



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 W. Government Street, Suite 308
Pensacola, Florida 32502

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

June 3, 2022

Kyle Clark, Vice President
Florida State University
600 W College Ave
Tallahassee, FL 32306
kyle@fsu.edu

Re: Proposed Revised Consent Order; Department of Environmental Protection v. Florida State University, OGC File No.: 22-0402; Leon County

Dear Mr. Clark,

Enclosed is the executed Short Form Consent Order, which addresses issues related to the subject facility. Please note the requirements of the Short Form Consent Order for which you are responsible and fulfill all pertinent actions accordingly. Unless otherwise noted, all deadlines for completing requirements and actions in the Short Form Consent Order are to be calculated from its effective date, which is the date the Consent Order was filed with the Department Clerk, as noted on the signature page.

Your cooperation in resolving this matter is greatly appreciated. If you have any questions, please contact Erin Rasnake at (850) 595-0688 or at Erin.Rasnake@FloridaDEP.gov.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth Mullins Orr".

Elizabeth Mullins Orr
District Director

EMO / rd

cc: Dave Irvin, (dirvin@fsu.edu)
Dustin Dailey (dndailey@fsu.edu)
James Stephens, (jfstephens@admin.fsu.edu)
Renee Murray, (rrmurray@fsu.edu)

Enclosure: Enclosed Short Form Consent Order



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 W. Government Street, Suite 308
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April 18, 2022

Florida State University
Kyle Clark, Vice President for Finance and Administration
600 W College Ave, Tallahassee, FL 32306

SUBJECT: Department of Environmental Protection v. Florida State University,
OGC File No.: 22-0402
Facility ID No. FLSS0A352

Mr. Kyle Clark:

The State of Florida Department of Environmental Protection ("Department") finds that Florida State University ("Respondent"), between September 7, 2021 and September 28, 2021, had a pipe release an estimated 10,000 gallons of unauthorized discharge into a central drainage ditch, which is classified as a 3F surface water, that exceeded the maximum surface water standard limits of 410/100 mL for a single sample maximum limit of E. Coli, in violation of Section 403.121(3)(b) F.S., Rule 62-604.130(1) F.A.C., and Rule 62-302.530(6) F.A.C. Although there are no actions required to correct the violation, the Respondent remains subject to civil penalties 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 \$9,000 in civil penalties and \$250 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$9,250. The civil penalty in this matter includes 1 violation(s) of \$2,000.00 or more.

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 160 W. Government Street, Suite 308, Pensacola, FL 32502 by May 13, 2022. 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

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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, Respondent:

- (1) certify, **UNDER PENALTY OF PERJURY**, 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) Respondent must pay \$9,250 in full by June 13, 2022.
- (2) 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

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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 Riley Dibble at (850) 595-0671 or at Riley.Dibble@FloridaDEP.gov.

Sincerely,




Elizabeth Mullins Orr
District Director
Northwest District

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FOR THE RESPONDENT:

I, Kyle Clark, as its Vice President [Type or Print Name], **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

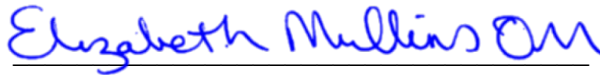
By:  [Signature] Date: April 27, 2022

Title: Vice President for Finance & Administration
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 3rd day of June, 2022, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Elizabeth Mullins Orr
District Director
Northwest District

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

Mandakini Patel
Clerk

June 3, 2022
Date

Attachments: Notice of Rights
Compliance Assistance Offer:
[https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&\[guid\]=38.1063831.11&\[profile\]=Discovery_Compliance](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&[guid]=38.1063831.11&[profile]=Discovery_Compliance)

Final clerked copy furnished to:
Lea Crandall, Agency Clerk (lea.crandall@dep.state.fl.us)

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 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

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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.