



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

Noah Valenstein
Secretary

November 17, 2020

Gary Craddock, President
Permacast, Inc.
6015 21st Street East
Bradenton, FL 34203
Gary@Permacastwalls.com

Re: Executed Consent Order OGC File No. 20-1462
Permacast, Inc
Facility ID No.: FLG110936
Manatee County

Dear Mr. Craddock:

Enclosed is the executed Consent Order, OGC File No. 20-1462, 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 Emily Larson at 813-470-5955, or via e-mail Emily.Larson@FloridaDEP.gov.

Sincerely,

Kelley M. Boatwright for:

Mary E. Yeargan, P.G.
Southwest District Director
Florida Department of Environmental Protection

Ec: Christopher Stirrat, Environmental Consultant, escinc@verizon.net
Emily Larson, DEP-SWD, Emily.Larson@FloridaDEP.gov
Erica Peck, DEP-SWD, Erica.Peck@FloridaDEP.gov
Kelley Boatwright, DEP-SWD, Kelley.M.Boatwright@FloridaDEP.gov
JJ Loesch, DEP-SWD, Gerlad.Loesch@FloridaDEP.gov
Jonathan Toplak, DEP-SWD, Jonathan.Toplak@FloridaDEP.gov
Lea Crandall, Agency Clerk; lea.crandall@dep.state.fl.us

Enclosure: Executed Consent Order, OGC File No. 20-1462

STATE OF FLORIDA DEPARTMENT)
OF ENVIRONMENTAL PROTECTION)
)
v.)
)
PERMACAST LLC)
_____)

OGC FILE NO. 20-1462

V.

PERMACAST LLC

REV. 03/20

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

ORDERED:

5. A wastewater permit to operate the Facility is required by Sections 403.087 and 403.088, F.S., and Chapters 62-4 and 62-620, F.A.C. This Order is not intended to directly or indirectly authorize the temporary or permanent operation of the Facility.

6. Respondent shall comply with the following corrective actions within the stated time periods:

- a) Respondent shall retain the services of a professional engineer, registered in the State of Florida, to accomplish all of the following:
 - i. Evaluate the Facility and complete an application for a Department wastewater permit to construct the Type I and Type II wastewater treatment systems.
 - ii. Oversee the construction of any modifications to the Facility identified in subparagraph i. of this paragraph.
 - iii. 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 have been constructed in accordance with the provisions of the Permit by April 30, 2021.
 - iv. In the event the Department requires additional information to process the permit application described in subparagraph i. of this paragraph, provide a written response containing the information requested by the Department within 30 days of the date of the request.
- b) Every calendar quarter after the effective date of this Order, the 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 be submitted to the Department within 30 days following the end of the quarter.

c) Beginning from the effective date of this Consent Order and until corrective actions in paragraph 6a are completed, Respondent shall place all wastewater produced on site into a washout receiving container that will be hauled as needed to National Concrete Washout for proper disposal. The Respondent shall continue to utilize the off-site treatment until the Respondent obtains the appropriate permit from the Department.

7. Notwithstanding the time periods described in the paragraph above, Respondent shall complete all corrective actions required by paragraph 6 by **April 30, 2021** and be in full compliance with Rule 62-621, F.A.C. and its permit regardless of any intervening events or alternative time frames imposed in this Order.

8. **Within 30 days of the effective date of this Order**, Respondent shall submit a written estimate of the total cost of the corrective actions required by this Order to the Department. The written estimate shall identify the information the Respondent relied upon to provide the estimate.

9. **Within 30 days of the effective date of this Order**, Respondent shall pay the Department \$8,500.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$8,000.00 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 penalties are apportioned as follows: \$2,000 for violation of 403.121(3)(b), F.S., \$6,000.00 for violation of 403.121(4) (b), F.S.

10. 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 paragraphs 6 and 7 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 paragraphs 11 and 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 9 of this Order.

11. 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 becomes final, effective and filed with the Clerk of the Department before ability to make online payment is available.

12. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Emily Larson, Environmental Specialist, Department of Environmental Protection, Southwest District Office, 13051 N Telecom Parkway, Suite 101, Temple Terrace, Florida 33637.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. Respondent shall publish the following notice in a newspaper of daily circulation in Manatee 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 PERMACAST LLC. pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the failure to obtain a General Permit and install Type I and Type II treatment systems at 6015 21st street East, in Manatee County, Florida. 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:

- a) The OGC Number assigned to this Consent Order;
- b) The name, address, and telephone number of each petitioner; 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;
- c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order;
- d) A statement of when and how the petitioner received notice of the Consent Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;

- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Consent Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Consent Order.

The petition must be filed (received) by the close of business 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 Department of Environmental Protection, Southwest District Office, 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 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.

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

FOR THE RESPONDENT:



Gary Craddock
President, Permacast LLC

11-13-2020

Date

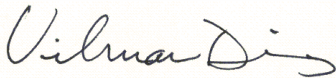
DONE AND ORDERED this 17 day of November 20 20 in Hillsborough County,
Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Kelley M. Bootwright for:

Mary E. Yeargan, P.G.
District Director
Southwest District

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



Clerk

November 17, 2020

Date

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35

IW_CO (operating w/o permit)