



FLORIDA DEPARTMENT OF Environmental Protection

Central District Office
3319 Maguire Blvd., Suite 232
Orlando, Florida 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

June 3, 2024

Randall Nellis, Owner
A Sun State Trees, INC.
3775 North US HWY 1792
Sanford, Florida 32773
sunstatetrees@cfl.rr.com

Re: Final Order
A Sun State Trees, Inc.
SW OGC CASE NO. 24-0274
Seminole County

Dear Mr. Nellis:

Enclosed is a Final Order issued by the Department in the referenced case. The Final Order addresses allegations of violations of Florida Statutes and Department Rules.

The Orders for Corrective Action explain what recourse the Respondent has concerning resolution of the allegations. Please read this section carefully.

Please contact Dr. Phil Kane of the Central District Office at 407-897-4156 or via e-mail at phil.kane@floridadep.gov if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Watkins".

Aaron Watkins, Director
Central District
Florida Department of Environmental Protection

cc: FDEP: Kirk White, Anne Willis, Patrick Reynolds, David Smicherko, Phil Kane, Anitra Spencer, Sarah Fayed
David P. Johnson, Registered Agent (6500 S. US Hwy 17-92, Fern Park, FL 32730)

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

IN THE OFFICE OF THE
CENTRAL DISTRICT

Petitioner,

vs.

OGC CASE NO. 24-0274

A SUN STATE TREES, INC.,

Respondent.

_____ /

FINAL ORDER

BY THE DEPARTMENT:

On April 9, 2024, the Department of Environmental Protection (“Department”) issued a Notice of Violation, Orders for Corrective Action, and Administrative Penalty Assessment (“Notice”) to Respondent, pursuant to the authority of Section 403.121(2), Florida Statutes. A copy of the Notice is attached and incorporated herein as Exhibit A. Respondent received the Notice on May 9, 2024. A copy of the return receipt is attached and incorporated herein as Exhibit B.

The Notice informed Respondent that unless a request for hearing was filed with the Department within 20 days of receipt, the Orders for Corrective Action contained therein would become final. No responsive pleading or request for hearing has been made by Respondent. Therefore, pursuant to Section 403.121(2)(c), Florida Statutes, the Findings of Fact and Conclusions of Law contained in the Notice are deemed admitted and have become binding and final. The Orders for Corrective Action have likewise become final and effective, pursuant to Section 403.121(2)(c), Florida Statutes.

Specifically, the Orders for Corrective Action (see Exhibit A) contain the following directions to the Respondent:

Respondent shall forthwith comply with all Department rules regarding Solid Waste and Yard Trash Management. Respondent shall correct and redress all violations in the time periods required below and shall comply with all applicable rules in Fla. Admin. Code Chapters 62-709.

Within 10 days of the effective date of this Order, Respondent shall properly manage all yard trash it generates from off-site activities, including the registration of any processing facilities, in accordance with all the requirements of Fla. Admin. Code Rules 62-709.

Within 30 days of the effective date of this Order, Respondent shall submit to the Department documentation that yard trash management activities are compliant with 62-709 and specify where yard trash will be brought and how it will be processed.

Immediately on the effective date of this Order, Respondent shall begin maintaining monthly records of incoming and outgoing material in accordance with Fla. Admin. Code Rule 62-709.

Within 10 days of the effective date of this Order, Respondent shall properly register Facility 2 as a SSOPF in accordance with Fla. Admin. Code Rule 62-709.

Within 30 days of the effective date of this Order, Respondent shall provide adequate fire protection and control at Facility 2.

Within 180 days of the effective date of this Order, Respondent shall process and remove all yard trash at Facility 2 and provide timely processing of material.

Within 30 days of the effective date of this Order, Respondent shall pay \$44,500.00 to the Department for the administrative penalties imposed above. Payment shall be made by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "State

of Florida Department of Environmental Protection” and shall include thereon the notations “OGC Case No. 24-0274” and “Water Quality Assurance Trust Fund.” The payment shall be sent to the State of Florida Department of Environmental Protection, Central District Office, 3319 Maguire Blvd., Orlando, FL 32803. 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 the ability to make online payment is available.

In addition to the administrative penalties, within 30 days of the effective date of this Order, Respondent shall pay \$1,000.00 to the Department for costs and expenses. Payment shall be made by cashier’s check or money order. Cashier’s check or money order shall be made payable to the “State of Florida Department of Environmental Protection” and shall include thereon the notations “OGC Case No. 24-0274” and “Water Quality Assurance Trust Fund.” The payment shall be sent to the State of Florida Department of Environmental Protection, Central District Office, 3319 Maguire Blvd., Orlando, FL 32803. 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 the ability to make online payment is available.

Having considered the Notice of Violation, Orders for Corrective Action, and Administrative Penalty Assessment and Respondent’s failure to timely file a responsive pleading to request a hearing, it is, therefore,

ORDERED by the State of Florida Department of Environmental Protection that the foregoing Orders for Corrective Action are hereby approved and adopted in toto as the Final Order of the Department in the above-styled matter.

Respondent shall comply with the Orders for Corrective Action within the time frames specified above, all of which commence on the effective date of this Final Order. The effective date of this Final Order is the date on which it is filed with the designated Department clerk (see below).

Any party to this Final Order has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by filing a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Agency Clerk of the Department, Office of General Counsel, 3900 Commonwealth Blvd., MS-35, Tallahassee, Florida 32399-3000 or via electronic correspondence at Agency_Clerk@floridadep.gov; and by filing a copy of the Notice of Appeal with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days of the effective date of this Final Order.

DONE AND ORDERED this 3rd day of June, 2024, in Orange, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Aaron Watkins
District Director
Central District

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



Clerk

June 3, 2024

Date

*Note: This is the effective date of
the Final Order.*

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35

Exhibit A



FLORIDA DEPARTMENT OF Environmental Protection

Central District Office
3319 Maguire Blvd., Suite 232
Orlando, Florida 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

April 9, 2024

Randall Nellis, President
A Sun State Trees, Inc.
3775 N US Highway 17-92
Sanford, FL 32773
CERTIFIED MAIL: 9589 0710 5270 0424 6218 95

Re: Notice of Violation
A Sun State Trees, Inc.
OGC Case No. 24-0274
Orange and Seminole Counties

Dear Mr. Nellis:

Enclosed is a Notice of Violation (NOV) issued by the Department in the referenced case. The NOV addresses allegations of violations of Florida Statutes and Department Rules.

The NOV's Notice of Rights section explains what recourse the Respondent has concerning resolution of the allegations contained in the NOV. Please read this section carefully.

Please contact Dr. Phil Kane of the Central District Office at 407-897-4156 or via e-mail Phil.Kane@FloridaDEP.gov if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Watkins".

Aaron Watkins
Director, Central District

Enclosures: Notice of Violation

cc: David P. Johnson, Registered Agent (6500 S. US HWY 17-92, Fern Park, FL 32730)
Certified Mail: 9589 0710 5270 0424 6219 01
Kathleen B. Dance (105 Amberwood Drive, Longwood, FL 32779)
Gary Siegel (gary@garysiegellaw.com)
Bridget Pulsifer (bpulsifer@millsnebraska.com)
Shel Hart (shart@millsnebraska.com)
FDEP: Kirk White, Anne Willis, David Smicherko, Phil Kane, Patrick Reynolds, Anitra Spencer, Daun Festa

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

IN THE OFFICE OF THE
CENTRAL DISTRICT

Petitioner,

v.

OGC File No. 24-0274

A Sun State Trees, Inc.

Respondent.

NOTICE OF VIOLATION,
ORDERS FOR CORRECTIVE ACTION AND
ADMINISTRATIVE PENALTY ASSESSMENT

To: A Sun State Trees, Inc.
c/o Randall Nellis, President
3775 N US Highway 17-92
Sanford, FL 32773

and

c/o David P. Johnson, Registered Agent
6500 S. U.S. Hwy 17-92
Fern Park, FL 32730

Pursuant to the authority of Section 403.121(2), Florida Statutes (“Fla. Stat.”), the State of Florida Department of Environmental Protection (“Department”) gives notice to A Sun State Trees, Inc. (“Respondent”) of the following findings of fact and conclusions of law with respect to violations of Chapter 403, Fla. Stat.

FINDINGS OF FACT
PARAGRAPHS APPLICABLE TO ALL COUNTS

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, Fla. Stat., and the rules promulgated thereunder in Florida Administrative Code (Fla. Admin. Code) Title 62.

2. Since December 7, 2017, Respondent has operated a Source Separated Organics Processing Facility ("SSOPF"), located at 2301 Silver Meteor Drive, in Orange County, Florida ("Facility 1"). The Facility ID number is 104694.

3. Since 2021, Respondent has operated a SSOPF, located at 3775 N US Highway 17-92, in Seminole County, Florida ("Facility 2"). Facility 2 does not have an ID number.

4. On February 11, 2024, a fire began at Facility 1.

5. Department staff inspected Facility 1 on February 14, 2024, and observed that Facility 1 had not maintained its registration as an SSOPF since 2017, that Facility 1 lacked fire prevention measures, that Facility 1 was not maintaining required records, and that Facility 1 had failed to timely process yard trash.

6. Department staff inspected Facility 2 on March 6 and April 3, 2024, and observed that Facility 2 had not registered as an SSOPF since 2021, that Facility 2 lacked fire prevention measures, that Facility 2 was not maintaining required records, and that Facility 2 had failed to timely process yard trash.

7. On February 15, 2024, a Warning Letter was issued to you requesting that you contact Dr. Phil Kane at (407) 897-4156 within 7 days of receipt of the Warning Letter to arrange a meeting to discuss this matter. Since that time, you have not contacted the Department.

COUNT I
Failure to Maintain Facility 1 Registration

8. Respondent has failed to maintain a current registration for Facility 1 from 2018 through 2023.

COUNT II

Failure to Maintain Facility 2 Registration

9. Respondent has failed to maintain a current registration for Facility 2 from 2021 through 2023.

COUNT III

Failure to Provide Operational Features to Provide Fire Protection and Control for Facility 1

10. Respondent failed to provide adequate fire protection and control for Facility 1.

COUNT IV

Failure to Provide Operational Features to Provide Fire Protection and Control for Facility 2

11. Respondent failed to provide adequate fire protection and control for Facility 2.

COUNT V

Failure to Provide Monthly Records of Incoming and Outgoing Material

12. Respondent failed to maintain monthly records of incoming and outgoing material at Facility 1 from 2018 through 2023.

COUNT VI

Failure to Provide Monthly Records of Incoming and Outgoing Material

13. Respondent failed to maintain monthly records of incoming and outgoing material at Facility 2 from 2021 to 2023.

COUNT VII

Failure to Timely Size Reduce Unprocessed Material

14. Respondent failed to timely size-reduce unprocessed material at Facility 1 for more than 6 months, or within the period required to receive 3,000 tons or 12,000 cubic yards as required by Fla. Admin. Code Rule 62-709.320(e)1.

COUNT VIII

Failure to Timely Size Reduce Unprocessed Material

15. Respondent failed to timely size-reduce unprocessed material at Facility 2 for more than 6 months, or within the period required to receive 3,000 tons or 12,000 cubic yards as required

by Fla. Admin. Code Rule 62-709.320(e)1.

COUNT IX

Failure to Timely Remove Processed Yard Trash

16. Respondent failed to timely remove processed yard trash at Facility 1 in 2021, 2022, and 2023.

COUNT X

Failure to Timely Remove Processed Yard Trash

17. Respondent failed to timely remove processed yard trash at Facility 2 in 2021, 2022, and 2023.

COUNT XI

18. The Department has incurred expenses to date while investigating this matter in the amount of not less than \$1,000.00.

CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with regard to the requirements of Chapter 403, Fla. Stat., and Fla. Admin. Code Title 62. Based on the foregoing facts the Department has made the following conclusions of law:

19. Yard Trash is regulated under Fla. Admin. Code Rule 62-709.
20. Respondent is a “person” within the meaning of Sections 403.031 and 403.703, Fla. Stat.
21. Respondent is “Operator” as defined in Fla. Admin. Code Rules 62-701.200 and 62-709.201.
22. The Department is imposing an administrative penalty of less than or equal to \$50,000 in this Notice of Violation as calculated in accordance with Section 403.121, Fla. Stat.
23. The facts in Count I constitute a violation of Fla. Admin. Code Rules 62-709.300(2)

and 62-709.320(3)., which requires yard trash processing facilities to register with the Department. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

24. The violation in Count I requires the assessment of an administrative penalty under Section 403.121(3)(e), Fla. Stat., of \$3,000.00 for Respondent's failure to register Facility 1 with the Department, and an additional assessment of \$12,000.00 under Section 403.121(6), Fla. Stat., against Respondent for four additional years at \$3,000.00 per year during which the violations occurred.

25. The facts in Count II constitute a violation of Fla. Admin. Code Rules 62-709.300(2) and 62-709.320(3)., which requires Yard Trash Processing Facilities to Register with the Department. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

26. The violation in Count II requires the assessment of an administrative penalty under Section 403.121(3)(e), Fla. Stat., of \$3,000.00 for failure to Register with the Department, and an additional assessment of \$6,000.00 under Section 403.121(6), Fla. Stat., against Respondent for two additional years at \$3,000.00 per year during which the violations occurred.

27. The facts in Count III constitute a violation of Fla. Admin. Code Rule 62-709.320(2)(a)3., which requires Respondent to provide fire protection and control. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

28. The violation in Count III requires the assessment of an administrative penalty under Section 403.121(4)(e), Fla. Stat., of \$1,500.00 for failure to provide fire protection and control at Facility 1.

29. The facts in Count IV constitute a violation of Fla. Admin. Code Rule 62-709.320(2)(a)3., which requires facilities to provide fire protection and control. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

30. The violation in Count IV requires an assessment under Section 403.121(4)(e), Fla. Stat., of \$1,500.00 for failure to provide fire protection and control at Facility 2.

31. The facts in Count V constitute a violation of Fla. Admin. Code Rule 62-709.320(4), which requires facilities to maintain monthly records of incoming and outgoing material. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

32. The violation in Count V requires the assessment of an administrative penalty under Section 403.121(4)(f), Fla. Stat., of \$750.00 for failure to maintain monthly records of incoming and outgoing material, and an additional assessment of \$3,750.00 under Section 403.121(6), Fla. Stat., against Respondent for five additional years at \$750.00 per year during which the violation occurred.

33. The facts in County VI constitute a violation of Fla. Admin. Code Rule 62-709.320(4), which requires facilities to maintain monthly records of incoming and outgoing material. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

34. The violation in Count VI requires the assessment of an administrative penalty under Section 403.121(4)(f), Fla. Stat., of \$750.00 for failure to maintain monthly records of incoming and outgoing material, and an additional assessment of \$2,250.00 under Section 403.121(6), Fla. Stat., against Respondent for three additional years at \$750.00 per year during

which the violation occurred.

35. The facts in County VII constitute a violation of Fla. Admin. Code Rule 62-709.320(2)(e)1., which requires Respondent to size reduce or remove yard trash at Facility 1 within 6 months, or within the period required to receive 3,000 tons or 12,000 cubic yards, whichever is greater. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

36. The violation in Count VII requires the assessment of an administrative penalty under Section 403.121(5), Fla. Stat., of \$1,000.00 for failure to timely size reduce or remove unprocessed material at Facility 1.

37. The facts in County VIII constitute a violation of Fla. Admin. Code Rule 62-709.320(2)(e)1., which requires Respondent to size reduce or remove yard trash at Facility 2 within 6 months, or within the period required to receive 3,000 tons or 12,000 cubic yards, whichever is greater. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

38. The violation in Count VIII requires the assessment of an administrative penalty under Section 403.121(5), Fla. Stat., of \$1,000.00 for failure to timely size reduce or remove unprocessed material at Facility 2.

39. The facts in Count IX constitute a violation of Fla. Admin. Code Rule 62-709.330(2), which requires Respondent to remove processed yard trash from Facility 1 within 18 months. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

40. The violation in Count IX requires the assessment of an administrative penalty under Section 403.121(5), Fla. Stat., of \$1,000.00 for failure to remove processed yard trash from

Facility 1 within 18 months, and an additional assessment of \$4,000.00 under Section 403.121(6), Fla. Stat., against Respondents for four additional years at \$1,000.00 per year during which the violation occurred.

41. The facts in Count X constitute a violation of Fla. Admin. Code Rule 62-709.330(2), which requires Respondent to remove processed yard trash from Facility 2 within 18 months. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

42. The violation in Count X requires the assessment of an administrative penalty under Section 403.121(5), Fla. Stat., of \$1,000.00 for failure to remove processed yard trash from Facility 2 within 18 months, and an additional assessment of \$2,000.00 under Section 403.121(6), Fla. Stat., against Respondents for two additional years at \$1,000.00 per year during which the violation occurred.

43. The administrative penalties assessed for Counts I, II, III, IV, V, VI, VII, VIII, IX, and X total \$44,500.00.

44. The costs and expenses related in Count V are reasonable costs and expenses incurred by the Department while investigating this matter, which are recoverable pursuant to Section 403.141(1) Fla. Stat.

ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondent, must do in order to correct and redress the violations alleged in this Notice.

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondent either files a timely request for a formal hearing or informal

proceeding, pursuant to Section 403.121(2)(c), Fla. Stat., or files written notice with the Department opting out of this administrative process, pursuant to 403.121(2)(c), Fla. Stat. (See Notice of Rights). If Respondent fails to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's Order pursuant to Sections 120.69, 403.121, and 403.131, Fla. Stat.

Pursuant to the authority of Sections 403.061(8) and 403.121, Fla. Stat., the Department proposes to adopt in its Final Order in this case the following specific corrective actions that will redress the alleged violations:

45. Respondent shall forthwith comply with all Department rules regarding Solid Waste and Yard Trash Management. Respondent shall correct and redress all violations in the time periods required below and shall comply with all applicable rules in Fla. Admin. Code Chapters 62-709.

46. Within 10 days of the effective date of this Order, Respondent shall properly manage all yard trash it generates from off-site activities, including the registration of any processing facilities, in accordance with all the requirements of Fla. Admin. Code Rules 62-709.

47. Within 30 days of the effective date of this Order, Respondent shall submit to the Department documentation that yard trash management activities are compliant with 62-709 and specify where yard trash will be brought and how it will be processed.

48. Immediately on the effective date of this Order, Respondent shall begin maintaining monthly records of incoming and outgoing material in accordance with Fla. Admin. Code Rule 62-709.

49. Within 10 days of the effective date of this Order, Respondent shall properly register Facility 2 as a SSOPF in accordance with Fla. Admin. Code Rule 62-709.

50. Within 30 days of the effective date of this Order, Respondent shall provide adequate fire protection and control at Facility 2.

51. Within 180 days of the effective date of this Order, Respondent shall process and remove all yard trash at Facility 2 and provide timely processing of material.

52. Within 30 days of the effective date of this Order, Respondent shall pay \$44,500.00 to the Department for the administrative penalties imposed above. Payment shall be made by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "State of Florida Department of Environmental Protection" and shall include thereon the notations "OGC Case No. 24-0274" and "Water Quality Assurance Trust Fund." The payment shall be sent to the State of Florida Department of Environmental Protection, Central District Office, 3319 Maguire Blvd., Orlando, FL 32803. 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 the ability to make online payment is available.

53. In addition to the administrative penalties, within 30 days of the effective date of this Order, Respondent shall pay \$1,000.00 to the Department for costs and expenses. Payment shall be made by cashier's check or money order. Cashier's check or money order shall be made payable to the "State of Florida Department of Environmental Protection" and shall include thereon the notations "OGC Case No. 24-0274" and "Water Quality Assurance Trust Fund." The payment shall be sent to the State of Florida Department of Environmental Protection, Central District Office, 3319 Maguire Blvd., Orlando, FL 32803. 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 the ability to make online payment is available.

NOTICE OF RIGHTS

Respondent's rights to negotiate, litigate or transfer this action are set forth below.

Right to Negotiate

54. This matter may be resolved if the Department and Respondent enter into a Consent Order, in accordance with Section 120.57(4), Fla. Stat., upon such terms and conditions as may be mutually agreeable.

Right to Request a Hearing

55. Respondent has the right to a formal administrative hearing pursuant to Sections 120.569, 120.57(1), and 403.121(2), Fla. Stat., if Respondent disputes issues of material fact raised by this Notice of Violation, Orders for Corrective Action, and Administrative Penalty Assessment ("Notice"). At a formal hearing, Respondent will have the opportunity to be represented by counsel or qualified representative, to present evidence and argument on all issues involved, and to conduct cross-examination and submit rebuttal evidence.

56. Respondent has the right to an informal administrative proceeding pursuant to Sections 120.569 and 120.57(2), Fla. Stat., if Respondent does not dispute issues of material fact raised by this Notice. If an informal proceeding is held, Respondent will have the opportunity to be represented by counsel or qualified representative, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

57. If Respondent desires a formal hearing or an informal proceeding, Respondent must file a written responsive pleading entitled "Request for Administrative Proceeding" within 20 days of receipt of this Notice. The request must be in the form required by Fla. Admin. Code

Rule 28-106.2015 and include the following:

- (a) The name, address, and telephone number, and facsimile number (if any) of each respondent if the respondent is not represented by an attorney or qualified representative;
- (b) The name, address, telephone number, and facsimile number of the attorney or qualified representative of respondent, if any, upon whom service of pleadings and other papers shall be made;
- (c) A statement of when respondent received the Notice;
- (d) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the request for hearing must so indicate; and
- (e) The notation "OGC Case No. 24-0274 shall be included in the request.

A request for hearing is filed when it is received by 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.

Right to Mediation

58. If Respondent timely files a request challenging the Notice in accordance with Section 403.121(2)(e) Florida Statute, the Respondent has the right to mediate the issues raised in the Notice. If requested, a mediator will be appointed to assist the Department and Respondent to reach a resolution of some or all of the issues. The mediator is chosen from a list of mediators provided by the FCRC Consensus Center ("FCRC"). The FCRC will provide up to 8 hours of free mediation services to the Respondent. A mediator cannot require the parties to settle the case. If mediation is unsuccessful, both parties retain their full rights to litigate the issues before an administrative law judge. The Respondent must select the mediator and notify the FCRC within 15 days of receipt of the list of mediators. The mediation process does not

interrupt the time frames of the administrative proceedings and the mediation must be completed at least 15 days before the date of the final hearing.

59. The written request to appoint a mediator must be made within 10 days after receipt of the Initial Order from the administrative law judge appointed to hear the case. The request must be received by the FCRC Consensus Center, Attn. Chris Pedersen, 296 Champions Way, UCC6140, Tallahassee, Florida, 32306-2641, cpedersen@fsu.edu. Once the request is timely received, the FCRC will provide the parties with a list of mediators and the necessary information as required by Section 403.121(2)(e) Florida Statutes.

Right to Opt Out of the Administrative Proceeding

60. If Respondent does not wish to contest the issues before an administrative law judge, Respondent may file a notice with the Department opting out of the administrative process. Respondent must file its written opt out notice within 20 days after service of the Notice. The written notice to opt out is filed when it is received by 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.

61. Once the Respondent opts out of the administrative process, the Department may sue the Respondent for injunctive relief, damages, costs and expenses and civil penalties. If the Respondent opts out of the administrative process, the Department may ask the judge to assess civil penalties in excess of the amounts in this Notice up to \$15,000.00 per day per violation. The election to opt out of the administrative process is permanent and once the election is made the administrative process cannot be restarted.

Waivers

62. Respondent will waive the right to a formal hearing or an informal proceeding if

either:

a. a request for a formal hearing or informal proceeding is not filed with the Department within 20 days of receipt of this Notice, or

b. a notice opting out of the administrative proceeding is not filed with the Department within 20 days of receipt of this Notice.

These time limits may be varied only by written consent of the Department.

General Provisions

63. The findings of fact and conclusions of law of this Notice together with the Orders for Corrective Action will be adopted by the Department in a Final Order if Respondent fails to timely file a request for a formal hearing or informal proceeding, pursuant to Section 403.121, Fla. Stat. A Final Order will constitute a full and final adjudication of the matters alleged in this Notice.

64. If Respondent fails to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Sections 120.69, 403.121, and 403.131, Fla. Stat. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$15,000.00 per day for each day that Respondent has failed to comply with the Final Order.

65. Copies of Department rules referenced in this Notice may be examined at any Department Office or may be obtained by written request to the District Office.

DATED this 9th day of April, 2024.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Aaron Watkins
Director, Central District

Copies furnished to:
Kirk White, OGC Litigation Section

**BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,**

**IN THE OFFICE OF THE
CENTRAL DISTRICT**

Petitioner,

OGC FILE NO.: 24-0274

v.

**A Sun State Trees, INC
Randall Nellis, President,**

Respondent.

_____ /

RETURN OF SERVICE

PERSON SERVED: Thomas Nellis representing Randall Nellis
SERVICE ADDRESS: 3319 Maguire Blvd, Suite 232
Orlando FL 32803

DOCUMENT SERVED: NOV, *(with Exhibits)*

The undersigned personally served a true copy of the "Notice of Violation" with exhibits on Thomas Nellis at FDEP Central District Office 3319 Maguire BLVD Suite 232 Orlando, Florida 32803 in Orange County, Florida on May 9, 2024, at 10:30 A M, pursuant to Section 48.031(1)(a), F.S.

Philip N. Kane, Ed. D.

Dr. Phil Kane
Florida Department of Environmental Protection
Compliance Assurance Program
3319 Maguire Blvd.
Orlando, Florida 32803
Office: (407) 897-4156