



# 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

October 25, 2022

Lockwood Wernet, General Manager  
Destin Water Users, Inc.  
Post Office Box 308  
Destin, Florida 32540-0308  
[lwernet@dwuinc.com](mailto:lwernet@dwuinc.com)

Re: Executed Consent Order; DEP vs. Destin Water Users, Inc.; George F French Water Reclamation Facility; Facility ID No. FLA010194; OGC File No. 22-1918; Okaloosa County

Dear Mr. Wernet,

Enclosed is the executed Long Form Consent Order (OGC File No. 22-1918), which addresses issues related to the subject facility. Please note the requirements of the Long 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 Long Form Consent Order are to be calculated from its executed 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 Dana Vestal at 850-595-0659 or by e-mail at [Dana.Vestal@floridadep.gov](mailto:Dana.Vestal@floridadep.gov).

Sincerely,

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

*On behalf of*

Elizabeth Mullins Orr  
Director  
Northwest District

EMO/dv

Enclosure: Executed Consent Order

c: Monica Wallis, P.E., Destin Water Users, Inc. ([mwallis@dwuinc.com](mailto:mwallis@dwuinc.com))

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT	)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION	)	NORTHWEST DISTRICT
	)	
v.	)	OGC FILE NO. 22-1918
	)	
DESTIN WATER USERS, INC.	)	
_____	)	

**CONSENT ORDER**

This Consent Order (Order) is entered into between the State of Florida Department of Environmental Protection (Department) and Destin Water Users, 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 the George F French Water Reclamation Facility, a 6.0 million gallons per day monthly average daily flow permitted capacity domestic wastewater treatment facility with an aquifer storage and recovery system, a Part III public access reuse system, and a Part IV rapid infiltration basin system (Facility). The Facility is operated under Wastewater Permit No. FLA010194 (Permit), which was issued on June 26, 2020 and will expire on June 25, 2025. The Facility is located at 14 Industrial Park Lane, Destin, in Okaloosa County, Florida 32541 (Property). The Walton/Okaloosa Regional Utility Authority owns the Property on which the Facility is located.
4. The Department finds that the following violation(s) occurred:
  - a) The Facility has reported chronic sanitary sewer overflows (SSOs) from its wastewater collection system and at the domestic wastewater facility. This Order includes 19 SSOs from September 9, 2019 to May 4, 2022 (See Exhibit A, attached). These SSOs constitute a violation of Rules 62-604.130(1) and 62-604.500, F.A.C.

b) Respondent provided a written response to the Department on August 24, 2022, detailing the Respondent's current practices and procedures, as well as proposing updates to the proposed Consent Order, and alternative proposed corrective actions. These updates were incorporated and are included in this Consent Order.

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) Complete air release valve (ARV) improvement project to include inspection cycle and incorporation of new work orders in Cityworks for ARVs to be inspected regularly and the installation of new ARVs identified in forcemains with potential air pockets. The ARV improvement project must be completed within 24 months of the effective date of this Order.

b) Complete a structured inspection of the manholes in the Respondent's wastewater collection system. The manholes in the system must be inspected within 24 months of the effective date of this Order.

i. Within 30 months of the effective date of this Order, submit a schedule and list of all manhole defects found and the anticipated dates to complete repairs due to be completed within the following calendar year.

c) Within 12 months of the effective date of this Order, submit a plan to install flow meters at four larger lift stations ("Lift Stations Flow Plan"). The Lift Stations Flow Plan shall include a listing of the four lift stations that will be monitored.

6. Every six months after the effective date of this Order and continuing until all corrective actions have been completed, Respondent shall submit to the Department a written report containing information about the status and progress of projects being completed under this Order, information about compliance or noncompliance with the applicable requirements of this Order, including construction requirements and a list of all sanitary sewer overflows occurring during the semi-annual reporting period to include: final spill volumes, whether the SSO was treated, untreated, partially treated or Part III reuse, whether the SSO affected surface waters, any sampling results of affected surface waters, any volume of SSOs recovered, describing the cause for the SSO, actions taken to remediate the SSO, and actions taken, or to be taken to prevent future SSOs of this nature, the responsible party for the

SSO, and any reasons for noncompliance. These reports shall also include the current number of ARVs inspected, number remaining ARVs to be inspected, numbers/locations of any new ARVs installed with the installation dates; number of manholes inspected, number of manhole inspections remaining, number of defects found needing repairs; a summary of the Lift Stations Flow Plan data collected. These reports shall also include a projection of the work Respondent will perform 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 semi-annual period (1<sup>st</sup> semi-annual period January-June, 2<sup>nd</sup> semi-annual period July-December).

7. Respondent’s completion of all corrective actions required by paragraphs 5 & 23 within the respective deadlines specified thereunder shall constitute full compliance with Rule 62-604, F.A.C.

8. Within 90 days of the effective date of this Order, Respondent shall pay the Department \$36,500.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$36,000.00 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 19 violations that each warrant a penalty of \$2,000.00 or more.

9. 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 paragraph(s) 5 & 23 of this Order. Additionally, Respondent shall pay the Department stipulated penalties for any discharges of wastewater from the WWTF and/or collection/transmission system. Respondent shall pay penalties as follows:

<u>Amount per day per discharge</u>	<u>Discharge Volume<sup>1</sup></u>
\$500.00	up to 2,500 gallons
\$1,000.00	2,501 to 5,000 gallons
\$2,000.00	5,001 to 10,000 gallons
\$5,000.00	10,001 to 25,000 gallons
\$10,000	25,001 to 100,000 gallons
\$15,000	in excess of 100,000 gallons

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<sup>1</sup> Volume not recovered

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 10, 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 8 of this Order.

10. 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.

11. Except as otherwise provided, all payments required by this Order shall be sent to Erin Rasnake, Assistant Director, Department of Environmental Protection, Northwest District, 160 West Government Street, Suite 308, Pensacola, Florida 32502, and all submittals required by this Order shall be sent to the Northwest District Office by e-mail at [NWD\\_WastewaterCompliance@floridadep.gov](mailto:NWD_WastewaterCompliance@floridadep.gov).

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. Respondent shall publish the following notice in a newspaper of daily circulation in Okaloosa 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 DESTIN WATER USERS, INC. pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the sanitary sewer overflows at the George F French Water Reclamation Facility located at 14 Industrial Park Lane, Destin, Florida 32541. 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, Northwest District, 160 West Government Street, Suite 308, Pensacola, Florida 32502.

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](mailto: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 Northwest District, 160 West Government Street, Suite 308, Pensacola, Florida 32502. 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.

24. Rules referenced in this Order are available at

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


FOR THE RESPONDENT:

  
\_\_\_\_\_  
Lockwood Wernet  
General Manager

10/18/2022  
Date

DONE AND ORDERED this 25 day of October, 2022, in Orlando, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

 *On behalf of*  
\_\_\_\_\_  
Elizabeth Mullins Orr  
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.

  
\_\_\_\_\_  
Clerk

October 25, 2022  
Date

Copies furnished to:

Lea Crandall, Agency Clerk  
Mail Station 35

Destin Water Users SSOs 9.19.2019 to 5.4.2022

Incident Date	SWO Number	Location	Final Volume Not Recovered (gal)	Final Volume Released (gal)	Volume Recovered (gal)	Water Body Affected	Water Body Classification	Spill Characteristics	Cause
9/9/2019	None	14 Industrial Park Ln	900	900	0	None	None	Untreated	Overflow
9/28/2019	2019-5507	1030 Hwy 98	16,500	20,000	3,500	Destin Harbor	Class II	Untreated	Equipment
12/10/2019	2019-6884	9 Country Club Dr	0	27,000	27,000	None	None	Untreated	Break-in-line
1/2/2020	None	840 Beach Dr	20	20	0	None	None	Untreated	Break-in-line
9/18/2020	None	608 Main St	20	20	0	None	None	Untreated	Overflow
10/6/2020	None	14 Industrial Park Ln	300	300	0	None	None	Untreated	Blockage
10/9/2020	2020-5636	14 Industrial Park Ln	1,200	3,500	2,300	None	None	Untreated	Blockage
10/13/2020	None	14 Industrial Park Ln	200	200	0	None	None	Untreated	Blockage
3/29/2021	None	89 Mark St	75	75	0	None	None	Untreated	FOG
4/4/2021	None	1010 Hwy 98E	250	500	250	None	None	Untreated	Blockage
4/11/2021	2021-1915	14 Industrial Park Ln	2,000	125,000	123,000	Joe's Bayou	Class II	Untreated	Overflow
8/1/2021	2021-4135	2700 Scenic Hwy 98	-3,000	5,000	8,000	None	None	Untreated	Extreme Weather
9/17/2021	None	3857 Indian Trail	200	200	0	None	None	Untreated	Overflow
10/4/2021	2021-5615	2700 Scenic Hwy 98	32,000	75,000	43,000	None	None	Untreated	Break-in-line
10/12/2021	2021-5857	Mathew Blvd and Scenic Hwy 98	1,000	17,000	16,000	None	None	Untreated	Break-in-line
3/14/2022	None	1006B Hwy 98	100	100	0	None	None	Untreated	FOG
4/17/2022	2022-2621	4653 Destiny Way	-2,800	2,200	5,000	None	None	Untreated	Break-in-line
4/19/2022	None	Sandprint Cir and Pelican Beach Resort	100	500	400	None	None	Untreated	Break-in-line
5/4/2022	None	201 Henderson Resort Way	20	20	0	None	None	Untreated	Blockage
Totals			49,085	277,535	228,450				