



FLORIDA DEPARTMENT OF Environmental Protection

CENTRAL DISTRICT OFFICE
3319 MAGUIRE BLVD., SUITE 232
ORLANDO, FLORIDA 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

September 30, 2020

Patrick Flynn, Vice President
Utilities Inc. of Florida
200 Weathersfield Avenue
Altamonte Springs, Florida 32714
pcflyn@uiwater.com

Re: Wekiva Hunt Club WWTP
DW Facility ID # FL0036251
OGC Case #20-0108

Dear Mr. Flynn:

Enclosed is the executed Consent Order to resolve the above referenced case. This copy is for your records.

Should you have any questions or comments, please contact Jenny E. Farrell at 407-897-4173 or via e-mail at jenny.e.farrell@dep.state.fl.us.

Your cooperation in this matter will be appreciated.

Sincerely,

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

Aaron Watkins
Director, Central District

Enclosure

cc: Lea Crandall, OGC
FDEP Central District: Zoey Carr, Daun Festa, Jenny E. Farrell, Daniel K. Hall

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

| | | |
|-----------------------------|---|----------------------|
| STATE OF FLORIDA DEPARTMENT |) | IN THE OFFICE OF THE |
| OF ENVIRONMENTAL PROTECTION |) | CENTRAL DISTRICT |
| |) | |
| v. |) | OGC FILE NO. 20-0108 |
| |) | |
| UTILITIES INC. OF FLORIDA |) | |
| |) | |
| _____ |) | |

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and Utilities Inc of Florida (“Respondent”) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds, and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (“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 Wekiva Hunt Club Wastewater Treatment Plant (WWTP) and associated collection/transmission system, an existing 2.9 million gallon per day (MGD) annual average daily flow (AADF) activated sludge domestic wastewater treatment facility consisting of three (3) contiguous package wastewater treatment plants (0.97 MGD design capacity, each), connected in parallel with mechanical influent screening, flow equalization, aeration, clarification, chemical feed facilities, tertiary filtration, disinfection by chlorination, de-chlorination, two (2) 3.0 million gallon reclaimed water storage tanks, and aerobic digestion of biosolids with dewatering one (1) Ashbrook belt filter press with an existing 0.87 MGD annual average daily flow discharge to Sweetwater Creek, Class III fresh waters, (WBID# 2956) which is limited to 30% of the total actual plant

flow, as a back-up to the public access reuse system. ("Facility"). The Facility is operated under Wastewater Permit No. FL0036251 ("Permit"), which was issued on March 31, 2016 and will expire on March 30, 2021. The Facility is located at 144 Ledbury Drive, Longwood FL, 32779, in Seminole County, Florida ("Property"). Respondent owns the Property on which the Facility is located.

4. The Department finds that the following violation occurred: On October 8, 2019, the Wekiva Hunt Club WWTF had an unauthorized discharge of approximately 1.2 million gallons of raw sewage which reportedly entered Sweetwater Creek, a Class III fresh water. The discharge was reported to the Public Notice of Pollution site under incident #3987 and to the State Watch Office as incident #2019-5704. E. coli samples were collected at locations upstream, downstream, and where the discharge entered Sweetwater Creek. The geometric mean results of the E. coli samples collected at the point where the discharge entered Sweetwater Creek was 205 colonies per 100 milliliters (colonies/100 ml). The water quality criteria for E. coli in Class III fresh water is a geometric mean of 126 colonies/100 ml.

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 30 days of the effective date of this Order, Respondent shall submit a copy of an evaluation of the plant headworks (Report) prepared by a professional engineer already retained for this work to the Department for approval.
 - b) Upon Department approval of the Report, Respondent shall complete implementing the recommendations by December 31, 2021.
 - c) Should the Report's recommendations include activities that require a permit, Respondent shall submit a complete application for a Department wastewater permit to construct by December 31, 2020.

d) In the event the Department requires additional information to process the permit application described in subparagraph (d) of this paragraph, Respondent shall provide a written response containing the information requested by the Department within 90 days of the date of the request.

e) If required by the proposed recommendations, Respondent shall submit to the Department a Certification of Completion, prepared and sealed by a professional engineer registered in the State of Florida, stating that modifications to the Facility, effluent disposal system, and collection system have been constructed in accordance with the provisions of the Permit. This document shall be submitted within 30 days of completion of construction.

6. 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 details of work performed to address inflow and infiltration of the collection system or preventative maintenance to the collection system and 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.

7. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by paragraph 5(a) - (e) by December 31, 2021, regardless of any intervening events or alternative time frames imposed in this Order.

8. Within 120 days of the effective date of this Order, Respondent shall submit a written estimate of the total cost of the corrective actions required by this Order to the Department. The written estimate shall identify the information the Respondent relied upon to provide the estimate.

9. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$16,452.06 in settlement of the regulatory matters addressed in this Order. This

amount includes \$15,952.06 for civil penalties and \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The civil penalty in this case includes one violation that warrants a penalty of \$2,000.00 or more.

10. In lieu of making cash payment of \$15,952.06 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 \$23,928.09. 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 \$500.00 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 1 entitled In-Kind Projects.

12. In the event that Respondent elects to off-set civil penalties including stipulated penalties by implementing an in-kind penalty project which is approved by the Department, during the period that this Order remains in effect or during the effective date of any Department issued Permit to Respondent whichever is longer (Prohibited Transfer Duration), Respondent shall not transfer or use funds obtained by the Respondent from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System (hereinafter, Prohibited Transfer). Respondent shall annually certify to the Department using the Annual

Certification Form located on Exhibit 1 to this Order that no Prohibited Transfer has occurred. In the event of any Prohibited Transfer, the In-Kind project option shall be forfeited, and entire civil penalty shall immediately become due and owing to the Department irrespective of any expenditures by the Respondent in furtherance of the In-Kind project.

13. Respondent agrees to pay the Department stipulated penalties as defined in the schedules below.

a) For each and every day Respondent fails to timely comply with any of the requirements of paragraph(s) 5(a) – (f) and 6 of this Order, Respondent agrees to pay stipulated penalties in the amount of \$1,000 per day.

b) For unauthorized discharges from any portion of the Facility or associated wastewater collection system, Respondent agrees to pay stipulated penalties assessed according to the volume of the discharge and the number of days the discharge continued and/or impacted surface water, as shown below:

| <u>Amount per day per Discharge or</u> <u>Amount per day per Water Quality Violation</u> | <u>Discharge Volume</u> |
|---|-----------------------------|
| \$500.00 | Up to 2,500 gallons |
| \$1,000.00 | 2,501 to 10,000 gallons |
| \$2,500.00 | 10,001 to 25,000 gallons |
| \$5,000.00 | 25,001 to 50,000 gallons |
| \$10,000.00 | in excess of 50,000 gallons |

The Department will evaluate all unauthorized discharges using the Sanitary Sewer Overflow Tool (dated May 1, 2019) attached as Exhibit 2, prior to assessing any stipulated penalties. 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 14, 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.

14. 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.

15. Except as otherwise provided, all submittals and payments required by this Order shall be sent to DEP_CD@floridadep.gov and copied to Daniel Hall, Compliance Manager, Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando FL 32803 or Daniel.K.Hall@floridadep.gov.

16. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

17. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

18. 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.

19. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

20. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

21. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

22. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation, and criminal penalties.

23. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, 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.

24. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

25. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), F.S.

26. 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.

27. Respondent shall publish the following notice in a newspaper of daily circulation in Seminole County, Florida. The notice shall be published one time only within 30 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 UTILITIES INC OF FLORIDA pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the October 8, 2019, 1.2 million gallons, sanitary sewer overflow at 144 Ledbury Drive, Longwood FL. 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, Central District office, 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:

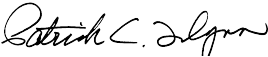
- a) The OGC Number assigned to this Consent Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner’s representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation 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 32399-3000 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 Central District Office, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803. 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.

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

FOR THE RESPONDENT:

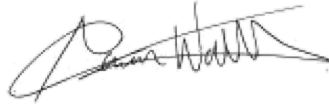


Patrick Flynn
Vice President

September 24, 2020
Date

DONE AND ORDERED this 30th day of September, 2020, 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

September 30, 2020
Date

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35

Exhibit 1

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.

Proposal Certification Form

b. The proposal shall also include a Certification by notarized affidavit from a senior management official for _____ (insert name of Respondent) who shall testify as follows:

My name is _____ (print or type name of senior management official) and do hereby testify under penalty of law that:

A. I am a person with management responsibilities for _____ (print or type name of Respondent) budget and finances. During the eighteenth month period prior to the effective date of Consent Order OGC Case No.: _____ there has not been any transfer or use of funds obtained by the _____ (print or type name of Respondent) from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System.

B. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowingly submitting false information in this certification.

Sworn to and subscribed before me, by means of physical presence or online notarization, this ____ day of _____, 2020 by

Personally, known or by Production of the following Identification _____

Notary Public, State of Florida

Printed/typed or stamped name:

My Commission Expires: _____

Commission/Serial No.: _____

Annual Certification Form

My name is _____ (print or type name of senior management official) and do hereby testify under penalty of law that:

A. I am a person with management responsibilities for _____ (print or type name of Respondent) budget and finances. During the twelve month period immediately preceding the notary date on this Certification, there has not been any transfer or use of funds obtained by the _____ (print or type name of Respondent) from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System.

B. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowingly submitting false information in this certification.

Sworn to and subscribed before me, by means of physical presence or online notarization, this ____ day of _____, 20__ by

Personally, known or by Production of the following Identification _____

Notary Public, State of Florida

Printed/typed or stamped name:

My Commission Expires: _____

Commission/Serial No.: _____

c. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, Respondent shall submit, by certified mail, all requested additional information, clarification, and modifications within 15 days of receipt of written notice.

d. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all the matters at issue and submit, 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 14 above, within 30 days of Department notice.

e. Within 120 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable Respondent shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within 120 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable then Respondent shall make cash payment of the civil penalties as set forth in paragraph 14 above, within 30 days of Department notice.

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

g. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

h. In the event, Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$ 15,952.06 penalty, no additional penalties shall be assessed for failure to complete the in-kind project.

i. 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.

j. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all the matters at issue and submit, 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 \$ 15,952.06 penalty, no additional penalties shall be assessed for failure to complete the in-kind project.

Exhibit 2 - SSO Evaluation Tool

May 1, 2019

The tool herein is intended to assist District Staff in assessing the information provided for SSO's. It should provide a rational, fair and consistent method for an initial evaluation and initial recommendation to management. Although this tool is not required to be utilized, it is intended to represent a consistent starting point for staff and should be considered in each case. As in all cases, the District Office Assistant Director, along with the Division Deputy Director should utilize their best judgement in determining how to proceed.

Instructions:

1. Look up the initial volume of the SSO in Column A. The corresponding action in Column B is the starting point.
2. Determine if any of the bullets below apply; move up, down, or stay in the corresponding Column B as instructed by applicable bullets. Moves are cumulative; **add all applicable moves together FIRST and then adjust the position on the chart.** For example, if a spill is treated and reaches surface water, move down 1 on the chart (up 1 + down 2 = down 1. Adding moves together before adjusting on the chart will prevent bottoming out/up on the chart.)
3. Consideration "Response, Operation & Maintenance actions" is where gallons recovered is accounted. For example, 20,000 gallons was spilled and 15,000 of the 20,000 gallons was recovered, therefore, move up one.
4. Unique site-specific items and common sense should still be considered. For example, if the spill entered a wet detention pond that is not considered surface water, but the pond was full, and it has been raining all week; discuss with management and determine if moving down Column B is appropriate.
5. Other items such as water body classification, good faith, failure to sample, water quality violation, compliance history should be considered in the penalty calculation, as applicable.
6. The four possible initial responses are coded in the database as follows:
 - a. Memo to file: Should consider the discovery mechanism and include brief rationale of why compliance assistance or enforcement is not being pursued.
 - i. SRVC: Submittal Received by Department - Use the email or other electronic notification to document discovery and any follow-up actions.
 - ii. CALL - For oral notifications made by phone, with an electronic document (Memo to file) created to describe the details of the call.
 - iii. SV: Site Visit - If discovered by DEP while in the field for other purposes; with electronic document(s) describing visit.
 - iv. CPR: Complaint Received - If reported by a third party, with electronic document(s) describing the complaint investigation or details explaining why an investigation was not needed.
 - b. CAO – Verbal: OCA
 - c. CAO – Written: NCLI
 - d. WL: WLI
7. All four initial response must be documented and filed in Oculus for the applicable facility under Enforcement/Legal. See the SSO memo to file template

| Column A: Initial Spill Volume (gallons) | Column B: Starting point actions by DEP staff (See instructions above.) |
|---|--|
| 1 – 1,000 | Review 5-day report Memo to file |
| 1,001 – 10,000 | Review 5-day report Memo to file |
| 10,001 – 100,000 | Review 5-day report CAO |
| 100,001 + | Review 5-day report WL (possible enforcement actions) |

Consider for moving up or down column B:

- Chronic Spills – move down 1
(Note: 'chronic' is 2 or more spills in a 12-month period from the same location or >6 spills per 100 miles of collection system piping, per Brad Ammons, U.S. EPA.)
- Treated or Reuse spill – move up 1
- Partially Treated – stay
- Untreated – move down 1
- Response, Operation & Maintenance actions –
poor = move down 1, good = move up 1
- Environmental Harm – move down 2
- Reached Surface Water – move down 2