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REPLY TO CENTRAL FLORIDA OFFICE

October 13, 2008

E-FILING

CENTRAL FLORIDA OFFICE
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CHRISTIAN W. MARCELLI, OF COUNSEL
(LICENSED IN NEW YORK ONLY)

Ann Cole, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

RE: Docket No. 080247-SU; Utilities, Inc. of Eagle Ridge's Application for Increase in Wastewater Rates in Lee County, Florida
Our File No.: 30057.158

Dear Ms. Cole:

Enclosed for filing in the above-referenced docket is the recently renewed wastewater treatment plant Operating Permit for the Utility's Cross Creek plant. The renewed Permit for the Utility's Eagle Ridge plant will be filed under separate cover.

Should you have any questions regarding this filing, please do not hesitate to give me a call.

Very truly yours,



CHRISTIAN W. MARCELLI
Of Counsel

CWM/tlc
Enclosures

cc: Mr. Richard Redemann, Division of Economic Regulation (w/enclosures) (via e-mail)
John Hoy, Chief Regulatory Officer (w/enclosures) (via e-mail)
Patrick C. Flynn, Regional Director (w/enclosures) (via e-mail)
Ms. Deborah Swain (w/enclosures) (via e-mail)



Florida Department of Environmental Protection

South District
P.O. Box 2549
Fort Myers, FL 33902-2549

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

CERTIFIED MAIL NO.: 7007 1490 0003 7209 3141
RETURN RECEIPT REQUESTED

In the Matter of an
Application for Permit by:

Utilities Inc. of Eagle Ridge
Mr. Patrick C. Flynn, Regional Director
200 Weathersfield Ave.
Altamonte Springs, FL 32714

Lee County-DW
Cross Creek WWTP
PA File No. FLA014505-004-DW2P

NOTICE OF PERMIT ISSUANCE

Enclosed is Permit Number FLA014505 to operate a domestic wastewater treatment facility issued under Section(s) 403.087 Florida Statutes.

Monitoring requirements under this permit are effective on the first day of the second month following permit issuance. Until such time, the permittee shall continue to monitor and report in accordance with previously effective permit requirements, if any.

The Department's proposed agency action shall become final unless a timely petition for an administrative hearing is filed under Sections 120.569 and 120.57, Florida Statutes, within fourteen days of receipt of notice. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Under Rule 62-110.106(4), Florida Administrative Code, a person may request enlargement of the time for filing a petition for an administrative hearing. The request must be filed (received by the clerk) in the Office of General Counsel before the end of the time period for filing a petition for an administrative hearing.

Petitions by the applicant or any of the persons listed below must be filed within fourteen days of receipt of this written notice. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3), Florida Statutes, must be filed within fourteen days of publication of the notice or within fourteen days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), Florida Statutes, however, any person who has asked the Department for notice of agency action may file a petition within fourteen days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within fourteen days of receipt of notice shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, Florida

Statutes. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any; the Department permit identification number and the county in which the subject matter or activity is located;
- (b) A statement of how and when each petitioner received notice of the Department action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department action;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A statement of facts that the petitioner contends warrant reversal or modification of the Department action;
- (f) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation under Section 120.573, Florida Statutes, is not available for this proceeding.

This permit action is final and effective on the date filed with the clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this permit will not be effective until further order of the Department.

Any party to the permit has the right to seek judicial review of the permit action under Section 120.68, Florida Statutes, by the filing of a notice of appeal under Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when this permit action is filed with the clerk of the Department.

Executed in Fort Myers, Florida

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jon M. Iglehart
Director of
District Management

FACILITY: Cross Creek WWTP
PERMITTEE: Utilities Inc. of Eagle Ridge

PA File No.: FLA014505-004-DW2P

FILING AND ACKNOWLEDGMENT

FILED, on this date, under Section 120.52, Florida Statutes, with the designated deputy clerk, receipt of which is hereby acknowledged.

Julius LeMay 7-2-08
[Clerk] [Date]

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this NOTICE OF PERMIT ISSUANCE and all copies were mailed before the close of business on July 2, 2008 to the listed persons.

JMI/BJS/jl

cc:
Julian R. Coto, P.E. Excel Engineering Consultants, LLC
Keith Kleinmann, FDEP, e-mail



Florida Department of Environmental Protection

South District
P.O. Box 2549
Fort Myers, FL 33902-2549

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

STATE OF FLORIDA DOMESTIC WASTEWATER FACILITY PERMIT

PERMITTEE:

Utilities Inc. of Eagle Ridge

PERMIT NUMBER:

FLA014505

PA FILE NUMBER:

FLA014505-004-DW2P

ISSUANCE DATE:

July 2, 2008

EXPIRATION DATE:

July 1, 2013

RESPONSIBLE AUTHORITY:

Mr. Patrick C. Flynn, Regional Director
200 Weathersfield Ave.
Altamonte Springs, FL 32714
(407) 869-1919

FACILITY:

Cross Creek WWTP
13050 Cross Creek Blvd.
Fort Myers, FL 33912
Lee County

Latitude: 26° 33' 12" N Longitude: 81° 49' 46" W

This permit is issued under the provisions of Chapter 403, Florida Statutes (F.S.), and applicable rules of the Florida Administrative Code (F.A.C.). The above named permittee is hereby authorized to operate the facilities shown on the application and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

TREATMENT FACILITIES:

Operate an existing 0.249 million gallon per day (MGD) maximum monthly average daily flow (MMADF) extended aeration process domestic wastewater treatment facility consisting of one 92,700 gallon equalization tank, four aeration basins, with tank capacities: 85,975, 69,000, 43,750 and 56,430 gallons, one settling tank with a surface area of 733 square feet, dual tertiary filtration which includes two 12.6 square feet cylindrical filters and two 16.0 square feet rectangular filters, dual 6,573 gallon chlorine contact chambers, three digester tanks with capacities: 9,933, 18,610 and 24,482 gallons, two reclaimed water storage tanks with capacities: 690,000 and 200,000 gallons and one 375,000 gallon reject water storage tank. High level disinfection is provided by a sodium hypochlorite solution.

REUSE:

Land Application: An existing 0.249 MGD MMADF permitted capacity slow-rate, public access reuse site (R-001). The reclaimed water is used to irrigate a public access golf course. Land application system R001 is located approximately at Latitude: 26° 33' 12" N, Longitude: 81° 49' 46" W.

IN ACCORDANCE WITH: The limitations, monitoring requirements and other conditions set forth in Pages 1 through 18 of this permit.

I. RECLAIMED WATER AND EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Reuse and Land Application Systems

1. During the period beginning on the issuance date and lasting through the expiration date of this permit, the permittee is authorized to direct reclaimed water to Reuse System R-001. Such reclaimed water shall be limited and monitored by the permittee as specified below and reported in accordance with condition I.B.9:

Parameter	Units	Max/Min	Reclaimed Water Limitations				Monitoring Requirements				Notes
			Annual Average	Monthly Average	Weekly Average	Single Sample	Monitoring Frequency	Sample Type	Monitoring Location Site Number		
BOD, Carbonaceous 5 day, 20C	MG/L	Maximum	20.0	30.0	45.0	60.0	4 Days/Week	8-hour flow proportioned composite	EFA-1		
Total Giardia	CYSTS/100 L	Maximum	-	-	-	Report	Once Every Five Years	Grab	EFA-1		
Total Cryptosporidium	OOCYST/100 L	Maximum	-	-	-	Report	Once Every Five Years	Grab	EFA-1		
Solids, Total Suspended	MG/L	Maximum	-	-	-	5.0	4 Days/Week	Grab	EFB-1		
pH	SU	Range	-	-	-	6.0 to 8.5	5 Days/Week	Grab	EFA-1		
Coliform, Fecal	#/100ML	Maximum	See Permit Condition I.A.4.				4 Days/Week	Grab	EFA-1		
Total Residual Chlorine (For Disinfection)	MG/L	Minimum	-	-	-	1.0	Continuous	Meter	EFA-1	See Cond I.A.5	
Turbidity	NTU	Maximum	See Permit Condition I.A.6.				Continuous	Meter	EFB-1		
Flow	MGD	Maximum	-	Report	-	Report	5 Days/Week	Meter	FLW-2	See Cond I.A.3	
Flow	MGD	Maximum	-	Report	-	Report	5 Days/Week	Meter	FLW-3	See Cond I.A.3	
Flow	MGD	Maximum	-	Report	-	Report	5 Days/Week	Meter	FLW-4	See Cond I.A.3	
Flow	MGD	Maximum	-	Report	-	Report	5 Days/Week	Meter	FLW-5	See Cond I.A.3	

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2. Reclaimed water samples shall be taken at the monitoring site locations listed in Permit Condition I. A. 1. and as described below:

Monitoring Location Site Number	Description of Monitoring Location
EFA-1	After chlorination and before discharge
EFB-1	After filtration and before chlorination
FLW-2	Golf Course mixing box
FLW-3	Reclaimed water to reuse storage
FLW-4	Effluent water to reject storage
FLW-5	Golf Course irrigation water (both supplemental and reuse water)

3. Meter shall be utilized to measure flow and calibrated at least annually. *[62-601.200(17) and .500(6)]*
4. Over a 30-day period, at least 75 percent of the fecal coliform values shall be below the detection limits. No sample shall exceed 25 fecal coliforms per 100 mL. No sample shall exceed 5.0 mg/L of total suspended solids (TSS) at a point before the application of the disinfectant. Note: To report the "% less than detection," count the number of fecal coliform observations that were less than detection, divide by the total number of fecal coliform observations in the month, and multiply by 100% (round to the nearest integer). *[62-600.440(5)(f)]*
5. The minimum total chlorine residual shall be limited as described in the approved operating protocol, such that the permit limitation for fecal coliform bacteria will be achieved. In no case shall the total chlorine residual be less than 1.0 mg/L. *[62-600.440(5)(b); 62-610.460(2); and 62-610.463(2)]*
6. The maximum turbidity shall be limited as described in the approved operating protocol, such that the permit limitations for total suspended solids and fecal coliforms will be achieved. *[62-610.463(2)]*
7. Grab samples shall be collected during periods of minimal treatment plant pollutant removal efficiencies or maximum hydraulic and/or organic loading. *[62-600.740(1)(a)2]*
8. Sampling for pathogens shall be conducted at one time during each five year period. Intervals between sampling shall not be greater than five years. *[FAC rule 62-610.463 (4)(a)1, 8-8-99]*
9. DEP Form 62-610.300(4)(a)4 is to be utilized and submitted to the Department as instructed for pathogen monitoring. Part I of the form provides the instructions required to accomplish sampling and information to be documented for submitting to the Department. A copy of DEP Form 62-610.300(4)(a)4 is attached to this permit. *[FAC rule 62-610.463 (4)(a)1 and 62-610.300 (4)(a)4, 8-8-99]*

B. Other Limitations and Monitoring and Reporting Requirements

1. During the period beginning on the issuance date and lasting through the expiration date of this permit, the treatment facility shall be limited and monitored by the permittee as specified below and reported in accordance with condition I.B.9:

Parameter	Units	Max/Min	Limitations				Monitoring Requirements				Notes
			Annual Average	Monthly Average	Weekly Average	Single Sample	Monitoring Frequency	Sample Type	Monitoring Location Site Number		
Flow	MGD	Maximum	-	0.249 MMADF	-	-	-	5 Days/Week	Meter	FLW-1	See Cond I.B.4
Percent Capacity, (TMADE/Permitted Capacity) x 100	PERCENT	Maximum	-	Report	-	-	-	Monthly	Calculated	CAL-1	
BOD, Carbonaceous 5 day, 20C	MG/l.	Maximum	-	Report	-	-	-	Every Two Weeks	8-hour flow proportioned composite	INF-1	See Cond I.B.3
Solids, Total Suspended	MG/L	Maximum	-	Report	-	-	-	Every Two Weeks	Grab	INF-1	See Cond I.B.3

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2. Samples shall be taken at the monitoring site locations listed in Permit Condition I. B. 1 and as described below:

Monitoring Location Site Number	Description of Monitoring Location
CAL-1	Calculation = (TMADF/Permitted Capacity) x 100
FLW-1	Influent force main (feed line) to the treatment plant
INF-1	Influent being pumped from lift station to bar screen at the headworks prior to any side stream mixing (sample tap in influent main).

3. Influent samples shall be collected so that they do not contain digester supernatant or return activated sludge, or any other plant process recycled waters. [62-601.500(4)]
4. Meter shall be utilized to measure flow and calibrated at least annually. [62-601.200(17) and .500(6)]
5. The treatment facilities shall be operated in accordance with all approved operating protocols. Only reclaimed water that meets the criteria established in the approved operating protocol(s) may be released to system storage or to the reuse system. Reclaimed water that fails to meet the criteria in the approved operating protocol(s) shall be directed to reject storage for subsequent additional treatment or disinfection. The operating protocol(s) shall be reviewed and updated periodically to ensure continuous compliance with the minimum treatment and disinfection requirements. Updated operating protocols shall be submitted to the Department for review and approval upon revision of the operating protocol(s) and with each permit application. [62-610.320(6) and 62-610.463(2)]
6. Instruments for continuous on-line monitoring of total residual chlorine and turbidity shall be equipped with an automated data logging or recording device. [62-610.463(2) & .865(8)(d)]
7. Parameters which must be monitored as a result of a surface water discharge shall be analyzed using a sufficiently sensitive method to assure compliance with applicable water quality standards and effluent limitations in accordance with 40 CFR (Code of Federal Regulations) Part 136. All monitoring shall be representative of the monitored activity. [62-620.320(6)]
8. The permittee shall provide safe access points for obtaining representative influent, reclaimed water, and effluent samples which are required by this permit. [62-601.500(5)]
9. Monitoring requirements under this permit are effective on the first day of the second month following permit issuance. Until such time, the permittee shall continue to monitor and report in accordance with previously effective permit requirements, if any. During the period of operation authorized by this permit, the permittee shall complete and submit to the Department's South District Office Discharge Monitoring Reports (DMRs) in accordance with the frequencies specified by the REPORT type (i.e., monthly, toxicity, quarterly, semiannual, annual, etc.) indicated on the DMR forms attached to this permit. Monitoring results for each monitoring period shall be submitted in accordance with the associated DMR due dates below.

Report Type	Monitoring Period	Due Date
Monthly or Toxicity	First day of month – last day of month	28 th day of following month
Quarterly	January 1 - March 31	April 28
	April 1 – June 30	July 28
	July 1 – September 30	October 28
	October 1 – December 31	January 28
Semiannual	January 1 – June 30	July 28
	July 1 – December 31	January 28
Annual	January 1 – December 31	January 28

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DMRs shall be submitted for each required monitoring period including months of no discharge. The permittee shall make copies of the attached DMR form(s) and shall submit the completed DMR form(s) to the Department's South District Office at the address specified in Permit Condition I.B. 14 by the twenty-eighth (28th) of the month following the month of operation.

[62-620.610(18)][62-601.300(1), (2), and (3)]

10. During the period of operation authorized by this permit, reclaimed water or effluent shall be monitored annually for the primary and secondary drinking water standards contained in Chapter 62-550, F.A.C., (except for turbidity, total coliforms, color, and corrosivity). Twenty-four hour composite samples shall be used to analyze reclaimed water or effluent for the primary and secondary drinking water standards. These monitoring results shall be reported to the Department annually on the Reclaimed Water or Effluent Analysis Report, Form 62-620.910(15), or in another format if requested by the permittee and if approved by the Department as being compatible with data entry into the Department's computer system. During years when a permit is not renewed, a certification stating that no new non-domestic wastewater dischargers have been added to the collection system since the last reclaimed water or effluent analysis was conducted may be submitted in lieu of the report. The annual reclaimed water or effluent analysis report or the certification shall be completed and submitted in a timely manner so as to be received by the Department annually. *[62-601.300(4)][62-601.500(3)]*
11. The permittee shall submit an Annual Reuse Report using DEP Form 62-610.300(4)(a)2. on or before January 1 of each year. *[62-610.870(3)]*
12. The permittee shall maintain an inventory of storage systems. The inventory shall be submitted to the Department at least 30 days before reclaimed water will be introduced into any new storage system. The inventory of storage systems shall be attached to the annual submittal of the Annual Reuse Report. *[62-610.464(5)]*
13. The influent grab samples for CBOD5, TSS, TN and TP, Total Ammonia Nitrogen, Total Kjeldahl Nitrogen, Total Organic Nitrogen and Total Alkalinity shall be taken on the same day, and as closely as possible to the same time of day, that the effluent samples are taken. *[62-601.300(6) FAC]*
14. Unless specified otherwise in this permit, all reports and other information required by this permit, including 24-hour notifications, shall be submitted to or reported to, as appropriate, the Department's South District Office at the address specified below:

South District Office
Department of Environmental Protection
P.O. Box 2549
Ft. Myers, Florida 33902-2549

Phone Number - (239) 332-6975

FAX Number - (239) 332-6969

All FAX copies shall be followed by original copies. All reports and other information shall be signed in accordance with the requirements of Rule 62-620.305, F.A.C. *[62-620.305]*

II. RESIDUALS MANAGEMENT REQUIREMENTS

1. The method of residuals use or disposal for this facility is transportation by Karle Enviro-Organic Recycling, Inc hauling to their facility for dewatering with final disposal in a Class I or II solid waste landfill.
2. The permittee shall be responsible for proper treatment, management, use, and land application or disposal of its residuals. *[62-640.300(5)]*
3. The permittee shall not be held responsible for treatment, management, use, or land application violations that occur after its residuals have been accepted by a permitted residuals management facility with which the source facility has an

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agreement in accordance with Rule 62-640.880(1)(c), F.A.C., for further treatment, management, use or land application. [62-640.300(5)]

4. Disposal of residuals, septage, and other solids in a solid waste landfill, or disposal by placement on land for purposes other than soil conditioning or fertilization, such as at a monofill, surface impoundment, waste pile, or dedicated site, shall be in accordance with Chapter 62-701, F.A.C. [62-640.100(6)(k)3 & 4]
5. If the permittee intends to accept residuals from other facilities, a permit revision is required pursuant to Rule 62-640.880(2)(d), F.A.C. [62-640.880(2)(d)]
6. The permittee shall keep hauling records to track the transport of residuals between facilities. The hauling records shall contain the following information:

Cross Creek WWTP

1. Date and Time Shipped
2. Amount of Residuals Shipped
3. Degree of Treatment (if applicable)
4. Name and ID Number of Residuals Management Facility or Treatment Facility
5. Signature of Responsible Party at Source Facility
6. Signature of Hauler and Name of Hauling Firm

Residuals Management Facility or Treatment Facility

1. Date and Time Received
2. Amount of Residuals Received
3. Name and ID Number of Source Facility
4. Signature of Hauler
5. Signature of Responsible Party at Residuals Management Facility or Treatment Facility

These records shall be kept for five years and shall be made available for inspection upon request by the Department. A copy of the hauling records information maintained by the source facility shall be provided upon delivery of the residuals to the residuals management facility or treatment facility. The permittee shall report to the Department within 24 hours of discovery any discrepancy in the quantity of residuals leaving the source facility and arriving at the residuals management facility or treatment facility. [62-640.880(4)]

7. Storage of residuals or other solids at the permitted facility shall require prior written notification to the Department. [62-640.300(4)]

III. GROUND WATER REQUIREMENTS

Operational Requirements

1. For the Part III Public Access system, all ground water quality criteria specified in Chapter 62-520, F.A.C., shall be met at the edge of the zone of discharge. For major users of reclaimed water (i.e., using 0.1 MGD or more), the zone of discharge shall extend horizontally 100 feet from the application site or to user's site property line, whichever is less, and vertically to the base of the surficial aquifer. For other users, the zone of discharge shall extend horizontally to the boundary of the general service area identified in the attached map and vertically to the base of the surficial aquifer. [62-520.200(23)] [62-522.400 and 62-522.410]
2. The ground water minimum criteria specified in Rule 62-520.400 F.A.C., shall be met within the zone of discharge. [62-520.400 and 62-520.420(4)]
3. During the period of operation authorized by this permit, the permittee shall sample ground water in accordance with this permit and the approved ground water monitoring plan prepared in accordance with Rule 62-522.600, F.A.C. [62-522.600][62-610.463,]
4. The following monitoring wells shall be sampled in accordance with the monitoring frequencies specified in Permit Condition III.5. for Reuse System R-001. Quarterly sampling must be reasonably spaced to be representative of potentially changing conditions.

Monitoring Well ID	Alternate Well Name and/or Description of Monitoring Location	Depth (Feet)	Aquifer Monitored	New or Existing
MWB-21361	CC-1 Background Well Northeast of Tennis Courts	15.0	Surficial	existing
MWI-21360	CC-2 Intermediate Well. Located near Tennis Courts	15.0	Surficial	existing
MWC-21359	CC-3 Compliance Well. Located near Northwest	15.0	Surficial	existing

MWB = Background; MWI = Intermediate; MWC = Compliance

[62-522.600][62-610.463]

5. The following parameters shall be analyzed for each of the monitoring well(s) identified in Permit Condition(s) III. 4:

Parameter	Compliance Well Limit	Units	Sample Type	Monitoring Frequency
Water Level Relative to NGVD	Report	FEET	In-situ	Quarterly
Nitrogen, Nitrate, Total (as N)	10	MG/L	Grab	Quarterly
Solids, Total Dissolved (TDS)	500	MG/L	Grab	Quarterly
Arsenic, Total Recoverable	50	UG/L	Grab	Quarterly
Chloride (as Cl)	250	MG/L	Grab	Quarterly
Cadmium, Total Recoverable	5	UG/L	Grab	Quarterly
Chromium, Total Recoverable	100	UG/L	Grab	Quarterly
Lead, Total Recoverable	15	UG/L	Grab	Quarterly
Coliform, Fecal	4	#/100ML	Grab	Quarterly
pH	6.5 to 8.5	SU	In-situ	Quarterly
Sulfate, Total	250	MG/L	Grab	Quarterly
Turbidity	Report	NTU	Grab	Quarterly
Sodium, Total Recoverable	160	MG/L	Grab	Quarterly
Specific Conductance	Report	UMHO/CM	In-Situ	Quarterly
Temperature (C), Water	Report	DEG.C	In-Situ	Quarterly
Oxygen, Dissolved (DO)	Report	MG/L	In-Situ	Quarterly

[62-522.600(11)(b)] [62-601.300(3), 62-601.700, and Figure 3 of 62-601][62-601.300(6)] [62-520.300(9)]

6. If the concentration for any constituent listed in Permit Condition III. 5, in the natural background quality of the ground water is greater than the stated maximum, or in the case of pH is also less than the minimum, the representative natural background quality shall be the prevailing standard. [62-520.420(2)]
7. In accordance with Part D of Form 62-620.910(10), water levels shall be recorded before evacuating wells for sample collection. Elevation references shall include the top of the well casing and land surface at each well site (NGVD allowable) at a precision of plus or minus 0.1 foot. [62-610.463(3)(a),]
8. Ground water monitoring wells shall be purged prior to sampling to obtain representative samples. [62-601.700(5)]
9. Analyses shall be conducted on unfiltered samples, unless filtered samples have been approved by the Department's South District Office as being more representative of ground water conditions. [62-520.300(9)]
10. Ground water monitoring parameters shall be analyzed in accordance with Chapter 62-601, F.A.C. [62-620.610(18)]
11. Ground water monitoring test results shall be submitted on Part D of Form 62-620.910(10). For reuse or land application projects, results shall be submitted with the DMR for each month listed in the following schedule. The submitted results

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shall be for each year during the period of operation allowed by this permit in accordance with Permit Condition I.B.9. [62-522.600(10) and (11)(b)] [62-601.300(3), 62.601.700, and Figure 3 of 62-601] [62-620.610(18)]

SAMPLE PERIOD	REPORT DUE DATE
January - March	April 28
April - June	July 28
July - September	October 28
October - December	January 28

12. If any monitoring well becomes damaged or cannot be sampled for some reason, the permittee shall notify the Department's South District Office immediately and a written report shall follow within seven days detailing the circumstances and remedial measures taken or proposed. Repair or replacement of monitoring wells shall be approved in advance by the Department's South District Office. [62-522.600][62-4.070(3)]
13. All piezometers and monitoring wells not part of the approved ground water monitoring plan are to be plugged and abandoned in accordance with Rule 62-532.500(4), F.A.C., unless there is intent for their future use. [62-532.500(4)]

IV. ADDITIONAL REUSE AND LAND APPLICATION REQUIREMENTS

Part III Public Access System(s) (R-001)

1. This reuse system includes the following major users (i.e., using 0.1 MGD or more of reclaimed water):

User Name	User Type	Capacity (MGD)	Acreage
Cross Creek Country Club Golf Course	Golf Courses	.249	60

[62-610.800(5)][62-620.630(10)(b)]

2. Cross-connections to the potable water system are prohibited. [62-610.469(7)]
3. A cross-connection control program shall be implemented and/or remain in effect within the areas where reclaimed water will be provided for use. [62-610.469(7)]
4. The permittee shall conduct inspections within the reclaimed water service area to verify proper connections, to minimize illegal cross-connections, and to verify the proper use of reclaimed water. Inspections are required when a customer first connects to the reuse distribution system. Subsequent inspections are required as specified in the cross-connection control and inspection program. [62-610.469(7)(h)]
5. If a cross-connection between the potable and reclaimed water systems is discovered, the permittee shall:
 - a. Immediately discontinue potable water and/or reclaimed water service to the affected area.
 - b. If the potable water system is contaminated, clear the potable water lines.
 - c. Eliminate the cross-connection.
 - d. Test the affected area for other possible cross-connections.
 - e. Within 24 hours, notify the South District Office's domestic wastewater and drinking water programs, and the Lee County Health Department's drinking water program.

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- f. Within 5 days of discovery of a cross-connection, submit a written report to the Department detailing: a description of the cross-connection, how the cross-connection was discovered, the exact date and time of discovery, approximate time that the cross-connection existed, the location, the cause, steps taken to eliminate the cross-connection, whether reclaimed water was consumed, and reports of possible illness, whether the drinking water system was contaminated and the steps taken to clear the drinking water system, when the cross-connection was eliminated, plan of action for testing for other possible cross-connections in the area, and an evaluation of the cross-connection control and inspection program to ensure that future cross-connections do not occur. *[62-555.350(3) and 62-555.360][62-620.610(20)]*
6. Maximum obtainable separation of reclaimed water lines and potable water lines shall be provided and the minimum separation distances specified in Rule 62-610.469(7), F.A.C., shall be provided. Reuse facilities shall be color coded or marked. Underground piping which is not manufactured of metal or concrete shall be color coded using Pantone Purple 522C using light stable colorants. Underground metal and concrete pipe shall be color coded or marked using purple as the predominant color. *[62-610.469(7)]*
7. In constructing reclaimed water distribution piping, the permittee shall maintain a 75-foot setback distance from a reclaimed water transmission facility to public water supply wells. No setback distances are required to other potable water supply wells or to any nonpotable water supply wells. *[62-610.471(3)]*
8. A setback distance of 75 feet shall be maintained between the edge of the wetted area and potable water supply wells, unless the utility adopts and enforces an ordinance prohibiting potable water supply wells within the reuse service area. No setback distances are required to any nonpotable water supply well, to any surface water, to any developed areas, or to any private swimming pools, hot tubs, spas, saunas, picnic tables, barbecue pits, or barbecue grills. *[62-610.471(1), (2), (5), and (7)]*
9. Reclaimed water shall not be used to fill swimming pools, hot tubs, or wading pools. *[62-610.469(4)]*
10. Low trajectory nozzles, or other means to minimize aerosol formation shall be used within 100 feet from outdoor public eating, drinking, or bathing facilities. *[62-610.471(6)]*
11. A setback distance of 100 feet shall be maintained from indoor aesthetic features using reclaimed water to adjacent indoor public eating and drinking facilities. *[62-610.471(8)]*
12. The public shall be notified of the use of reclaimed water. This shall be accomplished by posting of advisory signs in areas where reuse is practiced, notes on scorecards, or other methods. *[62-610.468(2)]*
13. All new advisory signs and labels on vaults, service boxes, or compartments that house hose bibbs along with all labels on hose bibbs, valves, and outlets shall bear the words "do not drink" and "no beber" along with the equivalent standard international symbol. In addition to the words "do not drink" and "no beber," advisory signs posted at storage ponds and decorative water features shall also bear the words "do not swim" and "no nadar" along with the equivalent standard international symbols. Existing advisory signs and labels shall be retrofitted, modified, or replaced in order to comply with the revised wording requirements. For existing advisory signs and labels this retrofit, modification, or replacement shall occur within 365 days after the date of this permit. For labels on existing vaults, service boxes, or compartments housing hose bibbs this retrofit, modification, or replacement shall occur within 730 days after the date of this permit. *[62-610.468 & 62-610.469]*
14. The permittee shall ensure that users of reclaimed water are informed about the origin, nature, and characteristics of reclaimed water; the manner in which reclaimed water can be safely used; and limitations on the use of reclaimed water. Notification is required at the time of initial connection to the reclaimed water distribution system and annually after the reuse system is placed into operation. A description of on-going public notification activities shall be included in the Annual Reuse Report. *[62-610.468(6)]*
15. Routine aquatic weed control and regular maintenance of storage pond embankments and access areas are required. *[62-610.414 & 62-610.464]*

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16. Overflows from emergency discharge facilities on storage ponds shall be reported as an abnormal event to the Department's South District Office within 24 hours of an occurrence. The provisions of Rule 62-610.800(9), F.A.C., shall be met. *[62-610.800(9)]*

V. OPERATION AND MAINTENANCE REQUIREMENTS

1. During the period of operation authorized by this permit, the wastewater facilities shall be operated under the supervision of an operator(s) certified in accordance with Chapter 62-602, F.A.C. In accordance with Chapter 62-699, F.A.C., this facility is a Category III, Class C facility and, at a minimum, operators with appropriate certification must be on the site as follows:

A Class C or higher operator 6 hours/day for 7 days/week. The lead operator must be a C, or higher.

[62-620.630(3)] [62-699.310] [62-610.462]

2. The lead operator shall be employed at the plant full time. "Full time" shall mean at least 4 days per week, working a minimum of 35 hours per week, including leave time. A certified operator shall be on-site and in charge of each required shift and for periods of required staffing time when the lead operator is not on-site. An operator meeting the lead operator classification level of the plant shall be available during all periods of plant operation. "Available" means able to be contacted as needed to initiate the appropriate action in a timely manner. *[62-699.311(10), (5) and (1)]*
3. An operator meeting the lead operator classification level of the plant shall be available during all periods of plant operation. "Available" means able to be contacted as needed to initiate the appropriate action in a timely manner. *[62-699.311(1)]*
4. The application to renew this permit shall include an updated capacity analysis report prepared in accordance with Rule 62-600.405, F.A.C. *[62-600.405(5)]*
5. The application to renew this permit shall include a detailed operation and maintenance performance report prepared in accordance with Rule 62-600.735, F.A.C. *[62-600.735(1)]*
6. The permittee shall maintain the following records and make them available for inspection on the site of the permitted facility:
- Records of all compliance monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation and a copy of the laboratory certification showing the certification number of the laboratory, for at least three years from the date the sample or measurement was taken;
 - Copies of all reports required by the permit for at least three years from the date the report was prepared;
 - Records of all data, including reports and documents, used to complete the application for the permit for at least three years from the date the application was filed;
 - Monitoring information, including a copy of the laboratory certification showing the laboratory certification number, related to the residuals use and disposal activities for the time period set forth in Chapter 62-640, F.A.C., for at least three years from the date of sampling or measurement;
 - A copy of the current permit;
 - A copy of the current operation and maintenance manual as required by Chapter 62-600, F.A.C.;
 - A copy of the facility record drawings;
 - Copies of the licenses of the current certified operators; and

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- i. Copies of the logs and schedules showing plant operations and equipment maintenance for three years from the date of the logs or schedules. The logs shall, at a minimum, include identification of the plant; the signature and certification number of the operator(s) and the signature of the person(s) making any entries; date and time in and out; specific operation and maintenance activities; tests performed and samples taken; and major repairs made. The logs shall be maintained on-site in a location accessible to 24-hour inspection, protected from weather damage, and current to the last operation and maintenance performed.

[62-620.350]

VI. SCHEDULES

1. As stated in Excel Engineering Consultants, LLC's letter to the Department dated June 09, 2008, item #1 in the following table shall be completed according to the following schedule.

Improvement Action		Completion Date
1	Revise Cross Creek Schematic Plan and submit to the Department	Within 30 days of permit issuance

[62-600.735(1)]

VII. INDUSTRIAL PRETREATMENT PROGRAM REQUIREMENTS

This facility is not required to have a pretreatment program at this time. [62-625.500]

III. OTHER SPECIFIC CONDITIONS

1. The permittee shall apply for renewal of this permit at least 180 days before the expiration date of the permit using the appropriate forms listed in Rule 62-620.910, F.A.C., including submittal of the appropriate processing fee set forth in Rule 62-4.050, F.A.C. The existing permit shall not expire until the Department has taken final action on the application renewal in accordance with the provisions of 62-620.335(3) and (4), F.A.C. [62-620.335(1)-(4)]
2. Florida water quality criteria and standards shall not be violated as a result of any discharge or land application of reclaimed water or residuals from this facility. [62-610.850(1)(a) and (2)(a)]
3. In the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health and safety, or odor, noise, aerosol drift, or lighting adversely affects neighboring developed areas at the levels prohibited by Rule 62-600.400(2)(a), F.A.C., corrective action (which may include additional maintenance or modifications of the permitted facilities) shall be taken by the permittee. Other corrective action may be required to ensure compliance with rules of the Department. Additionally, the treatment, management, use or land application of residuals shall not cause a violation of the odor prohibition in Rule 62-296.320(2), F.A.C. [62-600.410(8) and 62-640.400(6)]
4. The deliberate introduction of stormwater in any amount into collection/transmission systems designed solely for the introduction (and conveyance) of domestic/industrial wastewater; or the deliberate introduction of stormwater into collection/transmission systems designed for the introduction or conveyance of combinations of storm and domestic/industrial wastewater in amounts which may reduce the efficiency of pollutant removal by the treatment plant is prohibited, except as provided by Rule 62-610.472, F.A.C. [62-604.130(3)]
5. Collection/transmission system overflows shall be reported to the Department in accordance with Permit Condition IX. 20. [62-604.550] [62-620.610(20)]

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6. The operating authority of a collection/transmission system and the permittee of a treatment plant are prohibited from accepting connections of wastewater discharges which have not received necessary pretreatment or which contain materials or pollutants (other than normal domestic wastewater constituents):
- Which may cause fire or explosion hazards; or
 - Which may cause excessive corrosion or other deterioration of wastewater facilities due to chemical action or pH levels; or
 - Which are solid or viscous and obstruct flow or otherwise interfere with wastewater facility operations or treatment; or
 - Which result in the wastewater temperature at the introduction of the treatment plant exceeding 40°C or otherwise inhibiting treatment; or
 - Which result in the presence of toxic gases, vapors, or fumes that may cause worker health or safety problems.

[62-604.130(5)]

7. The treatment facility, storage ponds, rapid infiltration basins, and/or infiltration trenches shall be enclosed with a fence or otherwise provided with features to discourage the entry of animals and unauthorized persons. *[62-600.400(2)(b)]*.
8. Screenings and grit removed from the wastewater facilities shall be collected in suitable containers and hauled to a Department approved Class I landfill or to a landfill approved by the Department for receipt/disposal of screenings and grit. *[62-701.300(1)(a)]*
9. The Permittee shall provide verbal notice to the Department as soon as practical after discovery of a sinkhole within an area for the management or application of wastewater, wastewater residuals (sludges), or reclaimed water. The Permittee shall immediately implement measures appropriate to control the entry of contaminants, and shall detail these measures to the Department in a written report within 7 days of the sinkhole discovery. *[62-4.070(3)]*
10. The permittee shall provide adequate notice to the Department of the following:
- Any new introduction of pollutants into the facility from an industrial discharger which would be subject to Chapter 403, F.S., and the requirements of Chapter 62-620, F.A.C. if it were directly discharging those pollutants; and
 - Any substantial change in the volume or character of pollutants being introduced into that facility by a source which was identified in the permit application and known to be discharging at the time the permit was issued.

Adequate notice shall include information on the quality and quantity of effluent introduced into the facility and any anticipated impact of the change on the quantity or quality of effluent or reclaimed water to be discharged from the facility.

[62-620.625(2)]

IX. GENERAL CONDITIONS

- The terms, conditions, requirements, limitations and restrictions set forth in this permit are binding and enforceable pursuant to Chapter 403, Florida Statutes. Any permit noncompliance constitutes a violation of Chapter 403, Florida Statutes, and is grounds for enforcement action, permit termination, permit revocation and reissuance, or permit revision. *[62-620.610(1)]*
- This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviations from the approved drawings, exhibits, specifications or conditions of this permit constitute grounds for revocation and enforcement action by the Department. *[62-620.610(2)]*

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3. As provided in subsection 403.087(7), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor authorize any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit or authorization that may be required for other aspects of the total project which are not addressed in this permit. *[62-620.610(3)]*
4. This permit conveys no title to land or water, does not constitute state recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title. *[62-620.610(4)]*
5. This permit does not relieve the permittee from liability and penalties for harm or injury to human health or welfare, animal or plant life, or property caused by the construction or operation of this permitted source; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department. The permittee shall take all reasonable steps to minimize or prevent any discharge, reuse of reclaimed water, or residuals use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. *[62-620.610(5)]*
6. If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee shall apply for and obtain a new permit. *[62-620.610(6)]*
7. The permittee shall at all times properly operate and maintain the facility and systems of treatment and control, and related appurtenances, that are installed and used by the permittee to achieve compliance with the conditions of this permit. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to maintain or achieve compliance with the conditions of the permit. *[62-620.610(7)]*
8. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. *[62-620.610(8)]*
9. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, including an authorized representative of the Department and authorized EPA personnel, when applicable, upon presentation of credentials or other documents as may be required by law, and at reasonable times, depending upon the nature of the concern being investigated, to:
 - a. Enter upon the permittee's premises where a regulated facility, system, or activity is located or conducted, or where records shall be kept under the conditions of this permit;
 - b. Have access to and copy any records that shall be kept under the conditions of this permit;
 - c. Inspect the facilities, equipment, practices, or operations regulated or required under this permit; and
 - d. Sample or monitor any substances or parameters at any location necessary to assure compliance with this permit or Department rules.*[62-620.610(9)]*
10. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except as such use is proscribed by Section 403.111, Florida Statutes, or Rule 62-620.302, Florida Administrative Code. Such evidence shall only be used to the extent that it is consistent with the Florida Rules of Civil Procedure and applicable evidentiary rules. *[62-620.610(10)]*

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11. When requested by the Department, the permittee shall within a reasonable time provide any information required by law which is needed to determine whether there is cause for revising, revoking and reissuing, or terminating this permit, or to determine compliance with the permit. The permittee shall also provide to the Department upon request copies of records required by this permit to be kept. If the permittee becomes aware of relevant facts that were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be promptly submitted or corrections promptly reported to the Department. *[62-620.610(11)]*
12. Unless specifically stated otherwise in Department rules, the permittee, in accepting this permit, agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 62-302.500, F.A.C., shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard. *[62-620.610(12)]*
13. The permittee, in accepting this permit, agrees to pay the applicable regulatory program and surveillance fee in accordance with Rule 62-4.052, F.A.C. *[62-620.610(13)]*
14. This permit is transferable only upon Department approval in accordance with Rule 62-620.340, F.A.C. The permittee shall be liable for any noncompliance of the permitted activity until the transfer is approved by the Department. *[62-620.610(14)]*
15. The permittee shall give the Department written notice at least 60 days before inactivation or abandonment of a wastewater facility and shall specify what steps will be taken to safeguard public health and safety during and following inactivation or abandonment. *[62-620.610(15)]*
16. The permittee shall apply for a revision to the Department permit in accordance with Rules 62-620.300 and the Department of Environmental Protection Guide to Wastewater Permitting at least 90 days before construction of any planned substantial modifications to the permitted facility is to commence or with Rule 62-620.325(2) for minor modifications to the permitted facility. A revised permit shall be obtained before construction begins except as provided in Rule 62-620.300, F.A.C. *[62-620.610(16)]*
17. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. The permittee shall be responsible for any and all damages which may result from the changes and may be subject to enforcement action by the Department for penalties or revocation of this permit. The notice shall include the following information:
 - a. A description of the anticipated noncompliance;
 - b. The period of the anticipated noncompliance, including dates and times; and
 - c. Steps being taken to prevent future occurrence of the noncompliance.*[62-620.610(17)]*
18. Sampling and monitoring data shall be collected and analyzed in accordance with Rule 62-4.246, Chapters 62-160 and 62-601, F.A.C., and 40 CFR 136, as appropriate.
 - a. Monitoring results shall be reported at the intervals specified elsewhere in this permit and shall be reported on a Discharge Monitoring Report (DMR), DEP Form 62-620.910(10), or as specified elsewhere in the permit.
 - b. If the permittee monitors any contaminant more frequently than required by the permit, using Department approved test procedures, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
 - c. Calculations for all limitations which require averaging of measurements shall use an arithmetic mean unless otherwise specified in this permit.

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- d. Except as specifically provided in Rule 62-160.300, F.A.C., any laboratory test required by this permit shall be performed by a laboratory that has been certified by the Department of Health Environmental Laboratory Certification Program (DOH ELCP). Such certification shall be for the matrix, test method and analyte(s) being measured to comply with this permit. For domestic wastewater facilities, testing for parameters listed in Rule 62-160.300(4), F.A.C., shall be conducted under the direction of a certified operator.
- e. Field activities including on-site tests and sample collection shall follow the applicable standard operating procedures described in DEP-SOP-001/01 adopted by reference in Chapter 62-160, F.A.C.
- f. Alternate field procedures and laboratory methods may be used where they have been approved in accordance with Rules 62-160.220 and 62-160.330, F.A.C.

[62-620.610(18)]

19. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule detailed elsewhere in this permit shall be submitted no later than 14 days following each schedule date. *[62-620.610(19)]*
20. The permittee shall report to the Department any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain: a description of the noncompliance and its cause; the period of noncompliance including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
 - a. The following shall be included as information which must be reported within 24 hours under this condition:
 1. Any unanticipated bypass which causes any reclaimed water or effluent to exceed any permit limitation or results in an unpermitted discharge,
 2. Any upset which causes any reclaimed water or the effluent to exceed any limitation in the permit,
 3. Violation of a maximum daily discharge limitation for any of the pollutants specifically listed in the permit for such notice, and
 4. Any unauthorized discharge to surface or ground waters.
 - b. Oral reports as required by this subsection shall be provided as follows:
 1. For unauthorized releases or spills of treated or untreated wastewater reported pursuant to subparagraph a.4 that are in excess of 1,000 gallons per incident, or where information indicates that public health or the environment will be endangered, oral reports shall be provided to the Department by calling the STATE WARNING POINT TOLL FREE NUMBER (800) 320-0519, as soon as practical, but no later than 24 hours from the time the permittee becomes aware of the discharge. The permittee, to the extent known, shall provide the following information to the State Warning Point:
 - a) Name, address, and telephone number of person reporting;
 - b) Name, address, and telephone number of permittee or responsible person for the discharge;
 - c) Date and time of the discharge and status of discharge (ongoing or ceased);
 - d) Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater);
 - e) Estimated amount of the discharge;
 - f) Location or address of the discharge;

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- g) Source and cause of the discharge;
 - h) Whether the discharge was contained on-site, and cleanup actions taken to date;
 - i) Description of area affected by the discharge, including name of water body affected, if any; and
 - j) Other persons or agencies contacted.
2. Oral reports, not otherwise required to be provided pursuant to subparagraph b.1 above, shall be provided to the Department within 24 hours from the time the permittee becomes aware of the circumstances.
- c. If the oral report has been received within 24 hours, the noncompliance has been corrected, and the noncompliance did not endanger health or the environment, the Department shall waive the written report.

[62-620.610(20)]

21. The permittee shall report all instances of noncompliance not reported under Permit Conditions IX. 17., 18. and 19. of this permit at the time monitoring reports are submitted. This report shall contain the same information required by Permit Condition IX. 20 of this permit. *[62-620.610(21)]*

22. Bypass Provisions.

- a. Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless the permittee affirmatively demonstrates that:
 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 3. The permittee submitted notices as required under Permit Condition IX. 22. b. of this permit.
- b. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least 10 days before the date of the bypass. The permittee shall submit notice of an unanticipated bypass within 24 hours of learning about the bypass as required in Permit Condition IX. 20. of this permit. A notice shall include a description of the bypass and its cause; the period of the bypass, including exact dates and times; if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.
- c. The Department shall approve an anticipated bypass, after considering its adverse effect, if the permittee demonstrates that it will meet the three conditions listed in Permit Condition IX. 22. a. 1. through 3. of this permit.
- d. A permittee may allow any bypass to occur which does not cause reclaimed water or effluent limitations to be exceeded if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Permit Condition IX. 22. a. through c. of this permit.

[62-620.610(22)]

23. Upset Provisions

- a. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed contemporaneous operating logs, or other relevant evidence that:
 1. An upset occurred and that the permittee can identify the cause(s) of the upset;

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2. The permitted facility was at the time being properly operated;
 3. The permittee submitted notice of the upset as required in Permit Condition IX. 20. of this permit; and
 4. The permittee complied with any remedial measures required under Permit Condition IX. 5. of this permit.
- b. In any enforcement proceeding, the burden of proof for establishing the occurrence of an upset rests with the permittee.
- c. Before an enforcement proceeding is instituted, no representation made during the Department review of a claim that noncompliance was caused by an upset is final agency action subject to judicial review.

[62-620.610(23)]

Executed in Fort Myers, Florida

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jon M. Iglehart
Director of
District Management

DATE: July 2, 2008

JMI/BJS/jl