



Florida Department of Environmental Protection

Southwest District Office
13051 North Telecom Parkway, Suite 101
Temple Terrace, FL 33637-0926

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

May 3, 2018

Commissioner Sandra Murman
Hillsborough County Board of County Commissioners
601 E. Kennedy Blvd.
Tampa, Florida 33602
c/o Jeff Greenwell
greenwellj@hillsboroughcounty.org

Re: **Executed Third Modification to Consent Order OGC File No. 01-1651**
Hillsborough County Public Works Central Service Unit (WACS ID # 95341)
Hillsborough County Public Works South Service Unit (WACS ID# 95342)
Hillsborough County Public Works West Service Unit (WACS ID# 95343)
Hillsborough County Public Works East Service Unit (WACS ID# 95344)

Dear Commissioner Murman:

Enclosed please find the executed Third Modification to Consent Order OGC File No. 01-1651 regarding the above referenced facilities. The effective date of the Third Modification to Consent Order is the filing date entered by the designated Department Clerk on the signature page.

For inquiries, you may contact Government Operations Consultant Steven Tafuni at 813-470-5792, or via email at Steven.Tafuni@floridadep.gov

Sincerely,

A handwritten signature in blue ink that reads "Mary E. Yeargan".

Mary E. Yeargan, P.G.
Southwest District Director
Florida Department of Environmental Protection

MEY

ec: Michael Townsel, Hillsborough County, townselm@hillsboroughcounty.org
Lea Crandall, FDEP OGC, lea.crandall@floridaddep.gov
Kelley Boatwright, FDEP, kelly.m.boatwright@floridadep.gov
Steven Tafuni, FDEP, steven.tafuni@floridadep.gov
Steve Morgan, FDEP, steve.morgan@floridadep.gov
Justin Chamberlain, FDEP, justin.chamberlain@floridadep.gov
Benjamin Hsu, FDEP, benjamin.hsu@floridadep.gov

Enclosure: Executed Third Modification of Consent Order



Hillsborough County Florida

PUBLIC WORKS

PO Box 1110 Tampa, FL 33601-1110
(813) 272-5912 | Fax: (813) 272-5811

MEMORANDUM

DATE: April 13, 2018
TO: Midge Dixon, Deputy Clerk , BOCC Records
FROM: John Ford, Administrative Specialist, Public Works
SUBJECT: Third Modification to the Florida Department of
Environmental Protection Consent Order OGC File Number 01-1651 (A-30)

Please find attached the original(s) of Third Modification to the Florida Department of Environmental Protection
Consent Order OGC File Number 01-1651 (A-30) for signature purposes.

Thank you.

BOARD OF COUNTY COMMISSIONERS

Victor D. Crist
Ken Hagan

Al Higginbotham

Pat Kemp

Lesley "Les" Miller, Jr.

Sandra L. Murman

Stacy R. White

COUNTY ADMINISTRATOR

Michael S. Merrill

COUNTY ATTORNEY

Chip Fletcher

INTERNAL AUDITOR

Peggy Caskey

CHIEF DEVELOPMENT & INFRASTRUCTURE SERVICES

ADMINISTRATOR

Lucia E. Garsys

RECEIVED
2018 APR 13 AM 10:56
CLERK TO
THE BOARD (A)



Agenda Item Cover Sheet

Agenda Item No. A-30

Meeting Date 4/4/2018

Consent Section

Regular Section

Public Hearing

Subject: Third Modification to the Florida Department of Environmental Protection Consent Order OGC File Number 01-1651			
Department Name: Public Works			
Contact Person: John Lyons		Contact Phone: 307-4754	
Sign-Off Approvals:			
Lucia Garsys	3/23/2018	John Lyons	3/21/2018
Assistant County Administrator	Date	Department Director	Date
Tom Fesler	3/23/2018	Edward Helvenston	3/21/2018
Management and Budget – Approved as to Financial Impact Accuracy	Date	County Attorney – Approved as to Legal Sufficiency	Date

Staff's Recommended Board Motion:

Approve the Third Modification to Consent Order OGC File No. 01-1651 issued by the Florida Department of Environmental Protection. This modification acknowledges completion of assessment and corrective actions required for the East, South, and West Service Units and removes them from the Consent Order. Assessment and corrective actions for the old Central Service Unit site remain, and shall be done in accordance with the provisions of Chapter 62-780, F.A.C., and 62-777, F.A.C. There is no cost associated with the approval of this Third Modification to Consent Order OGC File No. 01-1651.

Financial Impact Statement:

There is no cost associated with the approval of this Third Modification to Consent Order OGC File No. 01-1651.

Background:

In April 2001, the Florida Department of Environmental Protection (FDEP) reviewed ditch sediment processing at the Public Works Department Transportation Maintenance Division's four regional service units and subsequently issued a consent order that was later accepted by the Board of County Commissioners and executed on November 16, 2005. The consent order included a requirement for Hillsborough County to complete a Long Term Management Plan for processing of sediment at the service units which was complied with and completed.

As part of the compliance, assessment and monitoring of sediment and groundwater was conducted at each of the units, and an issue with arsenic in groundwater was identified at the Central Service Unit site. To date, that is the only remaining issue related to the consent order. Therefore, the County requested that FDEP modify the consent order to release the East, South, and West Service Units with no further action required at those sites, and the Central Service Unit site (which is no longer active) shall remain subject to corrective action requirements of the modified consent order.

List Attachments: Third Modification to Consent Order

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

IN THE OFFICE OF THE
SOUTHWEST DISTRICT

Complainant,
vs.

OGC FILE NO. 01-1651

HILLSBOROUGH COUNTY, FLORIDA

Respondent.
_____ /

THIRD MODIFICATION TO CONSENT ORDER

This Third Modification to Consent Order is entered into between the State of Florida Department of Environmental Protection ("Department") and Hillsborough County, Florida ("Respondent") to modify certain terms and conditions of a Consent Order previously entered into between the parties.

The Department and the Respondent agree:

1. The Department and Respondent previously entered into a Consent Order to resolve certain disputes between the parties. The Consent Order, with the same caption and OGC Number as is set forth above, was filed with the Clerk of the Department on December 5, 2005.
2. The Department and Respondent entered into a First Modification to Consent Order on November 20, 2007, which provided that the Respondent's long-term management plan, known as the Interim Sediment Management Plan, approved by the Department on September 7, 2007, would expire by December 5, 2008.
3. The Department and Respondent entered into a Second Modification to Consent Order on December 2, 2008, which provided that the Respondent's long-term management plan, known as the Interim Sediment Management Plan, approved by the Department on September 7, 2007, would expire by December 5, 2009.

4. The Department acknowledges that the Respondent has completed assessment and corrective actions required by the Consent Order for the West Service Unit (9805 Sheldon Road Tampa), the South Service Unit (7820 Big Bend Road, Gibsonton), and the East Service Unit (4702 Sydney Road, Plant City). However, the Department and Respondent agree that completion of the assessment and corrective actions required by the Consent Order for the Central Service Unit (4115 S. 66th Street, Tampa) remain pending.

5. On April 17, 2005, Chapter 62-780, Florida Administrative Code, and amendments to Chapter 62-777, Florida Administrative Code, became effective. These rule changes do not apply to cleanup of the site addressed by the Consent Order unless Respondent elects for them to apply. Respondent desires to modify the Consent Order to apply these rule changes to the assessment and cleanup of the site.

6. The Department and Respondent agree to modify the facilities involved in the Consent Order and the requirements and time frames of the Consent Order.

IT IS THEREFORE ORDERED:

7. Except as expressly provided in this Third Modification to Consent Order, all terms of the original Consent Order described in Paragraph 1 of this Third Modification to Consent Order shall remain in full force and effect.

8. The West Service Unit (9805 Sheldon Road Tampa), the South Service Unit (7820 Big Bend Road, Gibsonton), and the East Service Unit (4702 Sydney Road, Plant City) shall herein be removed from the Consent Order with no further actions necessary at these locations. The Central Service Unit (4115 S. 66th Street, Tampa) shall remain in this Third Modification to Consent Order and subject to corrective action requirements of this Third Modification to Consent Order as amended herein.

9. Respondent shall initiate and complete site rehabilitation of the Central Service Unit (4115 S. 66th Street, Tampa), and any property onto which contamination has migrated from that property, in accordance with the provisions of Chapter 62-780, F.A.C., and 62-777, F.A.C.

10. For the purpose of establishing timeframes for completing work required by 62-780, F.A.C., the date of discovery of a discharge shall be the effective date of this Third Modification to Consent Order.

11. The Department acknowledges that Respondent has completed a portion of the work required by Chapter 62-780. Previous activities performed under the Contamination Assessment Plan have fully addressed all constituents of concern with the exception of delineation of arsenic in the groundwater. The parties therefore agree that Respondent's only remaining assessment task shall be completion and submission of a Site Assessment Report to the Department, pursuant to 62-780.600, F.A.C. specific to groundwater delineation for arsenic along the southern boundary of the facility within 270 days from the effective date of this Third Modification to Consent Order

12. The Department will review and process the Site Assessment Report in accordance with Rule 62-780.600(9), F.A.C.

13. Upon submittal of the Site Assessment Report to the Department, the Respondent shall commence and complete all further tasks required by Rule 62-780, F.A.C. in accordance with the requirements and time schedules identified in Rule 62-780, F.A.C.

14. Paragraph(s) 11, 12, 13, 15, 16, and 17 as well as Exhibits D, E, And F of the Consent Order that refer to the method and performance of assessment and/or remediation via the CAP/RAP process are hereby stricken in their entirety and replaced by the assessment and remediation process of 62-780 F.A.C.

15. Any references in the Consent Order to "Preliminary Contamination Assessment Actions" or "Corrective Actions for Contamination Site Cases" shall be deemed to refer to Chapter 62-780, F.A.C.

16. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of Paragraphs 9, 11, and 13 of this Third Modification to Consent Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment and shall do so as further described in Paragraphs 17 and 18, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order.

17. Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldeportal.com/go/pay/>. It will take a number of days after this order becomes final and effective filed with the Clerk of the Department before ability to make online payment is available.

18. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Steve Tafuni, Government Operations Consultant, Department of Environmental Protection, Southwest District Office, 13051 North Telecom Parkway, Suite 101, Temple Terrace, Florida, 33637-0926.

19. Respondent acknowledges and waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, on the terms of this Third Modification to Consent Order. Respondent acknowledges its right to appeal the terms of this Third Modification to Consent Order pursuant to Section 120.68, Florida Statutes, and waives that right upon signing this Third Modification to Consent Order.

20. Respondent shall publish the following notice in a newspaper of daily circulation in Hillsborough County, Florida. The notice shall be published one time only within 15 days after the effective date of this Third Modification to Consent Order by the Department.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF MODIFICATION TO CONSENT ORDER

The Department of Environmental Protection gives notice of agency action of entering into a Modification to Consent Order with the Hillsborough County Board of County Commissioners pursuant to Section 120.57(4), Florida Statutes. The Modification to Consent Order addresses the storage and management of ditch cleanings, industrial wastewater from equipment and vehicle washing, and stormwater catch basin sediments at four Hillsborough County Public Works Department, Transportation Maintenance Division Service Units located at 4115 S. 66th Street, Tampa, Florida, 9805 Sheldon Road, Tampa, Florida, 7820 Big Bend Road, Gibsonton, Florida, and 4702 Sydney Road, Plant City, Florida. The Modification to Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, 13051 North Telecom Parkway, Temple Terrace, Florida 33637-0926.

Persons whose substantial interests are affected by this Modification to Consent Order have a right to petition for an administrative hearing on the Modification to Consent Order. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

(a) The Department's Modification to Consent Order identification number and the county in which the subject matter or activity is located; (b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; (c) An explanation of how the petitioner's substantial interests will be affected by the Modification to Consent Order; (d) A statement of when and how the petitioner received notice of the Modification to Consent Order; (e) A statement of the material facts disputed by petitioner. If there are none, the petition must so indicate; (f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Modification to Consent Order; (g) A statement of which rules or statutes the petitioner contends require reversal or modification of the Consent Order; and (h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Modification to Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, 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 decision of the Department with regard to the subject Modification to Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General

Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

A person whose substantial interests are affected by the Modification to Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Mediation is not available for this case.

21. Within 15 days from publication of the notice required by Paragraph 20 of this Third Modification of Consent Order, Respondent shall submit proof of such publication to the Department.

22. This Third Modification to Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:

4/19/18
Date

Sandra Murman
Sandra Murman, Chairman
Hillsborough County Board of County Commissioners

DONE AND ORDERED this 2ND day of May, 2018, in Hillsborough, Florida.

ATTEST: Pat Frank, Clerk

By: Minda K. D.
Deputy Clerk



STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Mary E. Yeargan
Mary Yeargan, P.G.
District Director
Southwest District

APPROVED BY THE COUNTY ATTORNEY

BY [Signature]
Approved As To Form And Legal Sufficiency.

BOARD OF COUNTY COMMISSIONERS
HILLSBOROUGH COUNTY FLORIDA
DOCUMENT NO. 18-0397

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

Rhonda Hughes
Clerk

May 3, 2018
Date

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35