



FLORIDA DEPARTMENT OF Environmental Protection

Southwest District Office
13051 North Telecom Parkway #101
Temple Terrace, Florida 33637-0926

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

December 8, 2021

Sara Ghannad
3939 Land O Lakes Blvd, LLC
15429 N. Florida Ave
Tampa, FL 33613
sara@unitedoilflorida.com

Re: Executed Consent Order OGC File No. 20-1173
3939 Land O Lakes Blvd, LLC
Facility ID #8514991
Pasco County

Dear Ms. Ghannad:

Enclosed please find the executed Consent Order OGC No. 20-1173 regarding the above referenced facility. The effective date of the Consent Order is the filing date entered by the designated Department Clerk on the signature page. Please be aware of the conditions of this Order per paragraphs 11 through 18. Please be aware that your payment of \$13,418 for reimbursement of the costs associated with the remediation of discharge #2, your payment of \$4,000.00 for civil penalties, and your payment of \$500.00 for costs and expenses are all due by **January 3, 2022**.

For inquiries, you may contact CAP Manager Hannah Westervelt at 813-470-5752 or by email at Hannah.Westervelt@FloridaDEP.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kelley Boatwright".

For Kelley Boatwright
Southwest District Director
Florida Department of Environmental Protection

Enclosure: Executed Long Form Consent Order

ec: Lea Crandall, Agency Clerk, Mail Station 35; Lea.Crandall@FloridaDEP.gov
Pamala Vazquez; DEP/SWD; Pamala.Vazquez@FloridaDEP.gov
George Juaristic, DOH/Pinellas; George.Juaristic@flhealth.gov
Scott Lashbrook, FDOH in Pinellas County; Scott.Lashbrook2@flhealth.gov
Yanisa Angulo, FDEP/SWD; Yanisa.Angulo@FloridaDEP.gov
Serge Kiyali, FDEP/SWD; Serge.Kiyali@FloridaDEP.gov
Hannah Westervelt, FDEP/SWD; Hannah.Westervelt@FloridaDEP.gov
Leslie Pedigo, FDEP/SWD: Leslie.Pedigo@FloridaDEP.gov

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT) OF ENVIRONMENTAL PROTECTION) v.) 3939 LAND O LAKES BLVD, LLC) <hr style="width: 100%; border: 0.5px solid black; margin-top: 5px;"/>)	IN THE OFFICE OF THE) SOUTHWEST DISTRICT) OGC FILE NO. 20-1173)
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CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and Land O Lakes Blvd, LLC (“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 Chapters 376 and 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 Florida Limited Liability Corporation and is a “person” within the meaning of Sections 376.301(29) and 403.031(5), F.S.
3. Since May 31, 2017, Respondent has owned non-residential property containing two underground storage tank systems (“Property”). The Property is located at 3939 Land O Lakes Boulevard, Land O Lakes, in Pasco County, Florida; Property Identification No. 24-26-18-0000-00400-0000. The Department has assigned Facility Identification Number 8514991 to the Property.
4. Respondent is the owner of the underground storage tank systems located at the Property.
5. The Property contains two underground storage tank systems (“Systems”), each consisting of an underground storage tank and its associated piping and dispenser. Since

March 31, 2017, Respondent has owned and operated the Systems. Each storage tank at the Property is an enclosed stationary container with a volume in excess of 110 gallons in size that contains or contained vehicular fuel. The tanks, which are constructed of double-walled fiberglass clad steel, were installed at the Property on or about September 27, 2002.

6. The Property and the underground systems constitute a "Facility" within the meaning of Section 376.301(19), F.S. The Facility is a retail fuel station with a convenience store.

7. A discharge of petroleum contamination was discovered originating at the Facility on March 16, 1988; this discharge has been determined to be eligible for restoration coverage under the Early Detection Incentive ("EDI") Program pursuant to Section 376.3071(10), Florida Statutes ("F.S."), ("eligible discharge"). The Department is authorized to provide State funding assistance for discharges determined eligible for any of the funding programs, based on the priority score established for the eligible discharges pursuant to Section 376.3071(5)(a), F.S., and Chapter 62-771, F.A.C.

8. Subsequently, a discharge of petroleum products was discovered on May 27, 2004 at this Facility; this discharge is not eligible for State funded cleanup ("non-eligible discharge #1"). On April 13, 2010 a Site Rehabilitation Funding Allocation agreement pursuant to Section 376.30714, F. S., was entered into for non-eligible discharge #1. On Nov 14, 2011 DEP acknowledged receipt of full SRFA payment of 8,300.00. Consequently, the Department has been compensated for discharge #1 and is performing the site rehabilitation for the remainder of both the 1988 discharge and the 2004 discharge.

9. On April 30 2019, soil samples were taken from the Property. The results of laboratory analytical tests on the soil samples revealed petroleum contaminants in the following concentrations, each of which exceed the associated soil cleanup target levels in Chapter 62-777, F.A.C for that contaminant:

- | | | |
|----|--------------|--------------|
| a) | Benzene | 29 mg/Kg; |
| b) | Ethylbenzene | 340 mg/Kg; |
| c) | Toluene | 1,600 mg/Kg; |

d)	Xylenes	1,500 mg/Kg;
e)	1-Methylnaphthalene	6.9 mg/Kg;
f)	2-Methylnaphthalene	18 mg/Kg;
g)	Naphthalene	27 mg/Kg;
h)	TRPH	1,400 mg/Kg

This discharge of petroleum products is not eligible (non-eligible discharge #2) for State funded cleanup.

10. The Department finds that the following violations occurred:

- a) During the February 19, 2018 Routine Compliance Site Inspection, the County inspected the Facility and found the regular unleaded spill bucket had failed a hydrostatic test and had not been repaired or taken out of service, in violation of Rule 62-761.700(1)(b), F.A.C. (*Respondent demonstrated compliance with this requirement when the spill bucket was replaced on May 14, 2018*).
- b) Due to the failed hydrostatic test, a full closure assessment including soil sampling was required to be conducted at the time the failed spill bucket was replaced May 14, 2018. However, Closure Assessment sampling was not conducted at the time of the closure, in violation of Rule 62-761.800(3)(a)6., F.A.C. (*Respondent demonstrated compliance with this requirement when sampling was conducted on April 23, 2019*). The Closure Assessment Report was not submitted within 60 days of the closure (by no later than July 13, 2018); in violation of Rule 62-761.800(3)(b), F.A.C. (*Respondent demonstrated compliance with this requirement when the closure assessment report was submitted on April 20, 2020*).
- c) The laboratory analysis completed on May 2, 2019 of the soil samples collected on April 23, 2019 document that Soil Cleanup Target Levels were exceeded. A Discharge Report Form was not submitted within 24 hours of receipt of the analytical results, in violation of Rule 62-761.440(2), F.A.C.

(Respondent demonstrated compliance with this requirement when a Discharge Report Form was submitted on October 26, 2020).

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

ORDERED:

11. Respondent is responsible for the assessment and cleanup of all petroleum contamination associated with non-eligible discharge #2 at the Facility as set forth in Chapter 62-780, F.A.C. However, it is desirable to Respondent and for the Department to address the cleanup of non-eligible discharges that have occurred at a facility with existing contamination that has been determined to be eligible for State-funded cleanup. It is appropriate for Respondent, who is responsible for the cleanup of non-eligible discharge #2 at the Facility, to apportion the costs associated with managing and conducting the cleanup at the Facility. The Department has determined that the cleanup of the discharges referenced in paragraph 7, 8 and 9 shall be funded as funding becomes available within the Department's program spending procedures.

12. The Department has determined a cost allocation based on a review of the following cleanup documents submitted for this facility: June 30, 2017 Supplemental Site Assessment Report submitted by S&ME, Inc. (Project No. 44817014-T2), the December 2, 2020 Annual Natural Attenuation Report submitted by S&ME, Inc. (Project No. 448419070-T3), and the August 9, 2021 Limited Contamination Assessment Report submitted by Southeastern Petroleum Contractors, Inc. The funding allocation is based on assessment data and the historical information on file with the Department. The analysis suggests that non-eligible discharge #2 has added \$13,418.79 to the costs to complete site remediation.

13. The Department will designate its own contractor(s) to undertake these activities without the approval of the Respondent or any other responsible party. Work under this Consent Order will be performed by a contractor designated pursuant to the procurement requirements in Section 376.3071, F.S., and Chapter 62-772, F.A.C., (the "Agency Term Contractor"). The Department will review and approve site rehabilitation documents

pursuant to Chapter 62-780, F.A.C. (if the Respondent wishes to receive copies of such documents, the Respondent must request them from the Department's Contractor or look at the Department's online facility file). The Respondent is further advised and understands that the Department may task a locally contracted county or a privately contracted Tallahassee-based company with review of the site rehabilitation documents under this agreement.

14. The Department has made a cost allocation commitment to pay the total cost of site rehabilitation of the Facility less \$13,418.79 as specified in paragraph 12. The Department will negotiate work with its Agency Term Contractor and will thereby be responsible to the Agency Term Contractor solely for the Department's portion of the costs as specified in the purchase orders. Pursuant to Section 287.0582, F.S., the State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

15. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$13,418.79, as referenced in paragraph 12 above, which shall be applied towards the reimbursement of the costs incurred by the Department in performing the activities to address site remediation of non-eligible discharge #2. Respondent shall make the payment 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 "Inland Protection 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 few days after this order becomes final, effective, and filed with the Clerk of the Department before ability to make online payment is available.

16. When funding becomes available, the Department or its Agency Term Contractors(s), are permitted to perform any assessment, remedial, corrective, and closure activities at the Property that the Department, in its sole discretion, deems appropriate. Additionally, the Department explicitly reserves the right to use, and Respondent agrees to carry out and maintain, any institutional controls or combination of institutional and engineering controls allowed by chapter 62-780, Florida Administrative Code, to address the

contamination. Any discharge subsequent to the effective date of this Order or contamination not described in paragraph 5 at the Property is not covered by this Order

17. When site rehabilitation has been completed, the Department will issue a Site Rehabilitation Completion Order ("SRCO") with or without conditions as applicable, for the discharges referenced in paragraphs 7, 8, and 9. Documentation of payments to the Contractor of the Respondent's portion of the cost must have been provided to the Department as required by paragraph 15 prior to the issuance of the SRCO. The issuance of the appropriate SRCO by the Department will complete the Department's obligation to commit State funds on the eligible discharge, as well as the Respondent's obligations except for any conditions that may be stipulated in the SRCO.

18. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department \$4,500.00 in settlement of the regulatory matters addressed in this Consent Order. This amount includes \$4,000.00 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 Consent Order. The civil penalty in this case includes one violation that warrants a penalty of \$2,000.00 or more.

19. 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 11 through 17 and 22 of this Consent 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 20, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Consent Order. Any stipulated penalties assessed under this paragraph shall be in addition to the civil penalties agreed to in paragraph 18 of this Consent Order.

20. Respondent shall make all payments required by paragraphs 18 and 19 this Consent 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 becomes final, effective, and filed with the Clerk of the Department before ability to make online payment is available.

21. Except as otherwise provided, all submittals and payments required by this Consent Order shall be sent to Leslie Pedigo, Department of Environmental Protection, Southwest District, 13051 Telecom Parkway, Suite 101, Temple Terrace, FL 33637.

22. 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.

23. Respondent shall use all reasonable efforts to obtain any necessary access from tenants on the Property for work to be performed in the implementation of this Order. If access cannot be obtained, or if obtained, is revoked by entities controlling access to the properties to which access is necessary, Respondent shall notify the Department within five business days of such refusal or revocation. The Department may at any time seek to obtain access as is necessary to implement the terms of this Order. Respondent shall reimburse the Department for any damages, costs, or expenses, including expert and attorney's fees, that the Department is ordered to pay, or that the Department incurs in connection with its efforts to obtain access as is necessary to implement the terms of this Order.

24. In the event of a sale or conveyance of the Facility, 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, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser of the Facility and (c) provide a copy of this Order with all attachments to the purchaser of the Facility. The sale or conveyance of the Facility does not relieve Respondent of the obligations imposed in this Order.

25. 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.

26. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for violations outlined in this Order. This waiver is conditioned upon (a) Respondent's complete compliance with all of the terms of this Order, and (b) the remediation of contaminated areas to the applicable site rehabilitation levels. The Department's cause of action for damages accrues when the Department concludes that remediation of contaminated areas to the applicable site rehabilitation levels is not feasible or that the Respondent failed to completely implement the

Department-approved remedial or corrective action plan (however designated). If the Department and Respondent fail to reach agreement on the payment of the damages, the Department may initiate appropriate legal action to recover the damages as provided by law.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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) by the close of business 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 Southwest District, 13051 Telecom Parkway, Suite 101, Temple Terrace, FL 33637. 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.

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

FOR THE RESPONDENT:



Hamid Ghannad
Manager, 3939 Land O Lakes Blvd, LLC

11/29/21
Date

DONE AND ORDERED this 8th day of December, 2021, in Orange,
Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Pamala Vazquez

Kelley M. Boatwright
District Director
Southwest District

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

Shomathuray Buie

December 8, 2021

Clerk

Date

Copies furnished to:

Lea Crandall, Agency Clerk, Mail Station 35; Lea.Crandall@FloridaDEP.gov
George Juaristic, DOH/Pinellas; George.Juaristic@flhelath.gov
Scott Lashbrook, FDOH in Pinellas County; Scott.Lashbrook2@flhealth.gov
Yanisa Angulo, FDEP/SWD; Yanisa.Angulo@FloridaDEP.gov
Serge Kiyali, FDEP/SWD; Serge.Kiyali@FloridaDEP.gov
Hannah Westervelt, FDEP/SWD; Hannah.Westervelt@FloridaDEP.gov
Leslie Pedigo, FDEP/SWD; Leslie.Pedigo@FloridaDEP.gov