



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
Interim Secretary

August 16, 2021

Mr. Gary Rudkin
President of Operations
Utilities, Inc. of Florida
200 Weathersfield Ave.
Altamonte Springs, FL 32714
Gary.Rudkin@corix.com

Re: Executed Consent Order OGC File No. 21-0663
Mid-County WWTP
Facility ID No. FL0034789
Pinellas County

Dear Mr. Rudkin:

Enclosed please find the executed Consent Order OGC No. 21-0663 regarding the above referenced facility. The effective date of the Order is the filing date entered by the designated Department Clerk on the signature page.

Should you have any questions, please contact Ms. Margaret Dorge at (813) 470-5703, or via e-mail: Margaret.Dorge@floridadep.gov. Thank you for your cooperation.

Sincerely yours,

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

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

KB/md

Enclosures: Mid County Executed Consent Order 21-0663
Exhibit A In-Kind Project - Utilities, Inc of Florida

cc: Lea Crandall, DEP, Lea.Crandall@floridadep.gov
Adrienne Pennington, DEP, adrienne.pennington@floridadep.gov
Lance Kautz, DEP-SWD, Lance.Kautz@FloridaDEP.gov
Erica Peck, DEP-SWD, Erica.Peck@FloridaDEP.gov

Mid-County WWTP

Executed Consent Order OGC File No. 21-0663

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Steve Thompson, DEP-SWD, Steve.Thompson@FloridaDEP.gov

Pamala Vazquez, DEP-SWD, Pamala.Vazquez@dep.state.fl.us

Margaret Dorge, FDEP-SWD, Margaret.Dorge@FloridaDEP.gov

Mike Wilson, mike.wilson@uiwater.com

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July 29, 2021

Mr. Gary Rudkin, President
Utilities, Inc. of Florida
200 Weathersfield Avenue
Altamonte Springs, Florida 32714

SUBJECT: Department of Environmental Protection v. Utilities, Inc. of Florida, OGC
File No.: 21-0663
Mid-County Wastewater Treatment Plant – FL0034789

Mr. Rudkin:

The State of Florida Department of Environmental Protection (“Department”) finds that Utilities, Inc. of Florida – Mid-County WWTP (“Respondent”) is in violation of Sections 403.121 (3)(b), Florida Statutes (F.S.), Rule 62-604.130 (1) Florida Administrative Code (F.A.C.) regarding unauthorized discharges of 1,143,600 gallons of partially treated wastewater that bypassed the denitrification filters on September 11, 2020, November 12, 2020 and July 6, 2021. Although there are no actions required to correct the violations, the Respondent remains subject to civil penalties as a result of the violations. 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 \$18,000 in civil penalties, \$1,886.94 in economic benefit, \$9,000 for history of non-compliance and \$250.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$29,136.94. The civil penalty in this matter includes 3 violations of \$2,000.00 or more.

However, in lieu of making cash payment of \$28,886.94 in penalties, Respondent may elect to off-set this amount by implementing an in-kind penalty project, which must be approved by the Department. An in-kind project must be either an environmental enhancement, environmental restoration, or a capital/facility improvement project. The Department may also consider the donation of environmentally sensitive land as an in-

kind project. The value of the in-kind penalty project shall be one and a half times the civil penalty off-set amount, which in this case is the equivalent of **at least \$43,330.41**. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election by electronic mail to Margaret Dorge at Margaret.Dorge@FloridaDEP.gov within **15 days** of the effective date of this Consent Order.

Notwithstanding the election to implement an in-kind project, payment of the remaining \$250.00 in costs must be paid by September 27, 2021.

If Respondent elects to implement an in-kind project, then Respondent shall comply with all of the requirements and timeframes in Exhibit A entitled In-Kind Projects.

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 Southwest District Office, 13051 N. Telecom Parkway, Suite 101, Temple Terrace, Florida 33637 by **August 12, 2021**. 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, Gary Rudkin:

- (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.

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) You must implement the In-Kind Project in accordance with the requirements identified in the attached Exhibit A. **Also, payment of the \$250.00 for costs and expenses must be made by September 27, 2021.**

(2) If Respondent declines to implement an In-Kind Project, payment in full of \$29,136.94 is due by September 27, 2021.

(3) 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.

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 Margaret Dorge at (813) 470-5703 or at Margaret.Dorge@FloridaDEP.gov.

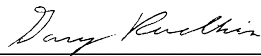
Sincerely,



For Kelley M. Boatwright
District Director
Southwest District

FOR THE RESPONDENT:

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

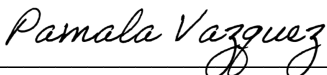
By:  Date: 8/12/2021
[Signature]

Title: President
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 16th day of August, 2021, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


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.



Clerk

August 16, 2021

Date

Attachments: Notice of Rights
Exhibit A - In-Kind Projects

Final clerked copy furnished to:

Lea Crandall, Agency Clerk (lea.crandall@dep.state.fl.us)

Exhibit - A

In-Kind Projects

I. **Introduction**

Proposal

a. Within 60 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable, Respondent shall submit, either electronically or by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

Proposal Certification Form

b. The proposal shall also include a Certification by notarized affidavit from a senior management official for Utilities Inc. of Florida who shall testify as follows:

My name is _____ (print or type name of senior management official) and do hereby testify under penalty of law that:

A. I am a person with management responsibilities for Utilities Inc. of Florida budget and finances. During the eighteenth month period prior to the effective date of Consent Order OGC Case No.: _____ there has not been any transfer or use of funds obtained by the Utilities Inc. of Florida from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System.

B. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowingly submitting false information in this certification.

Sworn to and subscribed before me, by means of physical presence or online
notarization, this ____ day of _____, 2021 by

Personally, known or by Production of the following Identification _____

Notary Public, State of Florida

Printed/typed or stamped name:

My Commission Expires: _____

Commission/Serial No.: _____

Annual Certification Form

My name is _____ (print or type name of senior management official) and do

hereby testify under penalty of law that:

A. I am a person with management responsibilities for Utilities Inc. of Florida budget and finances. During the twelve month period immediately preceding the notary date on this Certification, there has not been any transfer or use of funds obtained by the Utilities Inc. of Florida from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System.

B. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowingly submitting false information in this certification.

Sworn to and subscribed before me, by means of physical presence or online
notarization, this ____ day of _____, 20__ by

Personally, known or by Production of the following Identification _____

Notary Public, State of Florida

Printed/typed or stamped name:

My Commission Expires: _____

Commission/Serial No.: _____

c. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, Respondent shall submit, either electronically or by certified mail, all requested additional information, clarification, and modifications within 15 days of receipts of written notice.

d. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines, Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all the matters at issue and submit, either electronically or by certified mail, a new proposal within 30 days of receipt of written notice. In the event that the revised proposal is not approved by the Department, Respondent shall make cash payment of the civil penalties as set forth in the Consent Order, within 30 days of Department notice.

e. Within 120 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable Respondent shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within 120 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable then Respondent shall make cash payment of the penalties as set forth in the Consent Order, within 30 days of Department notice.

f. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to (a) above, Respondent shall complete the entire in-kind project.

g. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

h. In the event, Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited, and the entire amount of penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the penalty, no additional penalties shall be assessed for failure to complete the requirement of this paragraph.

i. Within 15 days of completing the in-kind project, Respondent shall notify the Department, either electronically or by certified mail, of the project completion and request a verification letter from the Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not

include those incurred in developing the proposal or obtaining approval from the Department for the project.

j. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all the matters at issue and submit, either electronically or by certified mail, a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited, and the entire amount of the penalty shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the penalty, no additional penalties shall be assessed for failure to complete the requirements of this paragraph.