



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

December 12, 2023

Sent electronically to: jkennedy@nhra.com

Ms. Jodee Kennedy, General Manager
National Hot Rod Association
11211 N. CR 225
Gainesville, Florida 32609

SUBJECT: Department of Environmental Protection v. National Hot Rod Association
OGC File No. 22-2441
Facility ID No. FLA011312
Alachua County

Dear Mr. Kennedy:

Enclosed is a copy of the executed Consent Order to resolve Case Number 22-2441. The effective date of this Order is December 12, 2023, 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.

Should you have any questions concerning the Consent Order, please contact Joni Petry, at (904) 256-1616, or via email at Thomas.Kallemeyn@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 Director

Enclosure: Executed Consent Order #22-2711

ec: FDEP-OGC: Lea Crandall
FDEP-NED: Joni Petry, Herndon Sims, Thomas Kallemeyn, Shannon Taylor, Dung Vo,
DEP_NED

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. 22-2441
)	
NATIONAL HOT ROD ASSOCIATION,)	
INC., d/b/a GAINESVILLE RACEWAY)	
_____)	

CONSENT ORDER

This Consent Order (Order) is entered into between the State of Florida Department of Environmental Protection (Department) and NATIONAL HOT ROD ASSOCIATION, INC., d/b/a GAINESVILLE RACEWAY (Respondent) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent neither admits nor denies 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), F.S.
3. Respondent is the owner and is responsible for the operation of the Gainesville Raceway Wastewater Treatment Facility, a 0.00825 million gallon per day (MGD) annual average daily flow (AADF) permitted capacity extended aeration batch treatment operating as an aerated lagoon domestic (Facility). The Facility consists of two hypalon-lined aeration basins with an effective treatment volume of 525,000-gallons each with a total capacity of 1,411,916-gallons each, four mechanical surface floating aerators, two clay lined aquaculture filtration/polishing ponds (ponds should be vegetated) with an effective treatment volume of 159,000-gallons each with a total capacity of 380,813-gallons each, two 174,000-gallons holding

ponds, one 1,178-gallons baffled chlorine contact chamber, and a 3.25- acre restricted access sprayfield. The Facility discharges effluent/reclaimed water to the 0.025 MGD AADF permitted capacity, slow-rate, restricted public access (except subsurface) sprayfield. The Facility is operated under Wastewater Permit No. FLA011312-005-DW4P (“Permit”), which was issued on September 30, 2016, with an effective date of May 10, 2017. The Permit expired on May 9, 2022. The Facility is located at 11211 North County Road 225, Gainesville, Florida, 32609, in Alachua County, Florida, and identified by Alachua County Property Appraiser Parcel ID No. 07789-001-000 (“Property”). Respondents mailing address is 11211 North County Road 225, Gainesville, Florida, 32069. Respondent owns the Property on which the Facility is located.

4. The Department finds that the following violation(s) occurred:
 - a) Respondent failed to submit the Discharge Monitoring Reports (“DMRs”) from July 1, 2016 to December 31, 2018, in violation of Rules 62-620.610(18)(a) and 62-600.680(a), Fla. Admin. Code, and Part I.B.6 of the Permit. The Following DMRs were submitted on March of 2023: January 1, 2019 to October 31, 2019 and February 1, 2020 to May 31, 2020.
 - b) Respondent failed to provide confirmation that sampling was conducted from June 2016 to December 31, 2018 in violation of Rules 62-620.610(18), Fla. Admin. Code.
 - c) Failure to provide confirmation to adherence to the permit scheduled item below in violation of Rule

62-620.610(1), Fla. Admin. Code:

Table I

Improvement Action	Completion Date
I. Trim and reduce the understory in the sprayfield.	8/31/2018

d) The following exceedances were noted from an office file review between May 28, 2016 to April 30, 2022, displayed in the Table II below.

Table II

Date	Monitoring Location	Description	Result	Limit	Units	Statistical Base
09/30/2020	EFA-1	Coliform, Fecal	1200	800	#/100mL	MB - Maximum
01/31/2022	EFA-1	Coliform, Fecal	2420	800	#/100mL	MB - Maximum
04/31/2022	EFA-1	Coliform, Fecal	1300	800	#/100mL	MB - Maximum
09/30/2020	EFA-1	Coliform, Fecal	1200	200	#/100mL	MM - Monthly Geometric Mean
01/31/2022	EFA-1	Coliform, Fecal	2420	200	#/100mL	MM - Monthly Geometric Mean
03/31/2022	EFA-1	Coliform, Fecal	1300	200	#/100mL	MM - Monthly Geometric Mean
01/31/2022	EFA-1	Coliform, Fecal	227.3	200	#/100mL	AB - Annual Average
02/28/2022	EFA-1	Flow	.009	0.00825	MGD	AB - Annual Average
03/31/2022	EFA-1	Flow	.009	0.00825	MGD	AB - Annual Average
04/30/2022	EFA-1	Flow	.009	0.00825	MGD	AB - Annual Average
04/30/2021	EFA-1	Solids, Total Suspended	32	30	mg/L	MK - Monthly Average

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 the 30 days of the effective date of Consent Order, Respondent shall register and begin to submit Discharge Monitoring Reports (DMRs) through the EzDMR Business Portal. This is the link to the EzDMR Business portal to begin registration

<https://www.fldepportal.com/DepPortal/go/home>.

b. Within the 60 days of the effective date of this Order, the Respondent shall be required to trim and reduce the understory of the sprayfield meeting all of the requirements of Rule 62-620.610(1), Fla. Admin Code.

6. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by paragraph 5 and be in full compliance with the facility permit, Section 403.161(1)(a), Fla. Stat., and Rules 62-604 and 62-620, Fla. Admin. Code., regardless of any intervening events or alternative timeframes imposed in this Order other than those excused delays agreed to by the Department, as described in Paragraph 13 of this Order, within 360 days of the effective date of this Order.

7. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$11,500.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$11,000.00 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 violations that warrant a penalty of \$2,000.00 or more.

8. 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 paragraph(s) 5 and 6 of this Order.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. Respondent shall publish the following notice in a newspaper of daily circulation in Alachua County, Florida. The notice shall be published one time only within 14 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 NATIONAL HOT ROD ASSOCIATION, INC. pursuant to section 120.57(4), Fla. Stat. The Consent Order addresses the failure of the Respondent to submit Discharge Monitoring Reports (“DMRs”) to the (“Department”) for extended periods of time for the Facility located at 11211 North County Road 225, Gainesville, Florida 32609. 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, Northeast District, 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, Fla. Stat. 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 (22-2441) assigned to this Consent Order;
- b) The name and address of each agency affected and each agency’s file or identification number, if known;
- c) 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;
- d) A statement of when and how the petitioner received notice of the agency decision;
- e) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- f) 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;

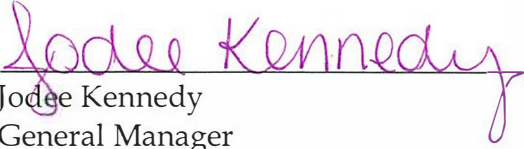
- g) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- h) A statement of the relief sought by the petitioner, stating 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.

23. Rules referenced in this Order are available at:

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

FOR THE RESPONDENT:



Jodee Kennedy
General Manager

DONE AND ORDERED this 12th day of December 2023, in Duval County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Gregory J. Strong
District Director
Northeast District

TGK

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



Clerk

December 12, 2023

Date

Copies furnished to:

FDEP-OGC: Patrick Reynolds, Lea Crandall (executed copy only)

FDEP-NED: Ted Hughes, Herndon Sims, Ally Ouellette, Joni Petry, DEP_NED

FDEP-DWRM: Jennifer Walters, Herb Johnson - FDEP Tallahassee Office (executed copy only)