

Board of County Commissioners

Agenda Request

Date of Meeting: February 7, 2022

Date Submitted: February 1, 2022

To: Honorable Chairman and Members of the Board

From: David Edwards, County Administrator
Ned Nobles, ESG

Subject: Request Board Approval of the First Amended Consent Order Between the Florida Department of Environmental Protection and Wakulla County Relating to the Otter Creek Wastewater Treatment Facility

Statement of Issue:

This agenda item requests Board approval of the First Amended Consent Order between the Florida Department of Environmental Protection and Wakulla County Relating to the Otter Creek Wastewater Treatment Facility.

Background:

ESG operates Wakulla County's Otter Creek Wastewater Treatment Facility (WWTF), a 1.200 MGD activated sludge wastewater treatment facility with reclaimed water land applied on a 40acre spray irrigation system. The facility is operated under Wastewater Permit No. FLA010225 which was issued on January 15, 2016 and expired on January 14, 2021. The new permit was applied for but has not been issued at this time. The WWTF is located at 2146 Lawhon Mill Rd., Crawfordville, FL.

On June 19, 2017, the Board approved a Consent Order between FDEP and the County relating to violations occurring at the WWTF.

Staff has recently received an amended Consent Order, which addresses the following domestic wastewater issues related to the WWTF:

- The County failed to comply with requirements for Planning for Wastewater Facilities Expansion, evidenced by flow exceedances in the below noted timeframe, in violation of chapter 62-600.405, F.A.C.
- The County reported chronic flow exceedances to the Part II Sprayfield from November 1, 2017 through April 30, 2021. These currently ongoing and chronic exceedances are in violation of Permit Condition I.A.1. Which establishes the limits for relevant exceedances.
- The County failed to resolve the groundwater violations under the Original Order and has reported groundwater exceedances for Total Dissolved Solids (P 70295) and Nitrate, Nitrogen (P 00620) for the period November 1, 2017, through April 30, 2021. These effluent exceedances are in violation of Permit Conditions III.B and F.A.C. 62-520.
- The County failed to comply with the permit schedule of September 1, 2021, which had been extended from the original deadline of October 31, 2017, to meet AWT limits, in violation of the permit condition VI.1, and section 403.161 (1)(b), F.S.

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Analysis:

The proposed First Amended Consent Order (Attachment #1) has to be approved by the BOCC by February 11, 2022. A summary of the proposed Consent Order is as follows:

- The County shall comply with the following corrective actions within the stated time periods.
 - The County shall comply with the following corrective actions by the scheduled completion dates. The County shall ensure that it obtains proper permits if corrective actions below require additional permitting or modification of existing permits. The County shall submit documentation demonstrating compliance by the completion date for each item and include such documentation in the Quarterly Report as described in paragraph 7 below.
 - Submit complete permit application to DEP for Master Lift Station and IEQ Basin – March 1, 2022
 - Complete Construction – October 1, 2023
 - Place-in-service – November 1, 2023
 - Submit complete permit application to DEP for BNR 3rd Train and R-AWT2 Pump Station Modifications – April 1, 2022
 - Complete Construction - September 1, 2023
 - Place-in-service – October 1, 2023
 - The County shall achieve compliance with planning requirements in rule 62-600.405, F.A.C. – December 31, 2023
 - By June 30, 2022, the County shall comply with AWT Limits, for Nitrogen (Nitrogen, Nitrate, Total as N), Total Suspended Solids (TSS), Carbonaceous BOD 5-Day (CBOD5), and Total Phosphorous (TP) in Permit Conditions I.A>1. And I.A.7 and section 403.086(4), F.S.
 - By December 31, 2022, the County shall expand reuse capacity and achieve compliance with 0.6 MGD flow permit limit to the sprayfield, monitoring location, FLW-R001, in accordance with permit condition I.A.1.
 - By June 30, 2023, the County shall comply with the total nitrate groundwater permit limit of 10.0 mg/L
- The County shall comply with the following interim limits:
 - The groundwater monitoring wells interim limit for Nitrate and Total Nitrogen of Report shall be in effect until June 30, 2023.
 - An interim limit of Report for flow at monitoring location FLW-R001 will be provided until December 31, 2022.
- Every calendar quarter after the effective date of this Order and continuing until all corrective actions have been completed, the County shall submit to DEP a written report containing information about the status and progress of projects being completed under this Order, information about 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 the County will perform pursuant to this Order during the 12 month period which

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will follow the report. The County shall submit the reports to DEP within 30 days of the end of each quarter.

- Notwithstanding the time periods described in the paragraphs above, the County shall complete all corrective actions required by paragraph 1 by December 30, 2023 and be in full compliance with Rule 62-610.510(1) and 62-600.405, F.A.C., regardless of any intervening events or alternative time frames imposed in this Order, other than those excused delays agreed to by DEP, as described in Paragraph 19.
- Within 30 days of the effective date of this Order, the County shall pay FDEP \$20,500.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$19,500.00 for civil penalties and \$1,000.00 for costs and expenses incurred by FDEP during the investigation of this matter and preparation and tracking of this Order.
- In lieu of making cash payment of \$19,500.00 in civil penalties as set forth above, the County may elect to off-set this amount by implementing an in-kind penalty project, which must be approved by FDEP. An in-kind project must be either an environmental enhancement, environmental restoration or a capital/facility improvement project. FDEP 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 civil penalty off-set amount, which in this case is the equivalent of at least \$29,250.00. If the County chooses to implement an in-kind project, the County shall notify FDEP of its election by certified mail within 15 days of the effective date of this Order. Notwithstanding the election to implement an in-kind project, payment of the remaining \$1,000.00 in costs must be paid within 30 days of the effective date of this Order.
- If the County elects to implement an in-kind project as provided above, then the County shall comply with all of the requirements and time frames in Exhibit II of the Order.
- The County agrees to pay DEP stipulated penalties in the amount of \$1,000.00 per day for each and every day the County fails to timely comply with any of the requirements of paragraphs 5, 6,7,8,9, and 26 of this Order.
- The County shall allow all authorized representatives of DEP access to the Facility and the property.
- The County shall publish a notice of Consent Order in a newspaper of daily circulation in Wakulla County, Florida. The notice shall be published one time only within 15 days of the effective date of this Order. The County shall provide a certified copy of the published notice to FDEP within 10 days of publication.

It should be noted that the County plans to continue using Baskerville-Donavan, Inc. (BDI) as the professional engineer to oversee this Order; a Work Authorization will be presented to the BOCC for approval in the near future.

Budgetary Impact:

Staff plans on submitting projects for the in-kind amount of \$29,250.00 rather than pay the cash penalty of \$19,500.00 to FDEP (projects will be determined once the BDI Work Authorization has been approved). The administrative fee of \$1,000.00 will be paid to FDEP within 30 days of effective date.

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Options:

1. Approve the First Amended Consent Order Between the Florida Department of Environmental Protection and Wakulla County Relating to the Otter Creek Wastewater Treatment Facility.
2. Do Not Approve the First Amended Consent Order Between the Florida Department of Environmental Protection and Wakulla County Relating to the Otter Creek Wastewater Treatment Facility.
3. Board Direction.

Recommendation:

Option #1

Attachments:

1. Proposed First Amended Consent Order



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 W. Government Street, Suite 308
Pensacola, FL 32502

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

January 28, 2022

Certified Mailing No.: 91 7199 9991 7030 9095 8809

Wakulla County Board of County Commissioners
David Edwards
PO Box 1263
Crawfordville, Florida 32326
Dedwards@mywakulla.com

Subject: Proposed Revised Amended Consent Order; DEP vs. Wakulla County Board of County Commissioners; Wakulla County/Otter Creek WWTP; Permit # FL010225; OGC File No. 17-0009B; Wakulla County

Enclosed is the proposed revised Amended Consent Order, which addresses domestic wastewater issues related to the Wakulla County/Otter Creek wastewater treatment plant. Based on feedback from the County, the in-kind language has been added and some of the compliance timeframes have been adjusted.

Please review the document, and if acceptable, sign and return it **within 15 days**, for final execution. A copy of the executed Consent Order will be forwarded to you for your records.

Your cooperation in resolving this matter is greatly appreciated. If you have any questions, please contact Deneale Miller at 850-595-0677 or Deneale.M.Miller@FloridaDEP.gov.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth Mullins Orr".

Elizabeth Mullins Orr
Director

EMO/km

Enclosure

c: Katie Ates, DEP Northwest District Wastewater Permitting (Kate.L.Ates@floridadep.gov)
Michael Fuller, DEP Northwest District Branch Office Administrator
(Michael.Fuller@floridadep.gov)

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

| | | |
|-----------------------------|---|-----------------------|
| STATE OF FLORIDA DEPARTMENT |) | IN THE OFFICE OF THE |
| OF ENVIRONMENTAL PROTECTION |) | NORTHWEST DISTRICT |
| |) | |
| v. |) | OGC FILE NO. 17-0009B |
| |) | |
| WAKULLA COUNTY BOARD |) | |
| OF COUNTY COMMISSIONERS |) | |
| _____ |) | |

FIRST AMENDED CONSENT ORDER

The State of Florida Department of Environmental Protection (Department) and Wakulla County WWTF (Respondent) entered into Consent Order OGC File No. 17-0009 (Original Order), which became effective on June 23, 2017. This First Amended Consent Order (Amended Order) is entered into between the two parties. Respondent and Department agree that this Amended Order replaces and supersedes the Original Order.

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (F.S.), and the rules promulgated and authorized in Title 62, Florida Administrative Code (F.A.C.). 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 Wakulla County WWTF, a 0.600 MGD annual average daily flow activated sludge wastewater treatment facility, with reclaimed water land applied on 40-acre spray irrigation system (Facility). The Facility is operated under Wastewater Permit No. FLA010225 (Permit), which was issued on January 15, 2016. On July 10, 2020, the Respondent applied in a timely manner to the Department for a renewal of the Permit (Renewal) and as such, pursuant to 120.60(4) F.S., the Permit has been administratively continued pending Department final agency action

on the Renewal. The Facility is located at 2146 Lawhon Mill Road, Sopchoppy, Florida 32358, in Wakulla County, Florida (Property). Respondent owns the Property on which the Facility is located.

4. The Department finds that the following violations occurred:

a. The Respondent has failed to comply with the requirements for Planning for Wastewater Facilities Expansion, evidenced by the flow exceedances in subparagraph b. below, in violation of chapter 62-600.405, F.A.C.

b. Respondent reported chronic flow exceedances to the Part II Sprayfield from November 1, 2017 through April 30, 2021. These currently on-going and chronic exceedances are in violation of Permit Condition I.A,1. which establishes the limits for relevant exceedances. The flow exceedances are outlined in the table below:

| Flow Exceedances November 2017 - April 2021 | | | | | |
|--|----------------------------|---------------|--------------|--------------|-------------------------|
| Date | Monitoring Location | Result | Limit | Units | Statistical Base |
| 4/30/2021 | FLW-R001 | 0.62 | 0.6 | MGD | AB - Annual Average |
| 3/31/2021 | FLW-R001 | 0.609 | 0.6 | MGD | AB - Annual Average |
| 2/28/2021 | FLW-R001 | 0.608 | 0.6 | MGD | AB - Annual Average |
| 1/31/2021 | FLW-R001 | 0.609 | 0.6 | MGD | AB - Annual Average |
| 12/31/2020 | FLW-R001 | 0.608 | 0.6 | MGD | AB - Annual Average |
| 11/30/2020 | FLW-R001 | 0.613 | 0.6 | MGD | AB - Annual Average |
| 10/31/2020 | FLW-R001 | 0.618 | 0.6 | MGD | AB - Annual Average |
| 9/30/2020 | FLW-R001 | 0.619 | 0.6 | MGD | AB - Annual Average |
| 8/31/2020 | FLW-R001 | 0.609 | 0.6 | MGD | AB - Annual Average |
| 7/31/2020 | FLW-R001 | 0.615 | 0.6 | MGD | AB - Annual Average |
| 6/30/2020 | FLW-R001 | 0.62 | 0.6 | MGD | AB - Annual Average |
| 5/31/2020 | FLW-R001 | 0.621 | 0.6 | MGD | AB - Annual Average |

| Flow Exceedances November 2017 - April 2021 | | | | | |
|--|----------------------------|---------------|--------------|--------------|-------------------------|
| Date | Monitoring Location | Result | Limit | Units | Statistical Base |
| 4/30/2020 | FLW-R001 | 0.625 | 0.6 | MGD | AB - Annual Average |
| 3/31/2020 | FLW-R001 | 0.63 | 0.6 | MGD | AB - Annual Average |
| 2/29/2020 | FLW-R001 | 0.629 | 0.6 | MGD | AB - Annual Average |
| 1/31/2020 | FLW-R001 | 0.623 | 0.6 | MGD | AB - Annual Average |
| 12/31/2019 | FLW-R001 | 0.621 | 0.6 | MGD | AB - Annual Average |
| 11/30/2019 | FLW-R001 | 0.623 | 0.6 | MGD | AB - Annual Average |
| 10/31/2019 | FLW-R001 | 0.616 | 0.6 | MGD | AB - Annual Average |
| 9/30/2019 | FLW-R001 | 0.612 | 0.6 | MGD | AB - Annual Average |
| 8/31/2019 | FLW-R001 | 0.631 | 0.6 | MGD | AB - Annual Average |
| 7/31/2019 | FLW-R001 | 0.657 | 0.6 | MGD | AB - Annual Average |
| 6/30/2019 | FLW-R001 | 0.676 | 0.6 | MGD | AB - Annual Average |
| 5/31/2019 | FLW-R001 | 0.7 | 0.6 | MGD | AB - Annual Average |
| 4/30/2019 | FLW-R001 | 0.707 | 0.6 | MGD | AB - Annual Average |
| 3/31/2019 | FLW-R001 | 0.703 | 0.6 | MGD | AB - Annual Average |
| 2/28/2019 | FLW-R001 | 0.7 | 0.6 | MGD | AB - Annual Average |
| 1/31/2019 | FLW-R001 | 0.697 | 0.6 | MGD | AB - Annual Average |
| 12/31/2018 | FLW-R001 | 0.685 | 0.6 | MGD | AB - Annual Average |
| 11/30/2018 | FLW-R001 | 0.666 | 0.6 | MGD | AB - Annual Average |
| 10/31/2018 | FLW-R001 | 0.66 | 0.6 | MGD | AB - Annual Average |
| 9/30/2018 | FLW-R001 | 0.657 | 0.6 | MGD | AB - Annual Average |
| 8/31/2018 | FLW-R001 | 0.649 | 0.6 | MGD | AB - Annual Average |

| Flow Exceedances November 2017 - April 2021 | | | | | |
|--|----------------------------|---------------|--------------|--------------|-------------------------|
| Date | Monitoring Location | Result | Limit | Units | Statistical Base |
| 7/31/2018 | FLW-R001 | 0.639 | 0.6 | MGD | AB - Annual Average |
| 6/30/2018 | FLW-R001 | 0.639 | 0.6 | MGD | AB - Annual Average |
| 5/31/2018 | FLW-R001 | 0.62 | 0.6 | MGD | AB - Annual Average |
| 4/30/2018 | FLW-R001 | 0.609 | 0.6 | MGD | AB - Annual Average |
| 3/31/2018 | FLW-R001 | 0.606 | 0.6 | MGD | AB - Annual Average |
| 2/28/2018 | FLW-R001 | 0.605 | 0.6 | MGD | AB - Annual Average |
| 12/31/2017 | FLW-R001 | 0.601 | 0.6 | MGD | AB - Annual Average |
| 11/30/2017 | FLW-R001 | 0.601 | 0.6 | MGD | AB - Annual Average |

c. Respondent failed to resolve the groundwater violations under the Original Order and has reported groundwater exceedances for Total Dissolved Solids (P 70295) and Nitrate, Nitrogen (P 00620) for the period November 1, 2017, through April 30, 2021. These effluent exceedances are in violation of Permit Conditions III.B and F.A.C. 62-520. These exceedances are outlined in the tables below:

| Nitrogen, Nitrate, Total (as N) Exceedances for November 2017 - April 2021 | | | | | |
|---|----------------------------|---------------|--------------|--------------|-------------------------|
| Date | Monitoring Location | Result | Limit | Units | Statistical Base |
| 12/31/2020 | MWC-12S | 14 | 10.0 | mg/L | MB - Maximum |
| 6/30/2020 | MWC-13S | 13 | 10.0 | mg/L | MB - Maximum |
| 6/30/2020 | MWC-3S | 17 | 10.0 | mg/L | MB - Maximum |
| 12/31/2018 | MWC-14S | 14 | 10.0 | mg/L | MB - Maximum |
| 12/31/2017 | MWC-4S | 20 | 10.0 | mg/L | MB - Maximum |

| Total Dissolved Solids Exceedances for November 2017 - April 2021 | | | | | |
|--|----------------------------|---------------|--------------|--------------|-------------------------|
| Date | Monitoring Location | Result | Limit | Units | Statistical Base |
| 6/30/2020 | MWC-13S | 600 | 500.0 | mg/L | MB - Maximum |
| 6/30/2020 | MWC-3S | 540 | 500.0 | mg/L | MB - Maximum |
| 6/30/2019 | MWC-13S | 610 | 500.0 | mg/L | MB - Maximum |
| 6/30/2019 | MWC-14S | 550 | 500.0 | mg/L | MB - Maximum |
| 6/30/2019 | MWC-3S | 530 | 500.0 | mg/L | MB - Maximum |
| 6/30/2019 | MWC-6S | 520 | 500.0 | mg/L | MB - Maximum |
| 12/31/2018 | MWC-14S | 890 | 500.0 | mg/L | MB - Maximum |
| 12/31/2017 | MWC-13D | 520 | 500.0 | mg/L | MB - Maximum |
| 12/31/2017 | MWC-2D | 640 | 500.0 | mg/L | MB - Maximum |

d. Respondent failed to comply with permit schedule deadline of September 1, 2021, which had been extended from the original deadline of October 31, 2017, to meet AWT limits, in violation of the permit condition VI.1, and section 403.161 (1)(b), F.S.

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. Respondent shall comply with the following corrective actions by the scheduled completion dates. Respondent shall ensure that it obtains proper permits if corrective actions below require additional permitting or modification of existing

permits. Respondent shall submit documentation demonstrating compliance by the completion date for each item and include such documentation in the Quarterly Report as described paragraph 7 below.

| Corrective Action, Task 1 | | Date |
|---------------------------|---|------------------|
| i. | Submit complete permit application to DEP for Master Lift Station/Screening and IEQ Basin | March 1, 2022 |
| ii. | Complete Construction | October 1, 2023 |
| iii. | Place-in-Service | November 1, 2023 |

| Corrective Action, Task 2 | | Date |
|---------------------------|---|-------------------|
| iv. | Submit complete permit application to DEP for BNR 3 rd Train and R-AWT2 Lift Station Modifications | April 1, 2022 |
| v. | Complete Construction | September 1, 2023 |
| vi. | Place-in-Service | October 1, 2023 |
| vii. | Respondent shall achieve compliance with planning requirements in rule 62-600.405, F.A.C. | December 31, 2023 |

b. By June 30, 2022, Respondent shall comply with AWT Limits, for Nitrogen (Nitrogen, Nitrate, Total as N), Total Suspended Solids (TSS), Carbonaceous BOD 5-day (CBOD5), and Total Phosphorous (TP) in Permit Conditions I.A.1 and I.A.7 and section 403.086(4), F.S.

c. By December 31, 2022, Respondent shall expand reuse capacity and achieve compliance with 0.6 MGD flow permit limit to the sprayfield, monitoring location, FLW-R001, in accordance with permit condition I.A.1.

d. By June 30, 2023, Respondent shall comply with the total nitrate groundwater permit limit of 10.0 mg/L.

6. Respondent shall comply with the following interim limits:

- a. The groundwater interim limits shown in the table below shall be in effect until June 30, 2023.

| Well | Description | Limit | Units | Statistical Base |
|---------|---------------------------------|--------|-------|------------------|
| MWC-1S | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-1D | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-2S | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-2D | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-3S | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-3D | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-4S | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-4D | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-6S | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-6D | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-12S | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-12D | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-13S | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-13D | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-14S | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |
| MWC-14D | Nitrogen, Nitrate, Total (as N) | Report | mg/L | Maximum |

- b. An interim limit of Report for flow at monitoring location FLW-R001 will be provided until December 31, 2022.

7. Every calendar quarter after the effective date of this Order and continuing until all corrective actions have been completed, Respondent shall submit to the Department a written report containing information about the status and progress of projects being completed under this Order, information about 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 Respondent will perform 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.

8. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by paragraph 5 by **December 30,**

2023, and be in full compliance with Rule 62-610.510(1) and 62-600.405, F.A.C, regardless of any intervening events or alternative time frames imposed in this Order, other than those excused delays agreed to by the Department, as described in paragraph 19.

9. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$20,500.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$19,500.00 for civil penalties and \$1,000.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

10. In lieu of making cash payment of \$19,500.00 in civil penalties as set forth in paragraph 9 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 and may not be a corrective action requirement of the Order or otherwise required by law. 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 civil penalty off-set amount, which in this case is the equivalent of at least \$29,250.00. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election 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 \$1,000.00 in costs must be paid within 30 days of the effective date of the Consent Order.

11. If Respondent elects to implement an in-kind project as provided in paragraph 10, then Respondent shall comply with all the requirements and time frames in Exhibit A entitled In-Kind Projects.

12. Respondent agrees to pay the Department stipulated penalties in the amount of \$1,000 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph(s) 5, 6, 7, 8, 9, and 24 of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment,

and shall do so as further described in paragraph 13, 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.

13. 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.

14. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Assistant District Director, Department of Environmental Protection, Northwest District Office, 160 West Government St., Pensacola, Florida 32502.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. Respondent shall publish the following notice in a newspaper of daily circulation in Wakulla County, Florida. The notice shall be published one time only within 15 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 Wakulla County Board of County Commissioners pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the domestic wastewater issues at the Wakulla County Wastewater Treatment Facility. 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, Northwest District Office, 160 West Government St., Pensacola, Florida 32502.

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) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 323993000 within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the Florida Department of Environmental Protection, Northwest District, 160 West Government Street, suite 308, Pensacola, Florida. 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.

27. Rules referenced in this Order are available at

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

FOR THE RESPONDENT:

Wakulla County Board of County Commissioners
Ralph Thomas, Chairman

DONE AND ORDERED this ____ day of _____, 20____, in _____ County,
Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Elizabeth Mullins Orr
District Director
Northwest District

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

Clerk

Date

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35

Exhibit A

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, 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.

b. 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, by certified mail, all requested additional information, clarification, and modifications within 15 days of receipts of written notice.

c. 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, 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 paragraph 9 above, within 30 days of Department notice.

d. 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 paragraph 9 above, within 30 days of Department notice.

e. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to paragraph I(a) above, Respondent shall complete the entire in-kind project.

f. 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.

g. 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 \$19,500.00 penalty, no additional penalties shall be assessed under paragraph 12 for failure to complete the requirement of this paragraph.

h. Within 15 days of completing the in-kind project, Respondent shall notify the Department, 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.

i. 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, 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 \$19,500.00, no additional penalties shall be assessed under paragraph 12 for failure to complete the requirements of this paragraph.