



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

November 18, 2021

Walter Pianta, Owner
Affordable Granite Concepts, Inc.
1025 Miller Dr., Suite 105
Altamonte Springs, FL 32701
walterpianta@hotmail.com

Re: Affordable Granite Concepts
IW Facility
OGC Case No: 21-0959
Seminole County

Dear Mr. Pianta:

Enclosed is a Consent Order ("Order") prepared by the Department for resolution of the referenced enforcement case. Please review this document and within 20 days of receipt, either: 1) return a signed copy to the Department or 2) provide comments and suggested changes. Once fully executed, a copy of the final document will be forwarded to you.

Should you have any questions or comments, please contact Helena Dacenay at 407-897-4342 or via e-mail at Helena.Dacenay@FloridaDEP.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "AW", is written over a horizontal line.

On behalf of:

Aaron Watkins, Director
Central District

Enclosure: Consent Order

cc:
Curtney Jenkins, Curtney.agkb@gmail.com

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. 21-0959
)	
AFFORDABLE GRANITE CONCEPTS, INC.))	
_____)	

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and Affordable Granite Concepts, 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, 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 Affordable Granite Concepts, a granite fabrication and installation (“Facility”). The Facility is located at 1025 Miller Drive, Suite 105, Altamonte Springs, in Seminole County, Florida (“Property”). Respondent owns the Property on which the Facility is located. The facility was previously permitted under facility ID #FLA993042 and was granted an exemption on June 22, 2017 for a treatment system that is no longer in operation on site.
4. As of the effective date of this Order, Respondent has not obtained a wastewater permit from the Department to operate the Facility.
5. The Department finds that the following violations occurred:

a) Respondent operated the Facility without a valid wastewater permit from the Department since May 18, 2021, in violation of Rule 62-4, F.A.C.

b) On June 16, 2021, an unauthorized discharge of an unknown amount of industrial wastewater from the treatment system was observed by Department personnel in violation of Rule 62-604, F.A.C.

c) On August 25, 2021, an unauthorized discharge of an unknown amount of industrial wastewater from the treatment system was observed during a Department Compliance Evaluation Inspection for NPDES Stormwater permit #FLR05I664 in violation of Rule 62-604, F.A.C.

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

ORDERED:

6. Within 60 days of the effective date of this Order, Respondent shall, pursuant to Sections 403.087 and 403.088, F.S., and Chapters 62-620 and 62-4, F.A.C., submit design modifications and a permit application, along with the appropriate fee, to the Department. The purpose of the application and fee shall be to obtain a wastewater permit. The application shall meet all requirements of Chapter 62-620, F.A.C., which include but are not limited to being prepared and sealed by a professional engineer registered in the State of Florida. In the event the application is deemed to be incomplete by the Department, the Respondent shall, within 90 days of written request by the Department, submit to the Department all information requested. Upon issuance of the wastewater permit, Respondent shall comply with the terms contained in the permit and any corresponding administrative order.

7. In the event that Respondent fails to submit an application for a wastewater permit within 60 days of the effective date of this Order, as required by paragraph 6, Respondent shall immediately cease all discharges from its Facility to the ground and/or surface waters of the state.

8. If, within 180 days of the effective date of this Order, Respondent has not obtained a wastewater permit to authorize operation of the Facility by the Department, the

Respondent shall immediately cease all discharges from its Facility to the ground and/or surface waters of the state.

9. Within 60 days after issuance of the wastewater permit referenced in paragraph 6 above, or if no permit is required, within 60 days of the approval of the design modifications in paragraph 6, Respondent shall complete construction of the modifications submitted pursuant to paragraph 6.

10. Within 30 days after completion of the construction, Respondent shall submit to the Department a Certification of Completion, prepared and sealed by a professional engineer registered in the State of Florida, stating that modifications to the Facility, effluent disposal system, and collection system have been constructed in accordance with the provisions of the Permit or, if no Permit is required the design modifications submitted pursuant to paragraph 6.

11. Within 30 days after completion of construction, Respondent shall create and implement a Best Management Practices (BMP) Plan for the industrial wastewater treatment system.

12. 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.

13. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by paragraphs 6-12 within 1 year of the effective date of this Order and be in full compliance with Rules 62-4 and 62-604, F.A.C.,

regardless of any intervening causes or alternative time frames imposed in this Order, other than those excused delays agreed to by the Department, as described in paragraph 20.

14. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$ 13,525.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$ 13,025.00 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 Order. The civil penalty in this case includes 3 violations that each warrant a penalty of \$2,000.00 or more.

15. 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 6-13 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 16, 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 15 of this Order.

16. 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.

17. Except as otherwise provided, all submittals and payments required by this Order shall be sent to DEP_CD@floridadep.gov, Attn: David Smicherko, Environmental

manager, Central District , Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. Respondent shall publish the following notice in a newspaper of daily circulation in Seminole County, Florida. The notice shall be published one time only within 30 days of the effective date of the Order. Respondent shall provide a certified copy of the published notice to the Department within 10 days of publication.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF CONSENT ORDER

The Department of Environmental Protection ("Department") gives notice of agency action of entering into a Consent Order with Affordable Granite Concepts, Inc. pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the unauthorized discharges at 1025 Miller Drive, Suite 232, Altamonte Springs, FL. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803.

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 3319 Maguire Blvd., Suite 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.

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

FOR THE RESPONDENT:

Walter Pianta
Owner

Date

DONE AND ORDERED this ____ day of _____, 20____, 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

Date

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35