

State of Florida



## Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** August 20, 2014  
**TO:** Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk  
**FROM:** Daniel Q. Lee, *DS* Engineering Specialist IV, Division of Engineering *PV*  
**RE:** Docket No. 130178-SU – Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company

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Please incorporate the attached document into the docket file referenced above.

1

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
IN AND FOR POLK COUNTY, FLORIDA

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,

Plaintiff,

v.

CASE NO.: 2006-CA-2084

CROOKED LAKE PARK SEWERAGE  
COMPANY,


Defendant.

SATISFACTION OF JUDGMENT AND NOTICE OF WITHDRAWAL OF MOTION FOR  
CONTEMPT

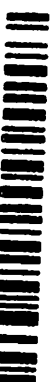
Plaintiff, Florida Department of Environmental Protection ("Department"), does hereby represent that this Court entered a Final Judgment ("Judgment") in the above captioned matter, dated July 9, 2008. A certified copy of the Judgment was recorded in Polk County, Official Records Book 7706 beginning at Page 9. The Department acknowledges the Judgment has been paid in full and satisfied. The Department consents that the Judgment be satisfied of record. Furthermore, the Department withdraws with prejudice any and all outstanding motions for contempt that have been filed in this case.

DATED 15th day of July, 2014.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

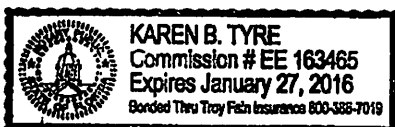
  
Matthew Smith-Kennedy  
Senior Assistant General Counsel  
Florida Bar No. 737054  
3900 Commonwealth Boulevard, MS 35  
Tallahassee, FL 32399  
Telephone: (850) 245-2250  
Facsimile: (850) 245-2301

INST R # 2014124144  
BK 9296 Pgs 1406-1467 PG(S)2  
RECORDED 07/21/2014 09:19:40 AM  
STACY M. BUTTERFIELD,  
CLERK OF COURT POLK COUNTY  
RECORDING FEES \$18.50  
RECORDED BY ambezieg



STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of July, 2014 by Matthew Smith-Kennedy as Sr. Assistant General Counsel for the Florida Department of Environmental Protection.



Karen B. Tyre

Notary Public, State of Florida

Printed KAREN B. TYRE

Commission No.: EE 163465

My commission expires: 1/27/16

Personally known X OR produced identification \_\_\_\_\_  
Type of identification produced \_\_\_\_\_

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Craig Hill by email at cbhill@chill-law.com on this 15<sup>th</sup> day of July, 2014.

Matthew Smith-Kennedy  
Matthew Smith-Kennedy  
Sr. Assistant General Counsel

**MEMORANDUM**

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November 10, 2010

TO: Honorable Mayor and City Commissioners  
FROM: Judith H. Delmar, City Manager <sup>lhd</sup>  
RE: Reevaluation of Policy: Provision of Wastewater Service to Crooked Lake Park  
SYNOPSIS: The Commission will reconsider entering into an agreement with Crooked Lake Park Sewerage Company for provision of wastewater treatment services.

**RECOMMENDATION**

It is recommended that the City Commission direct the City Attorney to prepare a letter for execution by the Mayor notifying Crooked Lake Park Sewerage Company that the City Commission will not enter into an agreement allowing it to connect to the city's wastewater treatment system because of the potential negative impact upon the city's taxpayers and utility customers.

**BACKGROUND**

Please refer to the attached letter from Albert C. Galloway, Jr., City Attorney.

**OTHER OPTIONS**

Enter into an agreement that requires the following:

1. Reconstruction or rehabilitation of existing infrastructure in Crooked Lake Park to comply with all applicable codes and the city's utility standards; approval of upgraded infrastructure must be granted by the city's public works director prior to construction of the project that will enable connection to the city's wastewater system.
2. Prepayment of the following items prior to construction of the project:

Construction of Force Main & Lift Station	450,000
Engineering Fees	75,000
Utility Deposit for 450 Customers	23,000
Impact Fees	969,085
Total Prepayment	<u>1,517,085</u>

Although the requirements stated above address some of the concerns of staff and the City Attorney and the project would not commence until these requirements are met, there is no way to compel payment for utility services to individual customers once we have begun accepting the wastewater from Crooked Lake Park. In the event of a default by the owner of the Crooked Lake Park Sewerage Company, the City would be unable to terminate service for the owner's non-payment and would not be able to enforce payment by individual customers.

**FISCAL IMPACT**

The City Commission would require that initiating the connection of Crooked Lake Park to the city's wastewater system would have no negative fiscal impact on the taxpayers or existing utility customers, however there is no way to estimate the potential long-term fiscal impact. Once Crooked Lake Park is connected to the city's system, for public health and safety reasons, we will be obligated to provide wastewater treatment services in perpetuity regardless of the cost to our citizens and customers and with no ability to enforce payment for the service provided.

**ATTACHMENT**

Letter: from Albert C. Galloway, Jr., City Attorney, 11/10/2010

LAW OFFICES

## **ALBERT C. GALLOWAY, JR., P.A.**

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POST OFFICE BOX 3339  
202 EAST STUART AVENUE  
LAKE WALES, FL 33859-3339  
TELEPHONE 863/679-5333  
FAX 863/679-5332  
CHUCK@ACGPA.NET

November 10, 2010

Judith H. Delmar, City Manager  
City of Lake Wales  
Post Office Box 1320  
Lake Wales, FL 33859-1320

*Re: Crooked Lake Park Wastewater Utility*

Dear Ms. Delmar:

The referenced project was promoted by members of a previous administration within the City when it was purportedly suggested that the project would bolster the City's chances of procuring needed funding for an upgrade to the City's Wastewater Treatment facilities. Based upon this assumption, a design engineer was selected for the force main and lift station project which was contemplated to connect the Crooked Lake Park package wastewater treatment plant to the City's wastewater treatment facility. Members of City staff were tasked with the responsibility of creating a Utility Service Agreement between the City of Lake Wales and the Crooked Lake Park Sewerage Company which would be necessary for implementation of this project.

As a component of the due diligence related to this project, it was determined that the Florida Department of Environmental Protection ("DEP") had engaged in an enforcement action against the Crooked Lake Park Sewerage Company ("Crooked Lake"), the owner of the package plant, due to its failure to comply with the applicable regulations concerning its operation. On July 9, 2008, a Final Judgment was entered against Crooked Lake in Case No. 2006-CA-2084, in the Circuit Court of the Tenth Judicial Circuit, in and for Polk County, Florida. The Judgement set forth numerous compliance requirements for the Defendant, Crooked Lake, one of which was that it submit a permit application to DEP with appropriate processing fees for construction of a sanitary collection/transmission system to divert flow from the Crooked Lake Park package wastewater treatment plant to the City's wastewater treatment facility. The City of Lake Wales was not a party to the legal action and the Judgment is not binding upon the City. Upon consultation with an attorney in the office of the General Counsel for DEP, it was determined that Crooked Lake has not complied with the terms of the Judgment and there is currently a fine in excess of \$309,000.00 against the company for its failure to comply with the Judgement.

As mentioned at the City Commission Workshop held on the evening of November 9, 2010, the City Manager and I, along with the members of the City's staff listed below who are recipients of copies of this correspondence, met to determine whether an appropriate agreement could be prepared to accomplish the contemplated connection and, more importantly, whether or not it was in the City's best interest to do so.

The Utility Service Agreement as originally contemplated provided that the City of Lake Wales would borrow the funds necessary for the force main and lift station project, the said funds to be repaid by Crooked Lake over a period of twenty (20) years. The contemplated payment would have been in the amount of \$555,736.31. In order to avoid this situation and the concern that Crooked Lake might default, it was determined that Crooked Lake must be required to prepay the costs of the engineering and installation of the force main and lift station. In addition, it was concluded that the only manner in which the citizens of the City of Lake Wales would be protected would be for Crooked Lake to also prepay the wastewater connection fees in the amount of \$969,085.00; the utility deposit for the approximately 450 customers in the amount of \$23,000.00; and engineering fees in the amount of \$75,000.00 for the project totaling a sum for project costs of approximately \$1,517,085.00.

An additional concern was raised due to the knowledge that the infrastructure owned by Crooked Lake which services the residential customers of the Crooked Lake Park utility are failing and subject to water intrusion during major rain events. These events can double or triple the amount of effluent which would be pumped to the City's wastewater treatment facility, thus impacting the facility's ability to properly serve the customers of the City's utility system.

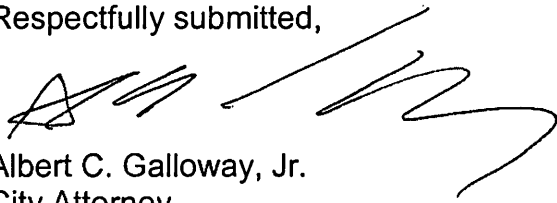
The determination was also made that prior to any connection, Crooked Lake must be required to bring its infrastructure into compliance with applicable codes and that the City would agree to allow the connection of the Crooked Lake infrastructure to the contemplated lift station only upon approval of the City's Utilities Director or his designee. The conclusion was also reached that individual meters should be installed by Crooked Lake at each of the properties it serves from its master meter that would be connected to the lift station. This determination was made in contemplation of a default by Crooked Lake which would lead the City, of necessity, to bill each of the individual Crooked Lake wastewater customers separately for service. The focus then became the public health, safety and welfare concerns which would preclude the City from terminating the acceptance of untreated wastewater into its treatment system. By analogy, the City has the ability to terminate service to its utility customers by terminating water service due to failure of payment. It has no similar ability to terminate wastewater service. The act of termination of water service causes a cessation of the need for wastewater service. The customers in Crooked Lake Park receive water service from a separate provider and the City, if it were to accept the responsibility for the wastewater service, would have no ability to terminate that service for nonpayment. This scenario would

put the City in the position of having to provide the service for health and safety reasons with a total inability to enforce payment.

Acceptance of the responsibility of wastewater service in the scenario set forth above results in unacceptable public policy in general since there is no way to enforce payment for utility services in the event of a default by the owner of the Crooked Lake Park wastewater treatment plant. The City's Code and bond covenants prohibit the provision of free service.

After analysis of all of the ramifications of this project and the potential negative impact upon the City of Lake Wales, its taxpayers and its utility customers, it is my opinion that the City should refrain from further entertaining the possibility of an agreement with Crooked Lake Park Sewerage Company which would allow it to connect to the wastewater treatment system of the City of Lake Wales.

Respectfully submitted,



Albert C. Galloway, Jr.  
City Attorney

cc: Honorable Mayor and City Commissioners  
Tom Moran, Public Works Director  
Margaret Swanson, Planning and Development Director  
Dorothy Pendergrass, Finance Director  
Sarah Kirkland, Utilities Support Manager

ACG/md

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
IN AND FOR POLK COUNTY, FLORIDA

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,

Plaintiff,

Case No. 2006-CA-2085

vs.

CROOKED LAKE PARK SEWERAGE  
COMPANY,

Defendant.

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**PLAINTIFF'S SECOND MOTION FOR CONTEMPT**

Plaintiff, State of Florida Department of Environmental Protection, pursuant to Rule 1.570, Florida Rules of Civil Procedure, moves this court to enter an order of civil contempt against Defendant, Crooked Lake Park Sewerage Company, for failing to comply with the requirements of the Final Judgment. As grounds, the Department states:

1. This Court entered a Final Judgment in this matter on July 9, 2008. A copy of this Judgment is attached herein as Exhibit 1.
2. This is Department's second Motion for Contempt. On February 3, 2009, the Department filed its first Motion for Contempt for Defendant's failure to comply with the requirements of the Final Judgment.
3. Defendant failed to comply with the Court's first Order on Contempt, entered April 30, 2009, by failing to timely respond to the Department's discovery request as required by the Order.



4. As detailed in the Affidavit of Joseph M. Squitieri, which is attached herein as "Exhibit 2", Defendant continues to be out of compliance with various requirements of the Final Judgment.

5. One of the corrective action options afforded to Defendant in the Final Judgment, involved Defendant diverting flow from Defendant's wastewater treatment facility to the City of Lake Wales's Sam P. Robinson Water Reclamation Facility. After lengthy negotiations, the City of Lake Wales refused to accept the Defendant's waste. Diverting the flow to the City of Lake Wales is no longer an option.

6. In anticipation of this possibility, paragraph A.4. of the Final Judgment states, "[i]n any event, by August 25, 2009, the Facility shall be off-line or in complete compliance with all Department rules and regulations that are the subject of this Final Judgment."

7. To date Defendant has failed to comply with paragraph A.4. of the Final Judgment. (Squitieri Aff. ¶ 5.A.)

8. Paragraphs A.2.-A.3. require Defendant to maintain both percolation ponds and prepare an Abandonment plan prior to taking the Facility off-line.

9. To date, Defendant has failed to comply with paragraphs A.2.-A.3., of the Final Judgment. (Squitieri Aff. ¶¶ 5.B.2.-3.)

10. Additionally, paragraph A.5. of the Final Judgment ordered Defendant to pay \$309,200.00 in stipulated penalties for failing to comply with a Department Order. In addition to these stipulated penalties, paragraph B of the Final Judgment ordered the Defendant to pay \$126,300.00 in civil penalties for violations of various environmental rules and statutes. Therefore, the total penalty amount assessed under the Final Judgment was \$435,500.00.

11. According to paragraph A.5., if Defendant would have complied with paragraphs A.1-A.4. , of the Final Judgment, its \$309,200.00 in stipulated penalties would have been automatically suspended; however, as a result of Defendants non-compliance with section A., the suspension of the penalty is no longer an option. Accordingly, a total of \$435,500.00 is currently past due.

12. To date, Defendant has not paid the Department any penalties. (Squitieri Aff. ¶ 5.D.)

13. Kenneth J. Knowlton is Defendant's sole corporate officer and therefore is directly responsible for Defendant's failure to comply with the Final Judgment.

14. To date, Defendant has failed to comply with various components of the Final Judgment. (Squitieri Aff. ¶ 5)

15. In paragraph H, of the Final Judgment, this Court retained "jurisdiction to enforce this Final Judgment by contempt or other appropriate sanctions."

WHEREFORE, The Department respectfully requests that this Court enter an order:

- A. Finding Defendant in civil contempt of Court.
- B. Ordering Defendant to comply with Paragraphs A.2-A.4. of the Final Judgment.
- C. Ordering Defendant to pay the Department \$435,500.00, which includes: \$309,200.00 in stipulated penalties, and \$126,300.00 in civil penalties.
- D. Ordering appropriate relief including the incarceration of Kenneth J. Knowlton until Defendant purges its contempt by complying with the Final Judgment.

RESPECTFULLY SUBMITTED this 7<sup>th</sup> day of June, 2011.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

*Alissa Blank Meyers*

Alissa Blank Meyers  
Senior Assistant General Counsel  
3900 Commonwealth Boulevard  
Mail Station 35  
Bar No. 0647438  
Tallahassee, FL 32399-3000  
Telephone: (850) 245-2218

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy hereof has been furnished to James C. McClendon II, Weaver & McClendon, PA, Post Office Box 466, Lake Wales, FL 33859-0466 and Kenneth J. Knowlton, 227 Caloosa Lake Circle N., Lakes Wales, FL 33859-8605 on this 7<sup>th</sup> day of June, 2011.

*Alissa Blank Meyers*

Alissa Blank Meyers  
Senior Assistant General Counsel



**FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**  
Southwest District Office  
13051 North Telecom Parkway  
Temple Terrace, Florida 33637-0926

RICK SCOTT  
GOVERNOR  
HERSCHEL T. VINYARD JR.  
SECRETARY

**STATE OF FLORIDA  
DOMESTIC WASTEWATER FACILITY PERMIT**

**PERMITTEE:**

Crooked Lake Park Sewerage Company

**PERMIT NUMBER:** FLA013038  
**PA FILE NUMBER:** FLA013038-006-DW3P/NR  
**EFFECTIVE DATE:** July 31, 2013  
**EXPIRATION DATE:** July 30, 2018

**RESPONSIBLE AUTHORITY:**

Louis F. Garrard, Managing Member  
5578 Commercial Boulevard  
Winter Haven, FL 33880-1008  
[louisg@garrardinc.com](mailto:louisg@garrardinc.com)  
(863) 967-3992

**FACILITY:**

Crooked Lake Park Sewerage Company WWTF  
East Lane and Caloosa Lake Circle North  
Lake Wales, FL 33859  
Polk County  
Latitude: 27° 50' 1" N Longitude: 81° 35' 7" 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.). This permit does not constitute authorization to discharge wastewater other than as expressly stated in this permit. The above-named permittee is hereby authorized to operate the facilities in accordance with the documents attached hereto and specifically described as follows:

**TREATMENT FACILITIES:**

Operation of an existing 0.060 million gallons per day (MGD) Three-Month Rolling Average Daily Flow (3MRADF), Type III, extended aeration domestic wastewater treatment plant consisting of: nine aeration basins with a total volume of 60,750 gallons, two clarifiers with a total volume of 12,100 gallons and 162 square feet of surface area, one chlorine contact chamber of 1,830 gallons total volume, and one digester of 5,000 gallons. This plant is operated to provide secondary treatment with basic disinfection.

**MODIFICATION:**

Construction of one flow splitter box and bar screen, one equalization basin of 24,000 gallons total volume, one digester of 10,000 gallons total volume, and one sludge drying bed.

**AFTER MODIFICATION:**

Operation of an existing 0.060 million gallons per day (MGD) Three-Month Rolling Average Daily Flow (3MRADF), Type III, extended aeration domestic wastewater treatment plant consisting of: one flow splitter box and bar screen, one equalization basin of 24,000 gallons total volume, nine aeration basins with a total volume of 60,750 gallons, two clarifiers with a total volume of 12,100 gallons and 162 square feet of surface area, one chlorine contact chamber of 1,830 gallons total volume, two digesters with a total volume of 15,000 gallons, and one sludge drying bed. This plant is operated to provide secondary treatment with basic disinfection.

FACILITY: Crooked Lake Park Sewerage Company WWTF  
PERMITTEE: Crooked Lake Park Sewerage Company

PERMIT NUMBER: FLA013038

**REUSE:**

Land Application: An existing 0.060 MGD Annual Average Daily Flow (AADF) permitted capacity Part IV rapid-rate land application system (R-001). R-001 consists of two-cell Rapid Infiltration Basins (RIB) of 23,200 square feet of bottom surface area. R-001 is located approximately at latitude 27° 50' 2" N, longitude 81° 35' 6" W.

IN ACCORDANCE WITH: The limitations, monitoring requirements, and other conditions set forth in Pages 1 through 17 of this permit and the accompanying Discharge Monitoring Report (DMR).

**I. RECLAIMED WATER AND EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

**A. Reuse and Land Application Systems**

1. During the period beginning on the effective 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 Permit Condition I.B.9:

Parameter	Units	Max/Min	Reclaimed Water Limitations		Monitoring Requirements			Notes
			Limit	Statistical Basis	Frequency of Monitoring	Sample Type	Monitoring Site Number	
Flow to R-001	MGD	Max	0.060 Report	Annual Average Monthly Average	5 Days/Week	Flow Meter	FLW-01	Sec Cond.I.A.3
BOD, Carbonaceous 5 day, 20C	mg/L	Max	20.0 30.0 60.0	Annual Average Monthly Average Single Sample	Monthly Monthly Monthly	Calculation Calculation Grab	EFA-01	
Solids, Total Suspended	mg/L	Max	20.0 30.0 60.0	Annual Average Monthly Average Single Sample	Monthly Monthly Monthly	Calculation Calculation Grab	EFA-01	
Coliform, Fecal	#/100mL	Max Max Max	200 Report 800	Annual Average Monthly Geometric Mean Single Sample	Monthly Monthly Monthly	Calculation Calculation Grab	EFA-01	Sec Cond. I.A.4
pH	s.u.	Min Max	6.0 8.5	Single Sample Single Sample	5 Days/Week	Grab	EFA-01	
Chlorine, Total Residual (For Disinfection)	mg/L	Min	0.5	Single Sample	5 Days/Week	Grab	EFA-01	Sec Cond.I.A.5
Nitrogen, Nitrate, Total (as N)	mg/L	Max	12.0	Single Sample	Monthly	Grab	EFA-01	

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

Monitoring Site Number	Description of Monitoring Location
EFA-01	Effluent sampling point after treatment and prior to Reuse System, R-001.
FLW-01	Flow measured at chlorine contact chamber effluent channel v-notch weir, with bubbler flow meter

3. A flow meter shall be utilized to measure flow and calibrated at least every twelve months. [62-601.200(17) and .500(6)]
4. The arithmetic mean of the monthly fecal coliform values collected during an annual period shall not exceed 200 per 100 mL of reclaimed water sample. The geometric mean of the fecal coliform values collected during a period of 30 consecutive days (monthly) period shall be reported and used to calculate the annual average. Any one sample shall not exceed 800 fecal coliform values per 100 mL of sample. [62-610.510, 62-600.440(4)(c)]
5. A minimum of 0.5 mg/L total chlorine residual must be maintained for a minimum contact time of 15 minutes based on peak hourly flow. [62-610.510, 62-600.440(4)(b)]

**B. Other Limitations and Monitoring and Reporting Requirements**

1. During the period beginning on the effective 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 Permit Condition I.B.9:

Parameter	Units	Max/Min	Reclaimed Water Limitations		Monitoring Requirements			Notes
			Limit	Statistical Basis	Frequency of Monitoring	Sample Type	Monitoring Site Number	
Flow, Total Plant	MGD	Max	0.060 Report	3MRADF Monthly Average	5 Days/Week	Flow Meter	FLW-01	See Cond. I.B.5.
Percent Capacity, (3MRADF/Permitted Capacity) x 100	%	Max	Report	Monthly Maximum	Monthly	Calculation	FLW-01	
BOD, Carbonaceous 5 day, 20C	mg/L	Max	Report	Single Sample	Annually	Grab	INF-01	See Cond. I.B.4.
Solids, Total Suspended	mg/L	Max	Report	Single Sample	Annually	Grab	INF-01	See Cond. I.B.4.
Biosolids Quantity (Transferred to BTF)	Dry Tons	Max	Report	Monthly Total	Monthly	Calculation	RMP-01	See Cond. I.B.8.
Biosolids Quantity (Landfilled)	Dry Tons	Max	Report	Monthly Total	Monthly	Calculation	RMP-02	See Cond. I.B.8.



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

Monitoring Site Number	Description of Monitoring Location
FLW-01	Flow measured at chlorine contact chamber effluent channel v-notch weir, with bubbler flow meter
INF-01	Influent sampling point prior to treatment and ahead of return process waters.
RMP-01	Quantity of biosolids transferred to Biosolids Treatment Facility.
RMP-02	Quantity of biosolids transferred to Landfill.

3. The three-month rolling average daily flow to the treatment plant shall not exceed 0.060 MGD. [62-600.400(3)]
4. Influent samples shall be collected so that they do not contain digester supernatant or return activated sludge, or any other plant process recycled waters. The annual sample shall be taken in the month of February. [62-601.500(4)]
5. A flow meter shall be utilized to measure flow and calibrated at least every twelve months. [62-601.200(17) and .500(6)]
6. Parameters which must be monitored as a result of a ground water discharge (i.e., underground injection or land application system) shall be analyzed in accordance with Chapter 62-601, F.A.C. All monitoring shall be representative of the monitored activity. [62-620.610(18)]
7. 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)]
8. In the absence of a laboratory analysis, to estimate the dry tons generated by a facility that transports liquid biosolids, the average value of 1.5% solids may be used. The following formula may be used to convert gallons to dry tons when the estimated percent solids is 1.5%:

$$\text{Dry Tons} = \frac{(\text{gallons} \times 8.34 \text{ lb/gal} \times 0.015)}{(2000 \text{ lb/ton})}$$

If the percent solids is known, substitute the known percent solids for "0.015" in the formula above. The dry tons shall be reported on the Discharge Monitoring Report (DMR), Part A, and the gallons produced and used for the above calculation shall be reported on the Discharge Monitoring Report (DMR), Part B. During months when biosolids are not transferred to a Biosolids Treatment Facility or to a landfill, the permittee should record zero (0) on the DMR. [62-640.650(5)(a)]

9. Monitoring requirements under this permit are effective on the first day of the second month following the effective date of the permit. 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 Discharge Monitoring Reports (DMRs) in accordance with the frequencies specified by the REPORT type (i.e., monthly, 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, unless specified elsewhere in the permit.

REPORT Type	Monitoring Period	Due Date
Monthly	first day of month – last day of month	28 <sup>th</sup> 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	March 28

The permittee may submit either paper or electronic DMRs. The permittee must use the attached DMR as a template, without altering the original format or content unless approved by the Department. Completed DMRs shall be submitted to the Department’s Southwest District Office at the address specified in Permit Condition I.B.10. by the 28<sup>th</sup> day of the month following the month of operation. Paper copies postmarked by the 28<sup>th</sup> meet the intent of this requirement. If submitting electronic DMRs, portable document format (pdf) is preferred. Data submitted electronically is equivalent to data submitted on signed paper DMRs only when bearing an original signature. DMRs shall be submitted for each required monitoring period including months of no discharge.

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

10. 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 Southwest District Office at the address specified below:

Florida Department of Environmental Protection  
 Compliance Assurance Program  
 Attention: Domestic Wastewater  
 Southwest District Office  
 13051 North Telecom Parkway  
 Temple Terrace, Florida 33637-0926  
 Email Address: [firstname.lastname@dep.state.fl.us](mailto:firstname.lastname@dep.state.fl.us)

Phone Number - 813-470-5700 ✓ ←  
 FAX Number - 813-470-5994

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. BIOSOLIDS MANAGEMENT REQUIREMENTS**

1. Biosolids generated by this facility may be transferred to a Biosolids Treatment Facility (BTF) or disposed of in a Class I solid waste landfill. Transferring biosolids to an alternative biosolids treatment facility does not require a permit modification. However, use of an alternative biosolids treatment facility requires submittal of a copy of the agreement pursuant to Rule 62-640.880(1)(c), F.A.C., along with a written notification to the Department at least 30 days before transport of the biosolids. *[62-620.320(6), 62-640.880(1)(c)]*
2. The permittee shall not be held responsible for treatment and management violations that occur after its biosolids have been accepted by a permitted biosolids treatment facility with which the source facility has an agreement in accordance with subsection 62-640.880(1)(c), F.A.C., for further treatment, management, or disposal. *[62-640.880(1)(b)]*

3. Disposal of biosolids, septage, and “other solids” in a solid waste disposal facility, 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)(b) & (c)]
4. If the permittee intends to accept biosolids from other facilities, a permit revision is required pursuant to Rule 62-640.880(2)(d), F.A.C. [62-640.880(2)(d)]
5. The permittee shall keep records of the quantities of biosolids generated and transferred to another facility, or landfilled. [62-640.650(4)(a)]
6. The treatment, management, transportation, use, land application, or disposal of biosolids shall not cause a violation of the odor prohibition in subsection 62-296.320(2), F.A.C. [62-640.400(6)]
7. Biosolids shall not be spilled from or tracked off the treatment facility site by the hauling vehicle. [62-640.400(9)]
8. The permittee shall keep hauling records to track the transport of biosolids between facilities. The hauling records shall contain the following information:

Required of Source Facility	Required of BTF
Date and Time Shipped	Date and Time Received
Amount of Biosolids Shipped	Amount of Biosolids Received
Degree of Treatment (if applicable)	Name and ID Number of Source Facility
Name and ID Number of Biosolids Management Facility or Treatment Facility	Signature of Hauler
Signature of Responsible Party at Source Facility	Signature of Responsible Party at Biosolids Treatment Facility
Signature of Hauler and Name of Hauling Firm	

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 biosolids to the biosolids treatment facility. The BTF permittee shall report to the Department within 24 hours of discovery any discrepancy in the quantity of biosolids leaving the source facility and arriving at the biosolids treatment facility. [62-640.880(4)]

**III. GROUND WATER REQUIREMENTS**

Section III is not applicable to this facility.

**IV. ADDITIONAL REUSE AND LAND APPLICATION REQUIREMENTS**

**Part IV Rapid-Rate Land Application System (R-001)**

1. All ground water quality criteria specified in Chapter 62-520, F.A.C., shall be met at the edge of the zone of discharge. The zone of discharge for this project shall extend horizontally 100 feet from the application site or to the facility’s property line, whichever is less, and vertically to the base of the surficial aquifer. [62-520.200(27), 62-520.465]
2. Advisory signs shall be posted around the site boundaries to designate the nature of the project area. [62-610.518]
3. The annual average hydraulic loading rate to the rapid infiltration basin shall be limited to a maximum of 4.15 inches per day (as applied to the entire bottom area). [62-610.523(3)]

4. Rapid infiltration basins normally shall be loaded for one to seven days and shall be rested for five to 14 days. Infiltration ponds, basins, or trenches shall be allowed to dry during the resting portion of the cycle. *[62-610.523(4)]*
5. Rapid infiltration basins shall be routinely maintained to control vegetation growth and to maintain percolation capability by scarification or removal of deposited solids. Basin bottoms shall be maintained to be level. *[62-610.523(6) and (7)]*
6. Routine aquatic weed control and regular maintenance of storage pond embankments and access areas are required. *[62-610.514, 62-610.414]*
7. Overflows from emergency discharge facilities on storage ponds or on infiltration ponds, basins, or trenches shall be reported as an abnormal event to the Department's Southwest 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

### A. Staffing Requirements

1. During the period of operation authorized by this permit, the wastewater facilities shall be operated under the supervision of an operator 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 for ½ hour/day for 5 days/ week and one visit each weekend. The lead operator must be a Class C operator, or higher. *[62-620.630(3), 62-699.310, 62-610.462]*

2. An operator meeting the lead/chief operator class for 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)]*

### B. Capacity Analysis Report and Operation and Maintenance Performance Report Requirements

1. 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)]*
2. 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)]*

### C. Recordkeeping Requirements

1. The permittee shall maintain the following records and make them available for inspection on the site of the permitted facility.
  - a. 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;
  - b. Copies of all reports required by the permit for at least three years from the date the report was prepared;
  - c. 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;

- d. A copy of the current permit;
- e. A copy of the current operation and maintenance manual as required by Chapter 62-600, F.A.C.;
- f. A copy of any required record drawings;
- g. Copies of the licenses of the current certified operators;
- h. 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 license 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, including any preventive maintenance or repairs made or requested; results of tests performed and samples taken, unless documented on a laboratory sheet; and notation of any notification or reporting completed in accordance with Rule 62-602.650(3), F.A.C. 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;
- i. Records of the quantities of biosolids generated, received from source facilities, treated, landfilled, incinerated, transferred to another facility, land applied or distributed and marketed, shall be kept for a minimum of five years;
- j. Records of all biosolids monitoring, including a copy of the laboratory certification showing the laboratory certification number, shall be kept for a minimum of five years;

*[62-620.350, 62-602.650, 62-640.650(4)]*

**VI. SCHEDULES**

- 1. The permittee shall adhere to the following schedule:

Implementation Step		Completion Date
A.	Provide appropriate documentation as required in permit conditions VIII. 1 & 2 for the proposed modifications.	As required in permit conditions VIII . 1 & 2.
B.	Prepare an operation and maintenance manual and maintain a copy on site as required in Permit Condition V.C.1.e.	Within 60 days after completion of the modifications.
C.	Submit an application for renewal as required in Permit Condition VIII.1.	At least 180 days before the permit expiration date.

**VII. INDUSTRIAL PRETREATMENT PROGRAM REQUIREMENTS**

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

**VIII. OTHER SPECIFIC CONDITIONS**

- 1. Prior to placing the R-002 into operation for any purpose other than testing for leaks and equipment operation, the permittee shall complete and submit to the Department DEP Form 62-620.910(12), Notification of Completion of Construction for Domestic Wastewater Facilities. *[62-620.630(2)]*
- 2. Within six months after a facility is placed in operation, the permittee shall provide written certification to the Department on Form 62-620.910(13) that record drawings pursuant to Chapter 62-600, F.A.C., and that an operation and maintenance manual pursuant to Chapters 62-600 and 62-610, F.A.C., as applicable, are available at the location specified on the form. *[62-620.630(7)]*

3. 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. and in the manner established in the Department of Environmental Protection Guide to Permitting Wastewater Facilities or Activities Under Chapter 62-620, F.A.C., including submittal of the appropriate processing fee set forth in Rule 62-4.050, F.A.C. An application filed in accordance with this section shall be considered timely and sufficient. When an application for renewal of a permit is timely and sufficient, the existing permit shall not expire until the Department has taken final action on the application for renewal or until the last day for seeking judicial review of the agency order or a later date fixed by order of the reviewing court. The late submittal of a renewal application shall be considered timely and sufficient for the purpose of extending the effectiveness of the expiring permit only if the renewal application is submitted and made complete before the permit expiration date. *[62-620.335(1)-(4)]*
4. Reuse and land application projects shall not cause or contribute to violations of water quality standards in surface waters and shall be designed and operated to ensure compliance with ground water quality standards contained in Chapter 62-520, F.A.C. *[62-610.850(1)(a) and (2)(a)]*
5. 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 biosolids shall not cause a violation of the odor prohibition in Rule 62-296.320(2), F.A.C. *[62-600.410(8), 62-640.400(6)]*
6. 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)]*
7. Collection/transmission system overflows shall be reported to the Department in accordance with Permit Condition IX.20. *[62-604.550, 62-620.610(20)]*
8. 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:
  - a. Which may cause fire or explosion hazards; or
  - b. Which may cause excessive corrosion or other deterioration of wastewater facilities due to chemical action or pH levels; or
  - c. Which are solid or viscous and obstruct flow or otherwise interfere with wastewater facility operations or treatment; or
  - d. Which result in the wastewater temperature at the introduction of the treatment plant exceeding 40°C or otherwise inhibiting treatment; or
  - e. Which result in the presence of toxic gases, vapors, or fumes that may cause worker health and safety problems.

*[62-604.130(54)]*

9. 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. *[62-610.518(1), 62-600.400(2)(b)]*
10. 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)]*
11. Where required by Chapter 471 or Chapter 492, F.S., applicable portions of reports that must be submitted under this permit shall be signed and sealed by a professional engineer or a professional geologist, as appropriate. *[62-620.310(4)]*
12. 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 biosolids (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 five days of the sinkhole discovery. *[62-4.070(3), 62-620.610(20)]*
13. The permittee shall provide adequate notice to the Department of the following:
  - a. 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
  - b. 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**

1. 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)]*
2. 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 constitutes grounds for revocation and enforcement action by the Department. *[62-620.610(2)]*
3. As provided in Subsection 403.087(6), 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 biosolids 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 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, F.S., or Rule 62-620.302, F.A.C. 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)]*
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, F.A.C., 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.
- 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 analytes 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 **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;
  - 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.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 causes of the upset;
  - 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 permittee seeking to establish the occurrence of an upset has the burden of proof.
- 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 Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION



*For*  
Mauryn McDonald, P.E.  
Water Facilities Program Administrator  
Southwest District