

FLORIDA DEPARTMENT OF Environmental Protection

Southwest District Office 13051 North Telecom Parkway #101 Temple Terrace, Florida 33637-0926 Ron DeSantis Governor

Jeanette Nuñez Lt. Governor

Shawn Hamilton Secretary

June 10, 2024

Mary Carotenuto, Manager, Authorized Representative Wilder, LLC 513 North Belcher Road Clearwater, Florida 33765

Mary@wildercorp.com

SUBJECT: Executed Consent Order

Department of Environmental Protection v. Wilder, LLC

OGC File No. 23-1816

FL0122076 - Rice Creek RV Resort WWTF

Dear Ms. Carotenuto:

Enclosed is the executed Consent Order, OGC File No. 23-1816, regarding the above-referenced facility. The effective date of the Consent Order is the filing date entered by the designated Department Clerk on the signature page.

Should you have any questions, please contact Ms. Lauren Ballard at (813) 470-5784, or via e-mail: Lauren.Ballard@FloridaDEP.gov. Thank you.

Sincerely,

Ms. Kelley M. Boatwright Southwest District Director

Florida Department of Environmental Protection

Lley M. Bostwight

Enclosure: Executed Consent Order, OGC File No. 21-1816

Cc: Pamala Vazquez, FDEP SWD, <u>Pamala.Vazquez@floridadep.gov</u>

Emily Larson, FDEP SWD, <u>Emily.Larson@FloridaDEP.gov</u> Lauren Ballard FDEP SWD, <u>Lauren.Ballard@floridadep.gov</u>

Lea Crandall, FDEP, <u>lea.crandall@FloridaDEP.gov</u>

Daniel Moore, EPC, MooreD@epchc.org Joseph Kienke, EPC, kienkej@epchc.org

Melisa Rotteveel, US Water, <u>Mrotteveel@uswatercorp.net</u> Angel Caraballo, US Water, <u>Acaraballo@uswatercorp.net</u>

Dan O'Brian, Wilder Corp, Dan@wildercorp.com

BEFORE THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	SOUTHWEST DISTRICT
)	
v.)	OGC FILE NO. 23-1816
)	
Wilder, LLC)	
)	

CONSENT ORDER

This Consent Order ("Order") is entered into between the State of Florida Department of Environmental Protection ("Department") and Wilder, 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.
- Resort WWTF ("Facility"), a 0.225 million gallons per day (MGD) Three-Month Rolling Average Daily Flow (TMRADF) of intermediate disinfection with disposal to a two-cell rapid infiltration basin that is pumped to a three-cell man-made wetland system which ultimately discharges to jurisdictional wetlands to Rice Creek. Respondent operates the Facility under Department Wastewater Permit No. FL0122076, which was issued on September 17, 2020 and will expire on September 16, 2025. The Facility is located at 10714 US Highway 301 South, Riverview, Florida 33569, in Hillsborough County, Florida ("Property").
 - 4. The Department finds that the following violation(s) occurred:

a) A review of the October 2022- July 2023 discharge monitoring reports (DMRs) indicated the limits for Total Phosphorous (TP) and Total Suspended Solids (TSS) were exceeded, as shown in Table 1, below. These exceedances for TP and TSS are violations of Rule 62-604.13 (1), Fla. Admin. Code, which states that all domestic wastewater facilities shall be operated and maintained in accordance with the applicable provisions of this chapter and related regulations so as to attain, at a minimum, the reclaimed water or effluent quality required by the wastewater facility permit.

Table 1: DMR Exceedances

Date	Parameter	Result	Limit	Units	Statistical Base
7/31/2023	Phosphorus, Total (as P)	1.5	1.0	mg/L	AB - Annual Average
6/30/2023	Phosphorus, Total (as P)	1.5	1.0	mg/L	AB - Annual Average
5/31/2023	Phosphorus, Total (as P)	1.5	1.0	mg/L	AB - Annual Average
4/30/2023	Phosphorus, Total (as P)	1.5	1.0	mg/L	AB - Annual Average
2/28/2023	Phosphorus, Total (as P)	1.5	1.0	mg/L	AB - Annual Average
1/31/2023	Phosphorus, Total (as P)	1.5	1.0	mg/L	AB - Annual Average
12/31/2022	Phosphorus, Total (as P)	1.5	1.0	mg/L	AB - Annual Average
11/30/2022	Phosphorus, Total (as P)	1.8	1.0	mg/L	AB - Annual Average
10/31/2022	Phosphorus, Total (as P)	1.2	1.0	mg/L	AB - Annual Average
7/31/2023	Solids, Total Suspended	11.9	5.0	mg/L	AB - Annual Average
6/30/2023	Solids, Total Suspended	11.9	5.0	mg/L	AB - Annual Average
5/31/2023	Solids, Total Suspended	11.9	5.0	mg/L	AB - Annual Average
4/30/2023	Solids, Total Suspended	11.9	5.0	mg/L	AB - Annual Average
3/31/2023	Solids, Total Suspended	11.9	5.0	mg/L	AB - Annual Average
2/28/2023	Solids, Total Suspended	11.9	5.0	mg/L	AB - Annual Average
1/31/2023	Solids, Total Suspended	11.9	5.0	mg/L	AB - Annual Average
12/31/2022	Solids, Total Suspended	11.9	5.0	mg/L	AB - Annual Average
11/30/2022	Solids, Total Suspended	10.5	5.0	mg/L	AB - Annual Average
10/31/2022	Solids, Total Suspended	14.5	5.0	mg/L	AB - Annual 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:
- 6. From the first day of the month following the effective date of this Order, Respondent shall submit complete and accurate Discharge Monitoring Reports to the Department by the 28th day of the following month, as stated in the Permit.
- 7. **From the effective date of this Order**, Respondent shall implement the Corrective Action Plan submitted July 14, 2023, in response to #WL23- 32DW29SWD addressing TP and TSS exceedances. A copy of the Corrective Action Plan is attached hereto as Exhibit A and incorporated herein.
- 8. From the effective date of this Order, Respondent shall meet the TP and TSS effluent limitations by treatment or through reduction of the sources of the constituents so that Rice Creek WWTF's effluent complies with the water quality standards for TP and TSS, as defined in Rule 62-302.530, Fla. Admin. Code. Respondent shall take whatever corrective actions are necessary to meet the limits for TP and TSS in Rice Creek WWTFs effluent. However, if a permit revision or additional Department permit is required for the corrective actions, the Respondent shall contact the Department's wastewater permitting section and submit a complete application for the wastewater permit modification within 60 days after initial notification. Respondent must obtain the permit revision or Department permit prior to placing the modifications into operation. Within 60 days after completion of the construction, Respondent shall submit 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 have been constructed in accordance with the provisions of the Permit. Respondent must govern its actions through submittal of appropriate information, applications, pertinent data, and responses to Department requests for additional information to comply with the water quality standards for TP and TSS.

- a) Respondent shall comply with the following discharge limitations, and other requirements set forth in the Facility's Permit:
 - i) <u>Discharge Monitoring and Reporting Requirements</u>

Parameter	Description	Limit	Unit	Statistical Base
<u>Code</u>				
P 00665	Phosphorous, Total	1.8	mg/L	AB- Annual Average
P 00665	Phosphorous, Total	3.0	mg/L	MK- Monthly Average
P 00665	Phosphorous, Total	3.1	mg/L	MB- Maximum
P 00530	Solids, Total Suspended	11.9	mg/L	AB- Annual Average
P 00530	Solids, Total Suspended	Report Only	mg/L	MK- Monthly Average
P 00530	Solids, Total Suspended	21.5	mg/L	MB- Maximum

- ii) Tests conducted pursuant to this monitoring program shall conform to 62-160.210, Fla. Admin. Code.
- iii) These monitoring requirements do not act as State of Florida

 Department of Environmental Protection Wastewater Permit effluent 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.
- 9. 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.

- 10. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by paragraphs 6-9 by December 31, 2025, and be in full compliance with the Permit and Rules 62-600, 62-302 and 62-620, Fla. Admin. Code, regardless of any intervening events or alternative time frames imposed in this Order.
- 11. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$13,556.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$8,000.00 for civil penalties; \$56.20 in economic benefit; \$5,000.00 for history of non-compliance; 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 two violations that each warrant a penalty of \$2,000.00 or more.
- 12. Respondent agrees to pay the Department stipulated penalties in the amount of \$1,000.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph(s) 6-10 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:

Amount p/day p/discharge	<u>Discharge Volume</u>
\$1000.00	up 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

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 paragraphs 14 and 15, 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 11 of this Order.

- 13. In lieu of making cash payment of \$13,056.00 in penalties as set forth in paragraph 11 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. 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 portion of the stipulated penalty amount for which the approved project off-sets which, in this case, is \$19,584.00 If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election either electronically or 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 \$500.00 in costs must be paid within 30 days of the effective date of the Consent Order. If Respondent elects to implement an in-kind project, then Respondent shall comply with all of the requirements and time frames in Exhibit B entitled "In-Kind Projects".
- 14. Respondent shall make all payments required by this Order by cashier's check, money order or online 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 echeck 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.

15. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Kelley M. Boatwright, District Director, Department of Environmental

DEP vs. Wilder, LLC Consent Order, OGC No. 23-1816 Page 7

Protection, Southwest District, 13051 N. Telecom Parkway, Suite 101, Temple Terrace, Florida 33637.

- 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.
- If any event, including administrative or judicial challenges by third parties 18. 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 Hillsborough 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 Wilder, LLC pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the effluent quality exceedances at 10714 US Highway 301 South, Riverview, FL, 33569. 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, Southwest District Office, 13051 N. Telecom Parkway, Suite 101, Temple Terrace, Florida 33637.

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:

- The name and address of each agency affected and each agency's file or identification number, if known;
- 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 (<u>received</u>) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or <u>received</u> via electronic correspondence at <u>Agency_Clerk@floridadep.gov</u>, within <u>21 days</u> of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at Southwest District, 13051 N. Telecom Parkway, Suite 101, Temple Terrace, Florida 33637. 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

DEP vs. Wilder, LLC Consent Order, OGC No. 23-1816 Page 11

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:

Mary Carotenuto - Manager

Authorized Representative of Wilder, LLC

DEP vs. Wilder, LLC Consent Order, OGC No. 23-1816 Page 12

DONE AND ORDERED this 10 day of June 2024, in Hillsborough, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Kelley Boatwright

Ms. Kelley M. Boatwright **District Director**

Southwest District

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

Cathy Rodrigues

June 10, 2024

Clerk

DATE

Copies furnished to:

Lea Crandall, Agency Clerk Mail Station 35



July 14, 2023

To:

Florida Department of Environmental Protection

Southwest District Office

13051 North Telecom Parkway #101 Temple Terrace, Florida 33637-0926

Re:

File Review Warning Letter #WL23-32DW29SWD

Rice Creek WWTF Facility ID No. FL0122076 Hillsborough County

Dear Ms. Ballard:

The purpose of this letter is to respond to and address the issues as discussed in our warning letter meeting/call of June 20, 2023, based on the file review warning letter dated April 27, 2023.

Please find the following response attached.

Sincerely,

Selina J. Makofsky

Compliance Assistant Manager US Water Services Corporation (866) 753-8292 Ext. 229

(727) 836-0048 (cell)

smakofsky@uswatercorp.net

ATT - schematic

DEFICIENCY. During review of the DMRs submitted from December 2021 through December 2022, you noted that Total Phosphorus (P) and Total Suspended Solids (TSS) both exceeded their permitted limits.

Corrective action: Include corrective actions that have been made since the initial TP and TSS exceedances and what will be implemented to correct and avoid them in the future.

Response:

TOTAL SUSPENDED SOLIDS: As discussed during the call, the permitted monitoring location (EFD-01) is at the end of the manmade wetland system at a concrete box with a dirt bottom. (See attached schematic). While discharge into the jurisdictional wetland does not occur on a regular basis, the permit requires samples to be collected when it occurs.

We believe that the increased TSS levels may be caused by increased turbulence in the concrete sampling box (which has a dirt bottom) when the discharge is occurring. Discharge is often associated with heavy flows/rain. We propose to regularly clean the sediment out of the box to ensure the area has ample depth to allow better collection of the required samples.

TOTAL PHOSPHORUS: Flow is monitored at the chlorine contact chamber FLW-01, but sampling is not required at that point. Since this is the effluent being discharged into the percolation ponds and then the man-made wetland system, we are proposing to sample ortho-phosphorus (utilizing a Hach field test kit) at both EFA-01 (effluent sampling point after treatment prior to reuse system R001) and the pond effluent pump station which discharges to the wetland systems (FLW-02). These levels should not vary dramatically. The process control ortho-phosphorus monitoring will be performed three times per week. Additionally, samples will be submitted to the laboratory on a bi-weekly basis for analysis of Total Phosphorus to confirm levels and allow the operator to make any adjustments necessary to the ferric chloride dosing levels in an attempt to maintain effluent levels below the permitted limits for D001.

We are also currently analyzing the use and ingredients of various weed killers being applied to the area around the wetland cells by on-site maintenance staff for vegetation control. We want to confirm that the use of such lawn chemicals is not impacting the water quality.

RECOMMENDATIONS: The facility provide more in depth DMR comments moving forward, as to build a more effective line of communication about plant upsets and future exceedances.

Response: We will continue to provide as much information as we can in our DMRs to explain the noted deficiencies.

Exhibit B

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, electronically or 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.
- c. 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, electronically or by certified mail, all requested additional information, clarification, and modifications within 15 days of receipts of written notice.
- d. 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, electronically or 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 the Consent Order, within 30 days of Department notice.

- e. 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 the Consent Order, within 30 days of Department notice.
- f. 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.
- g. 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.
- h. 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 civil penalty, no additional penalties shall be assessed for failure to complete the requirement of this paragraph.

- i. Within 15 days of completing the in-kind project, Respondent shall notify the Department, electronically or 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.
- j. 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, electronically or 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 civil penalty no additional penalties shall be assessed for failure to complete the requirements of this paragraph.