

From: no-reply@dep.state.fl.us
To: darla@beltzseptic.com
Cc: [DEP_NED; OGC_ESSAOrderPayment](#)
Subject: FDEP Penalty Payment(s) Receipt
Date: Wednesday, November 30, 2022 1:16:01 PM
Attachments: [ATT00001.bin](#)



**FLORIDA DEPARTMENT OF
Environmental Protection**

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

Receipt for Payment

November 30, 2022

OGC Number: **222719**

Receipt
Number: **159578**

Payment(s)
made by: **Darla Eberst**

Address: **7000 Northeast 150th Ave**
City, State Zip: **Williston, FL 32696**

On behalf of:

Responsible Party: **MYERS HAY FARM, LLC**
STEVEN MYERS
Address: **14260 WEST NEWBERRY ROAD**
NEWBERRY, FL 32669, US

Thank you for making your scheduled DEP Order Payment(s).

You have paid \$11,350.00. This represents payment of the following scheduled Order Payment(s):

Payment Due Date: 12/28/2022 **\$11,350.00**

Total Paid **\$11,350.00**

If you have any questions, please contact the Office of General Counsel at (850) 245-2268 or by e-mail at OGC_ESSAOrderPayment@dep.state.fl.us.



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

November 28, 2022

Sent electronically to: Prettypottys@yahoo.com

Mr. Steve H. Myers, Owner
Myers Hay Farm, LLC
14260 West Newberry Road, PMB 344
Newberry, Florida 32669

SUBJECT: Department of Environmental Protection v. Myers Hay Farm, LLC
OGC File No. 22-2719
Facility ID No. FLA954799 and FLA957704
Levy County

Dear Mr. Myers:

Enclosed is a copy of the executed Consent Order to resolve Case Number 22-2719. The effective date of this Order is November 28, 2022, and all timeframes 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 Paul Duff, at (904) 256-1625, or at Paul.Duff@FloridaDEP.gov. Your continued cooperation in the matter is greatly appreciated.

Sincerely,

A handwritten signature in blue ink that reads "James R. Maher".

James R. Maher, PE
Assistant Director

ec: FDEP-NED: Herndon Sims, Paul Duff, Monique Jordan, DEP_NED
FDEP-OGC: Katherine Lewis

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	NORTHEAST DISTRICT
)	
v.)	OGC FILE NO. 22-2719
)	
MYERS HAY FARM, LLC)	
_____)	

CONSENT ORDER

This Consent Order (Order) is entered into between the State of Florida Department of Environmental Protection (Department) and Myers Hay Farm, 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 the Myers Hay Farm Septage Management Facility (SMF) and the Myers Hay Farm Biosolids Application Site (BAS). The SMF is an existing 0.003 MGD annual average daily flow (AADF) and 0.020 MGD maximum daily flow permitted capacity septage management facility, for the treatment and land application of food-establishment sludge and domestic septage collected from private on-site sewage treatment and disposal systems. Operations for the batch processing facility consist of one rotating screen with 12-inch openings followed by a 1,050-gallon setting tank and two septage treatment trains with each train consisting of a 12,000-gallon aeration/mixing/stabilization tank and associated piping, pumps, blowers, valves, and appurtenances. The Type III facility is rated to treat approximately 164 dry tons per year. The SMF operates under Department Wastewater Permit No. FLA954799, which was issued November 4, 2016 and expired on November 3, 2021 (SMF Permit). The SMF Permit also permits the BAS, which is a biosolids land application site consisting of approximately 40 acres of which approximately 28.4 acres are used for biosolids application, and the remaining area is used for buffer to meet setback requirements. The site shall receive only Class B biosolids treated from the SMF. The BAS operates

under Department Wastewater Permit No. FLA957704, which was issued on October 31, 2016 and expired on October 30, 2021 (BAS Permit). The SMF and BAS are located at 7000 Northeast 150th Avenue, Williston, Florida 32696, in Levy County, Florida (Property). The SMF Permit and BAS Permit will collectively be referred to as Permits.

4. The Department finds that the following violation(s) occurred:

a) Respondent has operated the SMF and the BAS without valid wastewater permits for several months. The permits for the SMF and BAS expired on November 3, 2021 and October 30, 2021 respectively, with continued operations (applying approximately 4.674 dry tons during this period) until February 10, 2022. The Respondent failed to submit a complete permit renewal application before the Permits' expiration dates in violation of Rule 62-620.335(1)(2), Fla. Admin. Code, SMF Permit Condition VIII.1, and BAS Permit Condition IV.1;

b) A file review (File Review) for the SMF revealed that the Respondent failed to submit monthly and annual Discharge Monitoring Reports (DMRs) for the duration of the SMF Permit in violation of Rules 62-640.650(5)(a)(1) and 62-640.650(3)(a)(3), Fla. Admin. Code, and SMF Permit Conditions I.B.3, II.3, and II.14; and

c) The File Review also revealed that the Respondent failed to submit a Treatment Facility Biosolids Annual Summary (Form 62-640.210(2)(b)) for 2017, 2018, 2019, 2020, or 2021 in violation of Rule 62-640.650(5)(c) Fla. Admin. Code and SMF Permit Condition II.24;

d) The File Review also revealed that Respondent failed to provide copies of Biosolids Hauling Records, Calibration Records, and Sampling Records to the Department when requested in violation of Rules 62-640.650(4)(e) and 62-620.350(1), Fla. Admin. Code; and

e) A second file review (Second Review) revealed that the Respondent failed to submit a Biosolids Application Site Annual Summary (Form 62-640.210(2)(c)) for 2017, 2018, 2019, 2020, or 2021 in violation of Rule 62-640.650(5)(d), Fla. Admin. Code, and BAS Permit Condition II.6; and

f) The Second Review also revealed that the Respondent failed to provide Biosolids Land Application logs to the Department when requested in violation of Rule 62-640.650(4)(j), Fla. Admin. Code, and BAS Permit Condition II.5; and

h) The Second Review revealed that the Respondent did not provide annual Soil Fertility Testing results as noted in the Nutrient Management Plan in violation of Rule 62-640.650(3)(b)(1), Fla. Admin. Code; and

i) The Respondent failed to provide satisfactory responses to three (3) Department Warning Letters issued in June 2019 (WL19-126), April 2020 (WL20-080), and January 2021 (WL21-014).

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) Within 60 days of the effective date of this Order, Respondent shall submit and file with the Department a completed permit renewal application for the SMF (FLA954799) and BAS (FLA957704). The Respondent must adhere to deadlines in any future Requests for Additional Information (RAI) sent by the Department's Wastewater Permitting Staff moving forward.

b) Within 30 days of the effective date of this Order, Respondent shall submit all missing monthly and annual DMRs for the SMF from 2016 to present.

c) Within 30 days of the effective date of this Order, Respondent shall submit all missing SMF Treatment Facility Biosolids Annual Summary reports for the years 2017, 2018, 2019, 2020, and 2021.

d) Within 30 days of the effective date of this Order, Respondent shall submit all missing Biosolids Land Application logs, laboratory/Chain of Custody reports, Hauling and Calibration records from 2017 to 2022 for the BAS.

e) Within 30 days of the effective date of this Order, Respondent shall submit monthly DMRs. Respondent shall use the electronic DMR system approved by the Department (EzDMR) and shall electronically submit the completed DMR forms using the DEP Business Portal at <https://www.fldepportal.com/go/>. Reports shall be submitted to the Department by the twenty-eighth (28th) of the month following the month of operation (e.g., an August report would be due no later than September 28th). Information on signing up for EzDMR can be found at <https://floridadep.gov/water/water-compliance-assurance/content/ezdmr>.

6. The execution of the Order will allow the SMF and BAS to temporarily operate as long as they meet all conditions and application limits outlined in the expired Permits and Nutrient Management Plan (NMP). Respondent's will be required to immediately terminate the operation of the SMF and BAS if Respondent fails to comply with the terms and deadline imposed in subparagraph 5.a. of this Order.

7. Respondent's completion of all corrective actions required by paragraph 5 within the respective deadlines specified thereunder shall constitute full compliance with Rules 62-620.335(1)(2), 62-620.350(1), 62-640.650(3)(b)(1), 62-640.650(3)(a)(3), 62-640.650(4)(e), 62-640.650(4)(j), 62-640.650(5)(a)(1), 62-640.650(5)(c), 62-640.650(5)(d), Fla. Admin. Code.

8. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$11,350.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$10,850.00 for administrative penalties and \$500 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The administrative penalty in this case includes three (3) 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 paragraphs 5 and 6 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 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 submittals and payments required by this Order shall be sent to CAP - Wastewater, Department of Environmental Protection, 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida, 32256.

12. Respondent shall allow all authorized representatives of the Department access to the Facilities 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 Facilities or of the Property upon which the Facilities are 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 Facilities 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 Facilities, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facilities. The sale or conveyance of the Facilities 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, 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.

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, Fla. Stat. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), Fla. Stat.

22. 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.

23. Respondent shall publish the following notice in a newspaper of daily circulation in Levy 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 Myers Hay Farm, LLC. (Respondent) pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the Respondent's failure to submit a permit renewal application on-time for the Septage Management Facility (SMF) and Biosolids Application Site (BAS), operating the SMF and BAS without a valid permit for three months, failure of the SMF to submit monthly and annual Discharge Monitoring Reports (DMRs), failure of the SMF to submit Treatment Facility Biosolids Annual Summaries, failure of the BAS to submit Biosolids Application Site Annual Summaries, and failure to submit annual Soil Fertility Results at 7000 Northeast 150th Avenue, Williston, Florida, 32696. 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 West, 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 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.

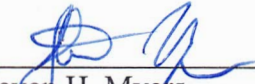
The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida, 32399-3000, or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at 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.

24. Rules referenced in this Order are available at:

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

FOR THE RESPONDENT: Myers Hay Farm, LLC

The undersigned certifies that as a managing member of Myers Hay Farm, LLC, which is the managing member of Respondent LLC, he is authorized and empowered to negotiate, enter into and execute, in the name and on behalf of Myers Hay Farm, LLC, any agreements, documents, instruments, certificates, including and without limitation, this Consent Order entered into between Respondent and the State of Florida Department of Environmental Protection.



Steven H. Myers
Managing Member

11/10/2022
Date

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 28th day of November 2022, in Duval County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Gregory J. Strong
District Director
Northeast District

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



Clerk

November 28, 2022

Date

Copies furnished to:

Lea Crandall, Agency Clerk, Mail Station 35 (executed copy only)
FDEP NED: Herndon Sims, Joni Petry, Sarah Harris, Paul Duff, DEP_NED
FDEP Tallahassee: Jennifer Walters, WCAPHQ@dep.state.fl.us (executed copy)