



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

March 1, 2021

John A. Peters, City Manager
City of Deltona
255 Enterprise Road
Deltona, FL 32725
jpeters@deltonafl.gov

Re: Deltona Lakes WRF
DW Facility ID #FLA111724
OGC Case No: 20-1509
Volusia County

Dear Mr. Peters:

Enclosed is a Consent Order ("Order") prepared by the Department for resolution of the referenced enforcement case. Please review this document and within 20 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 Helena Dacenay at 407-897-4342 or via e-mail at Helena.Dacenay@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 OGC# 20-1509

cc:

Glenn Whitcomb, GWhitcomb@deltonafl.gov
Brad Blais, Brad.Blais@meadhunt.com
Brian Terry, BTerry@deltonafl.gov
Steven Danskine, SDanskine@deltonafl.gov

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. 20-1509
)	
CITY OF DELTONA)	
_____)	

CONSENT ORDER

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

The Department finds and Respondent admits 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 Deltona Lakes Water Reclamation Facility (WRF), an existing 1.4 million gallon per day (MGD) annual average daily flow (AADF) activated sludge domestic wastewater treatment facility consisting of one contact stabilization plant and one aeration/oxidation plant and is permitted to distribute reclaimed water for irrigation to the Deltona Hills Golf Course, residential irrigation within the approved reuse service area, on-site irrigation and the Alexander Ave Water Resources Site which consists of seven rapid infiltration basins (“Facility”). The Facility is operated under Wastewater Permit No. FLA111724 (“Permit”), which was issued on February 2, 2016 and expired on February 1, 2021. A permit renewal application was submitted on July

21, 2020. The Facility is located at 401 Fisher Drive, Deltona, in Volusia County, Florida ("Property"). Respondent owns the Property on which the Facility is located.

4. The Department finds that the following violation occurred:

a) The Total Nitrogen as Nitrate (Nitrate) reported on Part D of the Groundwater Discharge Monitoring Report (DMR) for the 4th Quarter of 2019 and 3rd Quarter of 2020 exceeded the maximum limit of 10.0 mg/L for any one sample.

b) On September 21, 2020 the Deltona Lakes WRF had an unauthorized discharge of approximately 4,000 gallons of raw sewage which reportedly entered Lake Gleason, Florida in violation of Chapter 62-604.130(1), F.A.C. The discharge was reported to the Public Notice of Pollution site under incident #7143 and to the State Watch Office under incident #2020-5178.

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

ORDERED:

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

a) By October 31, 2021, Respondent shall submit to the Department a plan and schedule (hereinafter, I&I Plan) to reduce infiltration and inflow (I&I) into the collection system by 25 percent within 2 years of the Department's written acceptance of the I&I Plan. The I&I plan shall describe how the percent reduction in I&I will be measured and shall have a completion date no later than June 30, 2022.

b) By October 31, 2021, the facility shall submit modification and construction plans for: by-pass of the R-001 holding pond to send reclaim effluent directly to the Alexander Rib Site storage tank, to the Department by a certified engineer.

c) By March 30, 2022, the facility shall take the 1.9 Million Gallon Rapid Infiltration Basin (RIB) that serves as a holding pond for the R-001 land application system offline.

d) By January 28, 2023, the facility shall provide reasonable assurance that taking the R-001 holding pond offline has resolved high Nitrate results at compliance monitoring well MWC-7483 by providing at least two consecutive Quarterly DMRs with no reported exceedances of a single sample for Nitrate at MWC-7483.

e) Beginning the effective date of this Order and lasting through January 28, 2023, the facility is subject to the following interim limits for Total Nitrogen as Nitrate at MWC-7483:

Parameter	Units	Max	Limit
Nitrate	mg/L	Single Sample	20.0

6. 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. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by paragraphs 5(a)-(e) by January 1, 2023 and be in full compliance with Rule 62-620.610(7), F.A.C., regardless of any intervening events or alternative time frames imposed in this Order, other than those excused delays agreed to by the Department, as described in paragraph 17.

8. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$9263.20 in settlement of the regulatory matters addressed in this Order. This amount includes \$9,013.20 for civil penalties and \$250.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this

Order. The civil penalty in this case includes 1 violation that warranted a penalty of \$2,000.00 or more.

9. In lieu of making cash payment of \$9,013.20 in civil penalties as set forth in Paragraph 8, Respondent may elect to off-set the amount of \$9,013.20 by implementing a Pollution Prevention (P2) Project, which must be approved by the Department. P2 is a process improvement that reduces the amount of pollution that enters the environment; by conserving resource (including water, raw materials, chemicals, and energy) use, or by minimizing waste generation (including domestic and industrial wastewater, solid and hazardous waste, and air emissions). A P2 Project must reduce pollution or waste within the process beyond what is required by federal, state, or local law, in order to be eligible for civil penalty offset under this Order. If Respondent chooses to implement a P2 Project, Respondent shall notify the Department of its election by certified mail within 15 days of the effective date of this Order. Within 30 days of the effective date of this Order, Respondent must pay a total of \$250.00; \$250.00 for costs and expenses incurred by the Department, during the investigation of this matter, and the preparation and tracking of this Order.

10. If Respondent elects to implement a P2 Project as provided in Paragraph 9, Respondent shall submit a completed P2 Project Plan (Plan) within 45 days of the effective date of this Order. The Plan must be completed using Exhibit A, "P2 Project Plan" template.

11. In the event the Department requires additional information to process the Plan described in Paragraph 10, Respondent shall provide a modified Plan containing the information requested by the Department within 30 days of the date of the request.

12. 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 Respondent that the balance is due.

13. Respondent agrees to pay the Department stipulated penalties as defined in the schedules below:

a) \$1,000.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 5-7 of this Order.

b) For unauthorized discharges from any part of Respondent's wastewater collection system or wastewater treatment and disposal facilities, Respondent agrees to pay stipulated penalties to the Department as follows:

(i) Stipulated penalties shall be assessed according to the volume of the discharge and the number of days the discharge continued and/or impacted surface water, as shown below:

Amount per day per Discharge or

Amount per day per Water Quality Violation

Discharge Volume

\$750.00

Up to 1,000 gallons

\$1,500.00

1,001 to 10,000 gallons

\$3,750.00

10,001 to 50,000 gallons

\$7,500.00

50,001 to 100,000 gallons

\$15,000.00

in excess of 100,000 gallons

c) 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 14, 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 10 of this Order.

14. 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.

15. Except as otherwise provided, all submittals and payments required by this Order shall be sent to David Smicherko Hall, CAP Manager, Department of Environmental Protection, Central District, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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 \$10,000.00 per day per violation, and criminal penalties.

22. 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.

23. 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.

24. 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.

25. 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.

26. Respondent shall publish the following notice in a newspaper of daily circulation in Volusia County, Florida. The notice shall be published one time only within 30 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 DELTONA pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the sanitary sewer overflows and groundwater monitoring permit exceedances at 401 Fisher Drive, Deltona, FL. 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 Office.

27. 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 OGC Number assigned to this Consent 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 Consent Order;
- d) A statement of when and how the petitioner received notice of the Consent 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 Consent Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Consent 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 Consent 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 Central District, 3319 Maguire Blvd., Suite 232, Orlando, FL 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.

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

FOR THE RESPONDENT:

John A. Peters, III, P.E.
Deltona City Manager

[Date](#)

DONE AND ORDERED this _____ day of _____, 2021, in
_____ 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](#)

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35

[This template is to be used as a Long Form Consent Order Exhibit when regulatory corrective actions, or P2 Projects require time to be resolved or developed. This template must be completed to describe P2 Projects once identified. The document must be approved prior to P2 Project implementation. The Plan must contain the following information.]

Exhibit A

P2 Project Plan (Plan)

(Note: Provide the information specified and delete existing text within parentheses)

Deltona Lakes WRF
401 Fisher Drive, Deltona, FL
(Telephone)
(Preparer Name/Title)

A. **Project Description:** (Summarize P2 Projects selected. Describe the processes or operations to be modified, and the specific changes to be made. Include details such as the specific equipment to be installed, materials to be substituted, and the actual changes to be made to processes or operations. Include manufacturer or vendor information, and specifications.)

B. **Environmental and Economic Benefits:** (Explain why and how each Project proposed constitutes P2.

Specify how each material, chemical, water and energy is saved, and from which processes or operations. Specify how each solid and hazardous waste, industrial wastewater and air emissions are generated, the waste type, and from which processes or operations. **Describe generally in paragraph format.**

Estimate the *annual* savings in *resources* - raw materials, chemicals, water, and energy at the process or operation front end. Estimate the *annual* reductions in *wastes* - solid and hazardous waste, wastewater, and air emission reductions at the process or operation back end.

Figures quoted should represent weights or volumes annually, and should be equalized for production rate changes. Associated cost savings should be included. **Describe specifically using the tables provided.**

Complete the first table for each per Project individually. Add or average corresponding figures from each Project table to complete the Plan table, *for multiple Projects.*)

(Project Name)							
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 =							

<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:** (Include per Project the itemized, subtotal and Project total costs. A projected payback period in months or years needs to be included.

Provide a grand total cost for all Projects and an averaged projected payback period, *for multiple Projects. Use list or table format for all.*)

D. **Implementation Schedule:** (Provide a brief discussion of the steps necessary to implement the Projects and expected time frames for completion. A table or list format is preferred. The schedule shall include a list of milestones with dates, or timeframes based on Plan approval date, including Progress and Final Report submittals. Provide a description of any anticipated problems and options. *The implementation should take no longer than six months to complete.*)

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.