to resolve the violation in paragraph 5.i), above.

h) Every calendar quarter after the effective date of this Order and continuing until all corrective actions have been completed, Respondent shall submit to the Department a written report containing information about the status and progress of projects being completed under this Order, information about compliance or noncompliance with the applicable requirements of this Order, including construction requirements and effluent limitations, and any reasons for noncompliance. These reports shall also include a projection of the work Respondent will perform pursuant to this Order during the 12-month period which will follow the report. Respondent shall submit the reports to the Department within 30 days of the end of each quarter.

7. Respondent's completion of all corrective actions required by paragraphs 6. a) through h) within the respective deadlines specified thereunder shall constitute full compliance with Rules 62-600 and 62-620, F.A.C.

8. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$9,750.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$9,250.00 for civil penalties and \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

9. Respondent agrees to pay the Department stipulated penalties in the amount of \$1,000.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 6.a) through h) of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment and shall do so as further described in paragraph 10, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any

stipulated penalties assessed under this paragraph shall be in addition to the civil penalties agreed to in paragraph 17 of this Order.

10. 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.

11. Except as otherwise provided, all submittals and payments required by this Order shall be sent to DEP_CD@floridadep.gov, Department of Environmental Protection, Central District 3319 Maguire BLVD Suite 232 Orlando, Florida 32803.

12. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

13. In the event of a sale or conveyance of the Facility/Collection System or of the Property upon which the Facility/Collection System is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility/Collection System or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility/Collection System, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facility/Collection System. The sale or conveyance of the Facility/Collection System or the Property does not relieve Respondent of the obligations imposed in this Order.

14. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in

complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

15. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

16. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement

of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

17. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

18. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$15,000.00 per day per violation, and criminal penalties.

19. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, F.S., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, F.S.

20. 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.

21. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), F.S.

22. This Consent Order is a final order of the Department pursuant to section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

23. Respondent shall publish the following notice in a newspaper of daily circulation in Lake County, Florida. The notice shall be published one time only within 10 days of the

effective date of the Order. Respondent shall provide a certified copy of the published notice to the Department within 10 days of publication.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF CONSENT ORDER

The Department of Environmental Protection (“Department”) gives notice of agency action of entering into a Consent Order with CITY OF MOUNT DORA pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the wastewater treatment activities at 1850 SR-46 Mount Dora, FL 32757. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Central District 3319 Maguire BLVD Suite 232 Orlando, Florida 32803.

Persons who are not parties to this Consent 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 Consent Order means that the Department’s final action may be different from the position it has taken in the Consent 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 Central District 3319 Maguire BLVD Suite 232 Orlando, Florida 32803. 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. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

24. Rules referenced in this Order are available at <http://www.dep.state.fl.us/legal/Rules/rulelist.htm>

FOR THE RESPONDENT:

Crissy Stile, Mayor

Date

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this ____ day of _____, 2023, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Aaron Watkins
District Director
Central

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk,
receipt of which is hereby acknowledged.

Clerk

Date

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35