

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	CENTRAL DISTRICT
)	
v.)	OGC FILE NO. 22-2847
)	
TOWN OF EATONVILLE)	
_____)	

- c. Failure to comply with LRAA MCL for TTHMs for the 4th quarter 2021. The TTHM LRAA at the Gabriel Hydrant (L1) sampling location was 91.8 ug/L, which exceeds the MCL of 80 ug/L.
- d. Failure to comply with the LRAA MCL for HAA5s for the 4th quarter 2021. The HAA5 LRAA at the Gabriel Hydrant (L1) sampling location was 74.03 ug/L, which exceeds the MCL of 60 ug/L.
- e. Failure to comply with LRAA MCL for TTHMs for the 1st quarter 2022. The TTHM LRAA at the Gabriel Hydrant (L1) sampling location was 103.55 ug/L, which exceeds the MCL of 80 ug/L.
- f. Failure to comply with the LRAA MCL for HAA5s for the 1st quarter 2022. The HAA5 LRAA at the Gabriel Hydrant (L1) sampling location was 71.25 ug/L, which exceeds the MCL of 60 ug/L.
- g. Failure to comply with LRAA MCL for TTHMs for the 2nd quarter 2022. The TTHM LRAA at the Gabriel Hydrant (L1) sampling location was 84.33 ug/L, which exceeds the MCL of 80 ug/L.
- h. Failure to comply with the LRAA MCL for HAA5s for the 2nd quarter 2022. The HAA5LRAA at the Gabriel Hydrant (L1) sampling location was 67.03 ug/L, which exceeds the MCL of 60 ug/L.
- i. Failure to monitor for Bacteriological contaminants during December 2021. There are no corrective actions required for this violation.

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

ORDERED:

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

a) Within 60 days of the effective date of this Order, Respondent shall retain the services of a professional engineer, registered in the State of Florida, to evaluate the System and submit an application, along with any required application fees, to the Department for a permit to construct any modifications needed to address the MCL violation(s).

b) If the Department requires additional information, modifications, or specifications to process the permit application described in subparagraph (5)(a), above, the

Department will issue a written request for information ("RFI") to Respondent. Respondent shall submit the requested information in writing to the Department within 90 days of receipt of the request. Respondent shall provide all information requested in any additional RFIs issued by the Department within 90 days of receipt of each request. Within 30 days of the Department's receipt of the application described in subparagraph (5)(b), above, Respondent shall provide all information necessary to complete the application.

c) Within 180 days of the effective date of this Order, Respondent shall complete all corrective actions necessary to resolve the MCL exceedances described above. If the Department issues a permit pursuant to subparagraphs (5)(a), above, within 180 days of the effective date of this Order Respondent shall submit a Certification of Completion, prepared and sealed by a professional engineer registered in the State of Florida. Respondent shall receive written Department clearance prior to placing the permitted system modifications into service. If a permit is not required to implement the corrective actions required by this paragraph, and none is issued by the Department pursuant to this Order, within 90 days of the effective date of this Order, Respondent shall submit to the Department a written statement attesting to the completion of all required actions.

d) If the approved modifications are determined by the Department to be inadequate to resolve the MCL violation(s), the Department will notify the Respondent in writing. Within 30 days of receipt of such written notification from the Department, Respondent shall submit an alternate proposal to address the MCL violation(s). Respondent shall provide all information requested in any RFIs issued by the Department within 90 days of receipt of each request. Within 60 days of the date the Department receives the proposal required by this subparagraph, Respondent shall provide all information necessary to complete the application for modification.

e) Respondent shall continue to sample quarterly for TTHMs and HAA5s in accordance with Rule 62-550.514(2), F.A.C., until the running annual average is no more than 0.060 mg/L and 0.045 mg/L for TTHMs and HAA5s, respectively, or until the running annual average remains below 0.080 mg/L and 0.060 mg/L, respectively, for four consecutive quarters, at which time Respondent shall return to its regular required monitoring in accordance with Chapter 62-550, F.A.C. Respondent shall submit all sampling results to the

Department within 10 days following the month in which the samples were taken or within 10 days following Respondent's receipt of the results, whichever is sooner.

f) Respondent shall continue to issue public notices regarding the MCL violation(s) described above every 90 days, as required by Rule 62-560.410(1), F.A.C., until the Department determines that the System is in compliance with all MCLs. Respondent shall submit certification of delivery of public notices, using DEP Form 62-555.900(22), F.A.C. to the Department within 10 days of issuing each public notice.

g) Respondent shall submit written quarterly updates on the status of the permitted modifications. Updates shall be submitted to the Department within 10 days following the end of each calendar quarter until the modifications are complete and cleared for service.

6. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$9,625.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$ 9,375.00 for civil penalties and \$ 250.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

7. In lieu of making cash payment of \$9,375.00 in civil penalties as set forth in paragraph 6, the Respondent may elect to off-set the amount of \$9,375.00 by implementing a pollution prevention (P2) project or an in-kind project, either of which must be approved by the Department. P2 is a process improvement that reduces the amount of pollution that enters the environment; by conserving resource (including water, raw materials, chemicals, and energy) use, or by minimizing waste generation (including domestic and industrial wastewater, solid and hazardous waste, and air emissions). A P2 Project must reduce pollution or waste within the process beyond what is required by federal, state, or local law, in order to be eligible for civil penalty offset under this Order. 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 project shall be one and a half times the civil penalty off-set amount, which in this case is the equivalent of at least \$14,062.00. If Respondent chooses to implement a P2 project or an in-kind project, Respondent shall notify the Department of its election within 15

days of the effective date of this Order. Within 30 days of the effective date of this Order, Respondent must pay a total of \$250.00 for costs and expenses incurred by the Department, during the investigation of this matter, and the preparation and tracking of this Order.

8. If Respondent elects to implement a P2 Project as provided in paragraph 7, Respondent shall submit a completed P2 Project Plan (Plan) within 30 days of the effective date of this Order. The Plan must be completed using Exhibit 1, "P2 Project Plan" template. If the Respondent elects to implement an in-kind project as provided in paragraph 7, Respondent shall submit a completed In-Kind Project Plan (Plan) and comply with all the requirements and time frames in Exhibit 2, "In-Kind Projects" within 30 days of the effective date of this Order.

9. In the event the Department requires additional information to process the Plan described in paragraph 8, Respondent shall provide a modified Plan containing the information requested by the Department within 30 days of the date of the request.

10. If any balance remains after the entire P2 credit is applied to the allowable portion of the civil penalty, Respondent shall pay the difference within 30 days of written notification by the Department to Respondent that the balance is due.

11. Respondent agrees to pay the Department stipulated penalties in the amount of \$1,000.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph 5 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, 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 this Order.

12. 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.

13. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Alyssa Lenkel, Department of Environmental Protection, Central District, 3319 Maguire Blvd Suite 232 Orlando, FL 32803.

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. 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.

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 TOWN OF EATONVILLE pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the Disinfection Byproduct Exceedance Violations at 307 E Kennedy Blvd Eatonville, FL 32751. 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, 3319 Maguire Blvd, Suite 232, Orlando, FL 32803.

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 name and address of each agency affected and each agency’s file or identification number, if known;
- b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner’s representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner’s substantial interests will be affected by the agency determination;
- c) A statement of when and how the petitioner received notice of the agency decision;
- d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency’s proposed action;
- f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency’s proposed action, including an explanation of how

- the alleged facts relate to the specific rules or statutes; and
- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 323993000 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 [Insert District Office and Address](#). 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.

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

FOR THE RESPONDENT:

Angie Gardner
Mayor

Date

DONE AND ORDERED this ____ day of _____, 20__, in Orange County, 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

Date

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35