



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

November 14, 2023

Mr. Gabriel Monfried, President
315 E. Robinson Street, Suite 600
Orlando, FL 32801
gabe@gmfgroup.com

Re: Proposed Consent Order OGC File No. 23-1493
Aurora Acres
PWS ID #: 609-2331
Citrus County

Dear Mr. Monfried:

Enclosed is the proposed Consent Order, OGC File No. 23-1493, regarding the above-referenced facility. Please review, sign and return the Consent Order by **November 30, 2023**, if in agreement. If not in agreement, please contact the Department immediately. Upon return of the signed Settlement Agreement, I shall execute it and a copy will be sent to you.

The executed Consent Order constitutes final agency action of the Department, which shall be enforceable pursuant to Sections 120.69 and 403.121, Florida Statutes. By countersigning the Consent Order, the Department waives its right to seek judicial imposition of damages, costs and expenses, or civil penalties for the alleged violations. By signing the Consent Order, you, as the Respondent, acknowledges and waives its right to a hearing and appeal of the terms of the Consent Order.

If the signed original Consent Order is not received by the Department by **November 30, 2023**, the Department will assume that you are not interested in the settlement on the above terms, and the matter may be referred to the Office of General Counsel for formal enforcement action. None of your rights or substantial interests are determined by the Consent Order until it is signed and filed with the Department.

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Should you have any questions, please contact Jessie Standridge, at (813)470-5736 or via e-mail: Jessie.Standridge@FloridaDEP.gov. Thank you for your cooperation.

Sincerely,



Ms. Kelley M. Boatwright
Southwest District Director
Florida Department of Environmental Protection

KMB\jsb

ec: Pamala Vazquez, FDEP-SWD, Pamala.Vazquez@FloridaDEP.gov
James Brock, FDEP-SWD, James.Brock@FloridaDEP.gov
Jessie Standridge, FDEP-SWD, Jessie.Standridge@FloridaDEP.gov
Misty Dodds, Island Communities, mdodds@islandcommunities.com
Jackie Worley, Island Communities, jworley@islandcommunities.com
Julie Bergmann, Island Communities, jbergmann@islandcommunities.com
Julien Cousinet, Operator, juliencousinet@yahoo.com

Enclosure: Proposed Consent Order

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	SOUTHWEST DISTRICT
)	
v.)	OGC FILE NO. 23-1493
)	
AURORA MHC, LLC)	
_____)	

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and Aurora MHC, 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 water resources and to administer and enforce the provisions of the Florida Safe Drinking Water Act, Sections 403.850, *et seq.*, Florida Statutes (“Fla. Stat.”), and the rules promulgated and authorized in Title 62, Florida Administrative Code (“Fla. Admin. Code”). The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is a person within the meaning of Section 403.852(5), Fla. Stat.
3. Respondent is the owner of a Community Water System, PWS No. 6092331, located at 11240 North Northwood Drive, Inglis, in Citrus County, Florida (“System”).
4. The Department finds that the following violation(s) occurred:
 - a) On June 2, 2023, June 14, 2023, June 20, 2023, August 10, 2023, and August 15, 2023, the free chlorine residual minimum of 0.2 milligrams per liter was not maintained throughout the drinking water distribution system, per rule 62-555.350(6), Fla. Admin. Code.
 - b) On April 27, 2023 and May 25, 2023, Precautionary Boil Water Notices were not issued, nor was the Department notified, during qualifying circumstances, per rule 62-

555.350(10) and 62-555.350(11), Florida administrative Code and guidance issued by the Florida Department of Health.

c) Failure to comply with objectionable odor prohibition pursuant to subsection 62-296.320(2), Fla. Admin. Code, as referenced in Rule 62-555.320(9), Fla. Admin. Code and as defined in Rule 62-210.200, Fla. Admin. Code.

d) Microbiological Monitoring required by 62-550.518(1) Fla. Admin. Code was not conducted for the month of September 2023.

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. Within 30 days of the effective date of this Order, Respondent shall retain the services of a professional engineer, registered in the State of Florida, to evaluate the System. The Respondent shall submit an application, along with any required application fees, to the Department for a permit to construct any modifications needed to address and eliminate the objectionable odor.

b. Within 30 days of the effective date of this Order, Respondent shall provide the Department with a Corrective Action Plan describing the following:

1. The actions that will be taken to address the inconsistency in maintaining the minimum free chlorine of 0.2 milligrams per liter throughout the drinking water distribution system.

2. Plans to ensure all staff related to the System are trained on the proper procedure for issuing and rescinding a precautionary boil water notice.

6. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$ 12,812.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$ 11,312.00 for civil penalties and \$ 1,500 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this

Order. The civil penalties are apportioned as follows: \$ 5,000.00 for violation of Rule 62-555.350(6), Fla. Admin. Code; \$3,000.00 for violation of Rule 62-555.350(10), Fla. Admin. Code; \$3,000.00 for violation of Rule 62-550.518(1) Fla. Admin. Code.

7. 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.

8. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Jessie Standridge, Environmental Specialist, Department of Environmental Protection, Southwest District, 13051 Telecom Parkway North, Temple Terrace, Florida.

9. 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.

10. 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.

11. 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.

12. 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 the terms of this Order.

13. 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.

14. 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.

15. 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.

16. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, Fla. Stat., 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, Fla. Stat.

17. 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.

18. 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, Fla. Stat. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), Fla. Stat.

19. This Consent Order is a final order of the Department pursuant to section 120.52(7), Fla. Stat., 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, Fla. Stat. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF CONSENT ORDER

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 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 Southwest District, 13051 N. Telcom 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.

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

FOR THE RESPONDENT:

Gabe Monfried
Owner

Date

Department Use Only

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

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Ms. Kelley M. Boatwright
District Director
Southwest District

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

Clerk

Date

Final Clerked Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35