



Florida Department Of Environmental Protection

Northeast District
8800 Baymeadows Way West, Suite 100
Jacksonville, Florida 32256

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

August 9, 2022

Sent electronically to: Thomas.Pazdera@GAPAC.com

Mr. Thomas Leo Pazdera
Vice President/General Manager
Foley Cellulose, LLC
One Buckeye Drive
Perry, Florida 32348

SUBJECT: Department of Environmental Protection v. Foley Cellulose, LLC
Wastewater Permit No. FL0000876
OGC File No. 21-0535
Taylor County

Dear Mr. Pazdera:


Enclosed is a copy of the executed Consent Order to resolve Case Number 21-0535.

The effective date of this Order is August 8, 2022, and all time frames will be referenced from this date.

As a reminder, a Consent Order is a binding legal document and was voluntarily entered into by both parties.

If you have any questions concerning the Consent Order, please contact Herndon Sims, at (904) 256-1612, or via email, at Herndon.Sims@FloridaDEP.gov. Your continued cooperation in the matter is greatly appreciated

Sincerely,


James R. Maher, PE
Assistant Director

Enclosure: Executed Consent Order

cc: FDEP-OGC: Lea Crandall, Agency Clerk

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION)	IN THE OFFICE OF THE NORTHEAST DISTRICT
)	
v.)	OGC FILE NO. 21-0535
)	
FOLEY CELLULOSE LLC (FOLEY MILL)))	
_____)	

CONSENT ORDER

This Consent Order ("Order") is entered into between the State of Florida Department of Environmental Protection ("Department") and Foley Cellulose 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 air and water resources and to administer and enforce the provisions of Chapter 403, 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 403.031(5), Fla. Stat.
3. Respondent is the owner and is responsible for the operation of Foley Cellulose LLC, a Dissolving Kraft Pulp mill operating a 50 million gallon per day (design) industrial wastewater treatment system ("Facility"). Respondent operates the Facility under Department Wastewater Permit No. FL0000876, which was issued on August 21, 2019, and will expire on August 20, 2024. The Facility is located at One Buckeye Drive, Perry, in Taylor County, Florida ("Property"). Respondent owns the Property on which the Facility is located.
4. The Department finds that the following violations occurred:
 - a) On February 19, 2021, Respondent experienced an unauthorized discharge of approximately 3.5 million gallons of untreated industrial wastewater to the Fenholloway River in violation of Rule 62-620.300(1), Fla. Admin. Code, which prohibits discharge of wastes to waters without a permit from Department, Section 403.161(1)(a), Fla.

Stat, which states that it is a violation of Chapter 403, Fla. Stat. to cause pollution so as to harm or injure human health or welfare, animal, plant, or aquatic life or property, and Section 403.161(1)(b), Fla. Stat., for failing to obtain any permit required by Chapter 403, Fla. Stat. or by rule or regulation, and for violating or failing to comply with any rule, regulation, order, permit, or certification adopted or issued by the department pursuant to its lawful authority. This release is enforceable under Rule 62-620.610(1), (5), and (7), Fla. Admin. Code. The unauthorized discharge was associated with a 2.7-inch rain event.

b) On May 7, 2021, Respondent experienced an unauthorized discharge of approximately 80,000 gallons of partially treated wastewater from leaking pipe joints to the Fenholloway River in violation of Rules 62-620.300(1) and 62-620.610(1), (5), and (7), Fla. Admin. Code as set forth above, and in violation of Sections 403.161(1)(a) and (b), Fla. Stat.

c) On September 26, 2021, Respondent experienced an unauthorized discharge of approximately 500,000 gallons of partially treated wastewater to a wetland which connects to the Fenholloway River in violation of Rules 62-620.300(1) and 62-620.610(1), (5), and (7) Fla. Admin. Code as set forth above, and in violation of Sections 403.161(1)(a) and (b), Fla. Stat.

d) On March 12-13, 2022, Respondent experienced an unauthorized discharge of approximately 1.5 million gallons of untreated industrial wastewater from the Foley Mill combined wastewater collection system to the Fenholloway River; in violation of Rules 62-620.300(1) and 62-620.610(1), (5), and (7) Fla. Admin. Code as set forth above, and in violation of Sections 403.161(1)(a) and (b), Fla. Stat.

e) On March 20, 2022, Respondent reported that 5,000 pounds of industrial dewatered sludge being hauled to the Facility's solid waste site for disposal was spilled from a trailer on a public road due to an unsecure tailgate. The spill dewatered sludge is not considered a hazardous material but is in violation of Section 403.161(1)(a), Fla. Stat., which states that it is a violation to cause pollution so as to harm or injure human health or welfare, animal, plant, or aquatic life or property, and the Best Management Practices incorporated in the permit pursuant to Rule 62-200(3), Fla. Admin. Code. The incident is also a violation of Rule 62-620.300(5), Fla. Admin. Code which prohibits a wastewater facility or activity from being

operated in a manner inconsistent with the terms of the permit. This spill is also enforceable under Rule 62-620.610 (1), Fla. Admin. Code.

f) On March 26, 2022, Department received verbal notification of Total Suspended Solids ("TSS") daily maximum and monthly average exceedances. These exceedances are noted in Table 1 below. The TSS violation was caused by solids leaking through a previously sealed gate from Lagoon No. 2 legacy solids basins. A diving team found that the gate was not properly sealed. The gate was re-sealed and plans are being developed to inspect the entire discharge flume.

g) A file review showed permit limit exceedances occurred between April 2018 -March 2022 as noted in table 1 below:

Table 1: Exceedances

Monitoring Group	Date	Description	Result	Limit	Units	Statistical Base
D-001	04/30/2018	Biochemical Oxygen Demand-5	23798	19800	lb/day	Daily Maximum

Monitoring Group	Date	Description	Result	Limit	Units	Statistical Base
D-002	04/30/2021	E.coli	1034	126	#/100mL	Monthly Geometric Mean
D-002	04/30/2021	E.coli	3900	410	#/100mL	90th Percentile
D-002	05/31/2021	E.coli	740	410	#/100mL	90th Percentile

Monitoring Group	Date	Description	Result	Limit	Units	Statistical Base
D-002	09/30/2021	Nitrogen, Ammonia, Total (as N)	384.4	365	lb/day	Monthly Average
D-002	05/31/2022	Nitrogen, Ammonia, Total (as N)	504.9	365	lb/day	Monthly Average

Monitoring Group	Date	Description	Result	Limit	Units	Statistical Base
D-001	08/31/2018	Solids, Total Suspended	54585	50000	lb/day	Daily Maximum
D-002	10/31/2021	Solids, Total Suspended	26091	17600	lb/day	Daily Maximum
D-002	3/31/2022	Solids, Total Suspended	17991.9	17600	lb/day	Daily Maximum

Monitoring Group	Date	Description	Result	Limit	Units	Statistical Base
D-002	3/31/2022	Solids, Total Suspended	8499.6	8360	lb/day	Monthly Average

h) These permit limit exceedances are a violation of Section 403.161(1)(b), Fla. Stat., for violating or failing to comply with any rule, regulation, order, permit, or certification adopted or issued by the department pursuant to its lawful authority. These exceedances are enforceable under Rule 62-620.610(1), (5), and (7), Fla. Admin. Code, as defined above.

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

5. Respondent shall submit a Compliance Plan as described below:

a. Within 30 days of the effective date of this Order, Respondent shall submit a plan ("Compliance Plan") covering corrective actions, repairs and modifications addressing the violations listed in paragraph 4 above, except the violation March 12-13, 2022 referenced in 4 d), which will be addressed per paragraph 6 below. The Compliance Plan will include procedures, repairs and modifications that have been implemented to remedy the cause or causes of the violations to the Department for review. The Compliance Plan shall include, at a minimum, the completed tasks with completion dates and project costs along with the remaining tasks with estimated completion dates and estimated costs. The Compliance Plan shall be prepared and submitted under seal by a professional engineer registered in the state of Florida pursuant to Rule 62-620.310(4), Fla. Admin. Code and shall ensure the Facility and effluent disposal system will function in full and consistent compliance with all applicable rules.

b. Within 14 days after the due date for submission of the Compliance Plan, pursuant to paragraph 5, the Department will respond and inform the Facility if the modifications need to be added to the Facility's permit modification in progress at the Department's Northeast District. In the event the Department requires additional information to process the permit modification application, the Respondent shall provide a written response containing the information requested by the Department within 30 days of the date of the request.

c. The Respondent shall complete the construction of incomplete modifications pursuant to the timeline submitted in the Compliance Plan pursuant to

paragraph 5. Within 30 days after completion of the construction, Respondent shall submit to the Department a Certification of Construction Completion, prepared and sealed by a professional engineer registered in the State of Florida, certifying that modifications to the Facility, effluent disposal system, and collection system have been constructed in accordance with the provisions of the Permit modification or, if no Permit modification is required, the design modifications submitted pursuant to paragraph 5.

6. The Respondent shall increase the holding capacity of process water or contact stormwater impoundments to prevent future unauthorized discharges from occurring during large rain or storm events. The Respondent should adhere to the 100-year design storm requirements outlined in the Suwannee River Water Management District ("District") Environmental Resource Permit Applicant's Handbook Volume II "Design Requirements for Stormwater Treatment and Management Systems" ("Handbook") with an effective date of August 1, 2013 outlined in Rule 62-330.010(4)(b)(2), Fla. Admin Code. The handbook can be referenced at:

<https://www.flrules.org/Gateway/reference.asp?No=Ref-03182>. This Handbook regulates stormwater only (not for process water or contact stormwater impoundments). The Department and the District are under an operating agreement since October 27, 1998, which can be referenced at: <https://floridadep.gov/ogc/ogc/documents/oaquaculture102798>

a. Within 90 days of the effective date of this Order, Respondent shall prepare an initial scope of work that includes a reasonable timeline to submit a complete plan ("Stormwater Plan") of all improvements and changes needed to increase the Facility's process water and contact stormwater impoundments to meet the 100 year stormwater design criteria/requirements pursuant to the Handbook referenced in paragraph 6, to remedy the cause of March 12-13, 2022 violation identified in paragraph 4 above, to the Department.

b. The Respondent shall submit the complete Stormwater Plan pursuant to the timeline submitted in the scope of work referenced in paragraph 6. a. above. The plans shall be prepared and submitted under seal by a professional engineer registered in the state of Florida and shall ensure the Facility and will function in full and consistent compliance with all applicable Florida statutes and rules. The Stormwater

Plan shall include, at a minimum, the tasks to be completed with estimated completion dates and project costs.

c. Within 30 days after the due date for submission of the Stormwater Plan, the Department will respond and inform the Respondent if the stormwater modifications require a permit modification or revision. In the event the Department requires additional information to process the permit modification application, the Respondent shall provide a written response containing the information requested by the Department by the date requested by the facility and agreed upon by the Department.

7. Beginning on the first day of the quarter following the effective date of this Order and lasting 365 days from the effective date of this Order, the interim limits shall apply for Total Suspended Solids, as shown in Table 2, below.

Table 2: TSS Interim Limits

Parameter	Limit	Measurement Frequency	Stat. Basis	Sample Type
Total Suspended Solids	24,957 lb/day	3 Days/Week	Daily Maximum	Calculated
Total Suspended Solids	8,285 lb/day	3 Days/Week	Monthly Average	24-hr FPC

a. These monitoring requirements do not act as State of Florida Department of Environmental Protection Wastewater Permit surface water quality limitations, nor do they authorize or otherwise justify violation of the Florida Air and Water Pollution Control Act ("Act"), Part I, Chapter 403, Fla. Stat., during the pendency of this Order.

b. Interim Permit General Conditions: Upon issuance of this order, it is acknowledged that in the event of a significant storm event the Foley Mill may bypass to the Fenholloway River at the Credit Union Road discharge point until the Stormwater Plan referenced in paragraph 6 is completed. All such bypasses are acknowledged to be prior noticed bypasses under permit IX General Conditions,

paragraph 22. c. and affirmatively demonstrates to meet the requirements of paragraph 22.b.

8. Every calendar 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.

9. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions as submitted in the Plans and approved by the Department and be in full compliance with Rules 62-620.310(4), 62- 620.200(3), 62-620.300(1), 62-620.610(1), 62-620.610(5) and 62-620.610(7), Fla. Admin. Code, regardless of any intervening events or alternative time frames imposed in this Order.

10. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$47,967.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$24,000.00 for civil penalties, \$17,467.00 for economic benefit, history of non- compliance is \$6,000.00 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 one (1) violation that warrants a penalty of \$10,000.00 or more.

11. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 5 through 9 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 12 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 10 of this Order.

12. 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.

13. In lieu of making cash payment of \$24,000.00 in civil penalties as set forth in paragraph 10 above, 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 and may not be a corrective action requirement of the Order or otherwise required by law. 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 \$36,000.00. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election by certified mail within 15 days of the effective date of this Consent Order. Notwithstanding the election to implement an in-kind project, payment of the remaining \$23,967.00 in economic benefit and costs must be paid within 30 days of the effective date of the Consent Order.

14. If Respondent elects to implement an in-kind project as provided in paragraph 13, then Respondent shall comply with all the requirements and time frames in Exhibit A entitled In-Kind Projects.

15. Except as otherwise provided, all submittals and payments required by this Order shall be sent to the Northeast District, Department of Environmental Protection. The address is 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida, 32256.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

27. Respondent shall publish the following notice in a newspaper of daily circulation in Taylor County, Florida. The notice shall be published one time only within 15 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 Foley Cellulose LLC (Foley Mill) pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the unauthorized discharge of untreated or partially treated wastewater on February 19, 2021, May 7, 2021, September 26, 2021, and March 13, 2022, and effluent-limitation exceedances between April 30, 2018 and March 31, 2022. 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, 8800 Baymeadows Way W, suite 100, Jacksonville, Florida, 32256.

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 OGC Number assigned to this Consent Order;
- b) The name, address, and telephone number of each petitioner; 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;

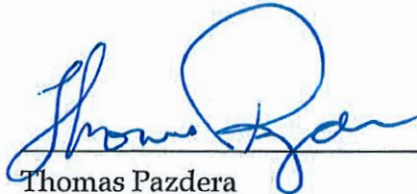
- c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order;
- d) A statement of when and how the petitioner received notice of the Consent Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Consent Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Consent Order.

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 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida, 32256. 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.

28. Rules referenced in this Order are available at:

<http://www.dep.state.fl.us/legal/Rules/rulelist.htm>.

FOR THE RESPONDENT:

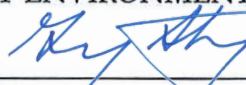


Thomas Pazdera
Vice President, General Manager

8-2-22
Date

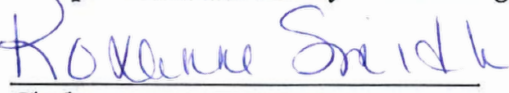
DONE AND ORDERED this 8 day of August 2022, in Duval, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Gregory J. Strong
District Director
Northeast 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 8, 2022
Date

Copies furnished to: FDEP-OGC: Lea Crandall, Agency Clerk (executed copy)
FDEP-Jacksonville: Ashlen Ward, Joni Petry, Jeff Martin, Herndon Sims
FDEP-DWRM: Herbert Johnson, Savanna Harrison (executed copy)
Chet Thompson - chet.thompson@gapac.com (executed copy)
Patrick Reynolds - FDEP OGC

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, 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.
- b. 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, by certified mail, all requested additional information, clarification, and modifications within 15 days of receipts of written notice.
- c. 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, 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 paragraph 12 above, within 30 days of Department notice.

d. 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 civil penalties as set forth in paragraph 12 above, within 30 days of Department notice.

e. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to paragraph 2(a) above, Respondent shall complete the entire in-kind project.

f. 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.

g. 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 civil 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 \$47,467.00 penalty, no additional penalties shall be assessed for failure to complete the requirement of this paragraph.

h. Within 15 days of completing the in-kind project, Respondent shall notify the Department, 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.

i. 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, 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 civil 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 \$47,467.00, no additional penalties shall be assessed for failure to complete the requirements of this paragraph.