



# 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

March 28, 2023

Sent electronically to: [cohen9@gmail.com](mailto:cohen9@gmail.com)

Mr. Eldad Cohen, Manager  
Yellow Equity, LLC  
525 Chestnut Street, Suite 207  
Cedarhurst, NY 11516

**SUBJECT: Department of Environmental Protection v. Eldad Cohen (Yellow Equity, LLC)  
Micanopy Inn - OGC File No. 20-1352  
Facility ID No. FLA011317  
Alachua County – Wastewater Enforcement**

Dear Mr. Cohen:

Enclosed is a copy of the executed Consent Order to resolve Case Number 20-1352.

The effective date of this Order is March 28, 2023, 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.

Should you have any questions concerning the Consent Order, please contact Shannon Taylor, at (904) 256-1617, or via e-mail at [Shannon.N.Taylor@FloridaDEP.gov](mailto:Shannon.N.Taylor@FloridaDEP.gov). Your continued cooperation in the matter is appreciated.

Sincerely,

A handwritten signature in blue ink that reads "T.G. Kallemeyn".

Thomas G. Kallemeyn  
Assistant District Director

cc: FDEP-NED: Joni Petry, Herndon Sims, Shannon Taylor, DEP\_NED  
FDEP-OGC: Lea Crandall, [Ronnie.W.Hoenstine@dep.state.fl.us](mailto:Ronnie.W.Hoenstine@dep.state.fl.us)  
Greenpoint, LLC - [bridgehotel32@gmail.com](mailto:bridgehotel32@gmail.com)



# FLORIDA DEPARTMENT OF Environmental Protection

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8800 Baymeadows Way West, Suite 100  
Jacksonville, Florida 32256

**Ron DeSantis**  
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March 8, 2023

Sent electronically to: [cohen9@gmail.com](mailto:cohen9@gmail.com)

Mr. Eldad Cohen, Manager  
Yellow Equity, LLC  
525 Chestnut Street, Suite 207  
Cedarhurst, NY 11516

**SUBJECT: Department of Environmental Protection v. Eldad Cohen (Yellow Equity, LLC)**  
**Micanopy Inn - OGC File No. 20-1352**  
**Facility ID No. FLA011317**  
**Alachua County – Wastewater Enforcement**

Dear Mr. Cohen:

Enclosed is the updated Consent Order to resolve the issues in the subject OGC File. Please review the Consent Order and, if you find it acceptable, sign and return the original document to this office within 14 days of receipt.

If you wish to modify the Consent Order, please respond to this office in writing within 14 days, explaining your concerns including any proposed changes.

If you have any questions concerning the Consent Order, please contact Shannon Taylor, at (904) 256-1617, or at [Shannon.N.Taylor@FloridaDEP.gov](mailto:Shannon.N.Taylor@FloridaDEP.gov). Your continued cooperation in the matter is greatly appreciated.

Sincerely,

A handwritten signature in black ink that reads "T.G. Kallemeyn".

Thomas G. Kallemeyn  
Assistant District Director

ec: FDEP-NED: Joni Petry, Herndon Sims, Shannon Taylor, DEP\_NED  
Greenpoint, LLC - [bridgehotel32@gmail.com](mailto:bridgehotel32@gmail.com)

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. 20-1352
)	
YELLOW EQUITY, LLC )	
_____ )	

**CONSENT ORDER**

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and Yellow Equity, 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 (“F.S.”), 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), F.S.
3. Respondent is the owner and is responsible for the operation of the Micanopy Inn, a 0.015 million gallons per day (MGD) annual average daily flow extended aeration domestic wastewater treatment facility (WWTF) with a slow rate restricted public access land application system, consisting of a 1.26-acre spray field (“Facility”). The Facility is operated under Wastewater Permit No. FLA011317 (“Permit”), which was issued on April 26, 2015 and will expire on April 25, 2022. The Facility is located at 17110 Southeast County Road 234, in Alachua County, Florida (“Property”). Respondent owns the Property on which the Facility is located.
4. The Department finds that the following violations occurred:
  - a) Failure to maintain hauling records or biosolids hauling agreement, in violation of Rule 62-620.350, Fla. Admin. Code.

b) Failure to provide safe access to the WWTF, in violation of Rule 62-600.410(4), Fla. Admin. Code.

c) Failure to have a Class D Operator to maintain the Micanopy Inn WWTF for the time period of January 2019 to May 2019, in violation of section V. A. 1. of Permit FLA011317 and Rule 62-699, Fla. Admin. Code.

d) Failure to adhere to the scheduled items in part VI Schedules of Permit FLA011317, in violation of Rule 62-620.610(1), Fla. Admin. Code, as noted in tables below:

<b>Improvement Action</b>	<b>Due Date</b>
Secondary Clarifier: Replace wooden baffle with installation of a new baffle to prevent leaks from aeration basin	January 31, 2018
Chlorine Contact Chamber and Holding Tank: Seal leaks and make necessary repairs to tank(s)	March 31, 2018
Biosolids Hauling Agreement: Submit a copy of the executed agreement for the transport, treatment and disposal of the facility's biosolids	30-days prior to transport of biosolids

The construction of the new chlorine contact chamber (CCC) and holding tank shall be constructed in accordance with the following schedule unless a minor permit revision application is filed with the Department to amend the schedule:

<b>Action</b>	<b>Due Date</b>
Begin Construction of Chlorine Contact Chamber and Holding Tank	April 30, 2018
Complete Construction of Chlorine Contact Chamber and Holding Tank	July 30, 2018
Submit DEP Form 62-620.910(12), Notification of Completion of Construction	August 31, 2018
Operational Level Attained / Begin Reuse	December 31, 2018
Submit DEP Form 62-620.910(13), Notification of Availability of Record Drawings and Final Operation and Maintenance Manuals	December 31, 2018

e) Failure to monitor, sample, and report results of pollutants for the wastewater effluent for the period of January through May 2019, in violation of Permit FLA011317, and Rules 62-600.680 and 62-4.246, Fla. Admin. Code.

f) Failure to report to the Department, a sanitary sewer overflow estimated to have occurred on June 12, 2019, amounting to at least 78 gallons, in violation of Rule 62.604.550(2), Fla. Admin. Code.

g) Failure to maintain the wastewater plant as to function as intended, in violation of Rule 62-600.410(3), Fla. Admin. Code. The plant had wastewater leaking during the period of May through November 2019.

h) Unauthorized disposal method of insufficiently treated wastewater to the sprayfield by means of a three-inch hose, in violation of Rule 62-620.610(7), Fla. Admin. Code.

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 the permit scheduled items as required. A permit application to revise the schedule dates shall be required. The permit application shall be completed and submitted by a professional engineer registered in the State of Florida within 90 days.

b) Every calendar quarter after the effective date of this Order, 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. These reports shall be submitted to the Department within 30 days following the end of the quarter.

6. Within 90 days of the effective date of this Order, Respondent shall retain the services of a professional engineer, registered in the State of Florida, to accomplish all of the following:

a) Evaluating the Facility, including the effluent disposal system and associated collection system.

b) Designing modifications of the Facility, effluent disposal system, and collection systems to ensure the Facility and effluent disposal system will function in full and consistent compliance with all applicable rules of the Department.

c) Completing an application for a Department wastewater permit to construct the modifications listed in subparagraph (b) of this paragraph, if such a permit is required.

d) Overseeing the construction of any modifications to the Facility, effluent disposal system, or collection system.

e) Submitting 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.

f) Contact the case manager Shannon Taylor, Domestic Wastewater Compliance Inspector, at (904) 256-1617 or by email at Shannon.N.Taylor@FloridaDEP.gov before initiating the treatment system evaluation described in subparagraphs (a) and (b) of this paragraph.

g) In the event the Department requires additional information to process the permit application described in subparagraph (c) of this paragraph, Respondent shall provide a written response containing the information requested by the Department within 30 days of the date of the request.

7. Within 120 days of the effective date of this Order, Respondent shall submit a complete application for a Department wastewater permit to construct the modifications listed in subparagraph(6)(b), if such a permit is required.

8. Within 90 days of the date a wastewater permit is issued, or, if no permit is required, within 270 days of the effective date of this Order, Respondent shall complete construction of the modification(s) developed pursuant to paragraph (6) and submit 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. Respondent shall submit the Certification of Completion to the Department within 30 days after the wastewater permit authorizing said construction is issued.

9. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by paragraphs 5-8 within 365 days of the effective date of this Order and be in full compliance with Chapters 62-600, 62-604, 62-620, and 62-699, Fla. Admin. Code and Chapter 403, Fla. Stat., regardless of any intervening events or alternative time frames imposed in this Order, other than those excused delays agreed to by the Department, as described in paragraph 16.

10. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$10,000.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$9,500.00 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 4 violations that each warrant a penalty of \$2,000.00 or more.

(a) If Respondent elects to make payments in installments, payments shall be made in accordance with the following terms:

i. Respondent shall pay \$870.00 (\$500.00 for Department costs and \$370.00 for civil penalties) as the first monthly installment by the 1<sup>st</sup> of the month following the effective date of this Order; and

ii. Respondent shall pay \$830.00 for civil penalties by the 1<sup>st</sup> of every month thereafter for 11 consecutive months.

(b) If Respondent fails to submit to the Department any payment as specified in subparagraph 10(a) above or fails to comply with any requirement set forth in paragraphs 5-9 of this Order, the entire civil penalty and costs assessed in this Order of \$10,000 shall become immediately due. Respondent shall pay any remaining balance owed within 60 days of the Department's written demand for payment.

11. Respondent agrees to pay the Department stipulated penalties in the amount of \$100 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 5-8 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 is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

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

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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 \$10,000.00 per day per violation, and criminal penalties.

21. 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.

22. 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.

23. 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.

24. 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.

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

FOR THE RESPONDENT: YELLOW EQUITY, LLC

The undersigned certifies that as a managing member of Yellow Equity, 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 Yellow Equity, 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.

FOR THE RESPONDENT:



\_\_\_\_\_  
Eldad Cohen, Manager  
Yellow Equity LLC

3/21/2023

\_\_\_\_\_  
Date

**FOR DEPARTMENT USE ONLY**

DONE AND ORDERED this 28<sup>th</sup> day of March 2023, in Duval County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



\_\_\_\_\_  
Gregory J. Strong  
District Director

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



\_\_\_\_\_  
Clerk

\_\_\_\_\_  
March 28, 2023

\_\_\_\_\_  
Date

Copies furnished to:

FDEP-OGC: Lea Crandall, Agency Clerk - Mail Station 35  
FDEP-NED: Shannon Taylor, Joni Petry, Herndon Sims, Rodney Christensen