



# FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office  
3301 Gun Club Road, MSC 7210-1  
West Palm Beach, FL 33406  
561-681-6600

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Noah Valenstein**  
Secretary

September 22, 2020

Nap Asset Acquisitions Allure, LLC  
Attn: Global  
501 N Birch Road  
Suite 1  
Fort Lauderdale, Florida 33304  
Via email: [Tom@lilyfunds.com](mailto:Tom@lilyfunds.com)

RE: Department of Environmental Protection v. Nap Asset Acquisitions Allure, LLC  
Site No.: 379826; Project No.: 385812  
OGC FILE NO.: 20-1121

Dear Mr. McManus:

Enclosed for your implementation is the fully executed Consent Order in the above-styled case. Please familiarize yourself with the compliance dates and terms of the Consent Order so the complete and timely performance of those obligations is accomplished.

Thank you for your cooperation in this matter. If you have any questions, please contact the case manager, David Petti at 561-681-6653 or [David.Petti@FloridaDEP.gov](mailto:David.Petti@FloridaDEP.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Andreotta".

---

Jason Andreotta  
Director, Southeast District  
Florida Department of Environmental Protection

Enclosures: Consent Order OGC number: 20-1121

ec: Lea Crandall, Office of General Counsel, [Lea.Crandall@FloridaDEP.gov](mailto:Lea.Crandall@FloridaDEP.gov)  
Jason Andreotta, FDEP – SED, [Jason.Andreotta@FloridaDEP.gov](mailto:Jason.Andreotta@FloridaDEP.gov)  
Sirena Davila, FDEP – SED, [Sirena.Davila@FloridaDEP.gov](mailto:Sirena.Davila@FloridaDEP.gov)  
Jason Spanier, FDEP – SED, [Jason.Spanier@FloridaDEP.gov](mailto:Jason.Spanier@FloridaDEP.gov)  
David Petti, FDEP – SED, [David.Petti@FloridaDEP.gov](mailto:David.Petti@FloridaDEP.gov)  
SED-BP ([SED-BP@floridadep.gov](mailto:SED-BP@floridadep.gov))  
Mollie Sinnott, FDEP-RIPR, [Mollie.Sinnott@dep.state.fl.us](mailto:Mollie.Sinnott@dep.state.fl.us)  
Angel Rovira, Broward County, [ARovira@broward.org](mailto:ARovira@broward.org)  
Tom McManus, [tom@lilyfunds.com](mailto:tom@lilyfunds.com)  
Johana Nieto, [jnieto@lilyfunds.com](mailto:jnieto@lilyfunds.com)  
Gunnar Goettelmann, [ggoettelmann@cuagency.com](mailto:ggoettelmann@cuagency.com)  
Neil Bayer, [Neil@CJCLaw.com](mailto:Neil@CJCLaw.com)  
Cindy Delgado, [Cindy@CJCLaw.com](mailto:Cindy@CJCLaw.com)



# FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office  
3301 Gun Club Road, MSC 7210-1  
West Palm Beach, FL 33406  
561-681-6600

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Noah Valenstein**  
Secretary

July 23, 2020

Nap Asset Acquisitions Allure, LLC  
Attn: Global  
501 N Birch Road  
Suite 1  
Fort Lauderdale, Florida 33304  
Via email: [Tom@lilyfunds.com](mailto:Tom@lilyfunds.com)

SUBJECT: Department of Environmental Protection v. Nap Asset Acquisitions Allure, LLC  
OGC File No.: 20-1121  
Site No.: 379826; Project No.: 385812

Dear Mr. McManus:

The State of Florida Department of Environmental Protection ("Department") finds that Nap Asset Acquisitions Allure, LLC ("Respondent") damaged 32.93 square meters of coral reefs offshore of Broward County, in violation of Section 403.93345, Florida Statutes (F.S.), titled the "Florida Coral Reef Protection Act." Although there are no actions required to correct the violation, the Respondent remains subject to civil penalties and damages as a result of the violation. 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 \$32,930.00 in civil penalties for violation of Section 403.93345, F.S. and \$23,577.29 in damages including compensation for damage to the coral reef, staff and resource trustee costs to conduct the damage assessment and long-term monitoring, and staff costs to administer this matter, which amounts to a total of \$56,507.29

## **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 Florida Department of Environmental Protection, attention David Petti, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406 or via email at: [David.Petti@FloridaDEP.gov](mailto:David.Petti@FloridaDEP.gov) within **twenty (20) days** from the mailing date of this Order. 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, Tom McManus:

- (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; and
- (4) acknowledge that payment of the above amount does not constitute a waiver of the Department's right, if any, to recover emergency response related costs and expenses for this matter.

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) Within 30 days of the effective date of this Order, Respondent shall pay the Department \$55,507.29 in settlement of the matters addressed in this Order. The payment shall be made by cashier's check, money order, or on-line payment. If paying by cashier's check or money order, the payment must: (a) be made payable to the "Department of Environmental Protection"; (b) include both the OGC number (20-1121) assigned to this Order and the notation "Water Quality Assurance Trust Fund – Coral Reef Protection"; and (c) be sent to the Florida Department of Environmental Protection, attention David Petti, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406. 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.
- (2) Within 30 days of the effective date of this Order, Respondent shall make a separate payment of \$1,000 in full to Broward County. The payment shall be made by cashier's check or money order. If paying by cashier's check or money order, the payment must: (a) be made payable to the "Broward County Board of County Commissioners" (b) include the OGC Number (20-1121) assigned to this Order; and (c) be sent to Broward County Board of County Commissioners; attention Angel Rovira, Broward County Environmental Planning and Community Resilience Division, 115 South Andrews Avenue, Room 329H, Fort Lauderdale, FL 33301. The Respondent shall provide documentation of payment in the form of



a receipt from Broward County to the Florida Department of Environmental Protection, attention David Petti, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406 or, via email at: [David.Petti@FloridaDEP.gov](mailto:David.Petti@FloridaDEP.gov). The receipt shall include the OGC Number (20-1121) assigned to this case.

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 David Petti at 561-681-6653 or at [David.Petti@FloridaDEP.gov](mailto:David.Petti@FloridaDEP.gov).

Sincerely,


A handwritten signature in blue ink, appearing to read "Jason Andreotta", is positioned above a horizontal line.

---

Jason Andreotta  
Director  
Southeast District

FOR THE RESPONDENT:

I, THOMAS McMANUS [Type or Print Name], **HEREBY**  
**ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By:   
[Signature]

Date: 8/18/20

Title: Manager  
[Type or Print]

**FOR DEPARTMENT USE ONLY**

DONE AND ORDERED this 22nd day of September, 2020, in Orange County, Florida

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



Jason Andreotta  
Director  
Southeast District

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



Clerk

September 22, 2020

Date

Attachments: Notice of Rights

Final clerked copy furnished to:

Lea Crandall, Agency Clerk, [Lea.Crandall@FloridaDEP.gov](mailto:Lea.Crandall@FloridaDEP.gov)  
David Petti, FDEP-SED, [David.Petti@FloridaDEP.gov](mailto:David.Petti@FloridaDEP.gov)  
Jason Andreotta, FDEP – SED, [Jason.Andreotta@FloridaDEP.gov](mailto:Jason.Andreotta@FloridaDEP.gov)  
Sirena Davila, FDEP – SED, [Sirena.Davila@FloridaDEP.gov](mailto:Sirena.Davila@FloridaDEP.gov)  
Jason Spanier, FDEP-SED, [Jason.Spanier@FloridaDEP.gov](mailto:Jason.Spanier@FloridaDEP.gov)  
Mollic Sinnott, FDEP-RIPR, [Mollic.Sinnott@dep.state.fl.us](mailto:Mollic.Sinnott@dep.state.fl.us)  
Angel Rovira, Broward County, [ARovira@broward.org](mailto:ARovira@broward.org)  
Tom McManus, [tom@lilyfunds.com](mailto:tom@lilyfunds.com)  
Johana Nieto, [jnieto@lilyfunds.com](mailto:jnieto@lilyfunds.com)

Gunnar Goettelmann, [ggoettelmann@cuagency.com](mailto:ggoettelmann@cuagency.com)  
**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.