



# 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

February 23, 2023

Kyle Fulmer, President  
Sunstate Carriers, Inc.  
726 Southridge Industrial Dr.  
Tavares, FL 32778  
[kfulmer@sunstatecarriers.com](mailto:kfulmer@sunstatecarriers.com)

Re: Sunstate Carriers, Inc.  
Facility ID: FLR05I811  
OGC Case No. 22-2422

Dear Mr. Fulmer:

Enclosed is the executed Consent Order to resolve the above referenced case. This copy is for your records.

Should you have any questions or comments, please contact Abbie Khounevixay at 407-897-4107 or via e-mail at [Abbie.Khounevixay@floridadep.gov](mailto:Abbie.Khounevixay@floridadep.gov).

Your cooperation in this matter will be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Watkins".

Aaron Watkins  
Director, Central District

Enclosure: Consent Order OGC#22-2422

cc: Lu Burson, FDEP  
David Smicherko, FDEP  
Abbie Khounevixay, FDEP  
Kevin Haney, [safety@sunstatecarriers.com](mailto:safety@sunstatecarriers.com)  
Josh Fulmer, [jfulmer@sunstatecarriers.com](mailto:jfulmer@sunstatecarriers.com)  
Lea Crandall, OGC  
Lauri Roughton, OGC  
Daun Festa, Central District

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. 22-2422
	)	
SUNSTATE CARRIERS, INC.	)	
_____	)	

**CONSENT ORDER**

This Consent Order ("Order") is entered into between the State of Florida Department of Environmental Protection ("Department") and Sunstate Carriers, Inc. ("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 62-780, 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 Sunstate Carriers, Inc., a motor freight transportation facility for the transport of perishable goods ("Facility"). The Facility is located at 726 Southridge Industrial Drive, Tavares, FL 32778, in Lake County, Florida ("Property"). Respondent owns the Property on which the Facility is located.

4. The Department finds that the following violation occurred:

a) On August 9, 2021 the Department received a complaint regarding an illicit discharge of industrial wastewater onto the property north of Sunstate Carriers. The property that received the illicit discharge is located on County Road 440, approximately 500

feet east of County Road 561 in Tavares, Florida, directly north of Sunstate Carriers facility at 726 Southridge Industrial Drive, and is owned by Harrison D. Dobbs, Jr.

b) Upon discovery of the illicit discharge onto his property Mr. Dobbs contracted an environmental consultant to collect preliminary soil samples at the point of discharge. A subsequent soil sampling report identified "petroleum constituents and RCRA8 Metals in all three samples collected. Concentrations of arsenic and TPH were detected at 2.93 mg/kg and 3,500 mg/kg respectively, which exceed the FDEP's Direct Exposure Soil Cleanup Target Levels (SCTLs) for residential properties of 2.1 mg/kg and 460 mg/kg, respectively. All other contaminant concentrations detected in the samples were below the FDEP's SCTLs."

c) On August 18, 2021, the Department conducted a compliant inspection at the Facility. At the time of the inspection an illicit discharge of industrial wastewater was noted coming from the Facility. The illicit discharge terminated at County Road 440, approximately 500 feet east of County Road 561 in Tavares, Florida, which is directly north of the Facility. The source of the industrial wastewater was from vehicle washing activities performed at the loading dock. The industrial wastewater was conveyed to the property north of the Facility by a sump pump and french drain, in violation of Rule 62-620.300 (3). This illicit discharge led to the contamination noted in 4.b.

d) The Respondent operated the Facility without a valid NPDES stormwater permit, in violation of Rule 62-621.300(5)(a), F.A.C.

5. The Facility was issued a NPDES multi-sector generic permit on April 6, 2022, and the Facility has eliminated the industrial wastewater discharge by permanently disconnecting power to the sump pump and severing the piping for the French drain. 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) Respondent shall immediately cease all discharges from its facility to the ground and/or surface waters of the state that are reasonably expected to cause a violation of the Department's water quality minimum criteria and standards and immediately comply with the requirements of Florida Administrative Code Chapter 62-780.

b) **Within 120 days from the execution of this Order**, Respondent shall submit to the Department a Site Assessment Report ("SAR") in accordance with Rule 62-780.600(8), Fla. Admin. Code. The Department will review and process the SAR in accordance with Rule 62-780.600(9), Fla. Admin. Code.

c) Upon written approval by Department of the SAR, the Respondent shall commence and complete all applicable further tasks required by Chapter 62-780, Fla. Admin. Code in accordance with the requirements and time schedules identified in Chapter 62-780, Fla. Admin. Code.

7. Every quarter after the effective date of this Consent Order, and continuing until all corrective actions have been completed, Respondent shall submit in writing to the Department a report containing information concerning the status and progress of projects being completed under this Order, information as to 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 to be performed 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.

8. Respondent's completion of all corrective actions required by paragraph 6 within the respective deadlines specified thereunder shall constitute full compliance with Rule 62-780 F.A.C.

9. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$ 8,775 in settlement of the regulatory matters addressed in this Order. This amount includes \$ 8,525 for civil penalties and \$ 250 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 2 violations that each warrant a penalty of \$2,000.00 or more.

10. Respondent agrees to pay the Department stipulated penalties in the amount of \$1,000 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 6, 7, and 8 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 11, 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 9 of this Order.

11. 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 becomes final, effective and filed with the Clerk of the Department before ability to make online payment is available.

12. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Compliance Assurance Program, Department of Environmental Protection, Central District Office, 3319 Maguire Blvd. Ste 232, Orlando, FL 32803.

13. 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.

14. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility 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 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, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

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 Office at 3319 Maguire Blvd. Ste. 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.

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

FOR THE RESPONDENT:



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Sunstate Carriers, Inc.  
Kyle Fulmer, President

9/3/23  
Date

DONE AND ORDERED this 23rd day of February, 2023 in Orange 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

February 23, 2023  
\_\_\_\_\_

Date

Copies furnished to: