



FLORIDA DEPARTMENT OF Environmental Protection

Ron DeSantis
Governor

Jay Collins
Lt. Governor

Alexis A. Lambert
Secretary

Northeast District
8800 Baymeadows Way West, Suite 100
Jacksonville, Florida 32256

September 15, 2025

Lindsay Starner
Director Environmental Policy and Regulation
225 North Pearl Street
Jacksonville, Florida, 32202
scholn@jea.com

SUBJECT: Department of Environmental Protection v. JEA
OGC File No. 25-1475
Facility ID No. FL0026000
Duval County

Dear Ms. Starner:

Enclosed is the Consent Order to resolve the issues in the subject OGC File. Please review the Consent Order and, if you find it acceptable, sign and return the original document to this office within 14 days of receipt.

If you wish to modify the Consent Order, please respond to this office in writing within 14 days, explaining your concerns including any proposed changes.

If you have any questions concerning the Consent Order, please contact Conor Lucey at (904) 256-1674, or at Conor.Lucey@floridadep.gov. Your continued cooperation in the matter is greatly appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "T G Kallemeyn".

Thomas G. Kallemeyn
Assistant Director

Enclosure: JEA Buckman Consent Order # 25-1475

cc: FDEP-NED: Conor Lucey, Joni Petry, Herndon Sims, Sarah Harris
Ed Cordova, JEA corded@jea.com, Katie Bizub, JEA, bizukj@jea.com

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION)	IN THE OFFICE OF THE NORTHEAST DISTRICT
))
))
Complainant,))
)	OGC FILE NO.: 25-1475
vs.))
))
JEA))
))
Respondent.))
))

CONSENT ORDER

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

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (F.S.), and the rules promulgated and authorized in Title 62, Florida Administrative Code (F.A.C.). The Department has jurisdiction over the matters addressed in this Consent Order.
2. Respondent is a person within the meaning of section 403.031(9), F.S.
3. Respondent is the owner and is responsible for the operation of the Buckman WWTF, a 52.50 million gallon per day (MGD) annual average daily flow (AADF) permitted capacity activated sludge wastewater treatment with treated effluent discharging to surface water, Outfall D-001, located at Latitude 30° 21' 1.55" N, Longitude 81° 37' 15.73" W, within the St. Johns River (Facility). The Facility is operated under Wastewater Permit No. FL0026000-20-DW1P (Permit), which was issued on June 13, 2019, and expired on June 12, 2024. The Permit is

administratively extended until this order is executed, then a new permit shall be issued. The Facility is located at 2221 Buckman Street, Jacksonville, in Duval County, Florida (Property). Respondent owns the Property on which the Facility is located.

4. The Department finds that the following violation(s) occurred:

a) Chronic Whole Effluent Toxicity (WET) failures have been recurring since the issuance of Permit in June 2019. The Permit was issued in conjunction with Administrative Order (AO) 200, for chronic toxicity issues. The permittee was to comply with the toxicity requirements by December 2023. The permittee failed to meet these Administrative Order WET requirements. The WET violations are noted in the table below:

Table 1: Chronic Whole Effluent Toxicity - IC25

<u>Date</u>	<u>Monitoring Location</u>	<u>Description</u>	<u>Result</u>	<u>Limits</u>	<u>Units</u>	<u>Statistical Base</u>
06/30/2025	EFD-1	IC25 Statre 7day Chr Mysid Bahia	54.87	100	percent	Minimum
06/30/2024	EFD-1	IC25 Statre 7day Chr Mysid Bahia	38.97	100	percent	Minimum
06/30/2023	EFD-1	IC25 Statre 7day Chr Mysid Bahia	33.93	100	percent	Minimum
04/30/2022	EFD-1	IC25 Statre 7day Chr Mysid Bahia	29.77	100	percent	Minimum
10/31/2021	EFD-1	IC25 Statre 7day Chr Mysid Bahia	15.3	100	percent	Minimum
01/31/2021	EFD-1	IC25 Statre 7day Chr Mysid Bahia	57.8	100	percent	Minimum
05/31/2020	EFD-1	IC25 Statre 7day Chr Mysid Bahia	65.41	100	percent	Minimum

02/29/2020	EFD-1	IC25 Statre 7day Chr Mysid Bahia	38.69	100	percent	Minimum
10/31/2022	EFD-1	IC25 Statre 7day Chr Mendoza	91.6	100	percent	Minimum

b) Permit Condition 1.A.1 "Effluent Limitations and Monitoring Requirements, Surface Water Discharges," sets effluent limitations for Aldrin and Total Cyanide. These limits were not met as shown in the Table below:

Table 2: Aldrin and Total Cyanide

<u>Date</u>	<u>Monitoring Location</u>	<u>Description</u>	<u>Result</u>	<u>Limit</u>	<u>Units</u>	<u>Statistical Base</u>
06/30/2024	EFD-1	Aldrin	0.01165	1.4E-4	µg/L	Annual Average
03/31/2024	EFD-1	Aldrin	0.0116875	1.4E-4	µg/L	Annual Average
12/31/2023	EFD-1	Aldrin	0.0059	1.4E-4	µg/L	Annual Average
09/30/2023	EFD-1	Aldrin	0.0058625	1.4E-4	µg/L	Annual Average
03/31/2022	EFD-1	Aldrin	0.0078125	1.4E-4	µg/L	Annual Average
12/31/2021	EFD-1	Aldrin	0.0078125	1.4E-4	µg/L	Annual Average
09/30/2021	EFD-1	Aldrin	0.0092625	1.4E-4	µg/L	Annual Average
06/30/2021	EFD-1	Aldrin	0.009275	1.4E-4	µg/L	Annual Average
03/31/2021	EFD-1	Aldrin	0.00375	1.4E-4	µg/L	Annual Average
12/31/2020	EFD-1	Aldrin	0.004025	1.4E-4	µg/L	Annual Average
04/30/2025	EFD-1	Cyanide, Total (as CN)	5.0	1.0	ug/L	Maximum

<u>Date</u>	<u>Monitoring Location</u>	<u>Description</u>	<u>Result</u>	<u>Limit</u>	<u>Units</u>	<u>Statistical Base</u>
12/31/2024	EFD-1	Cyanide, Total (as CN)	2.1	1.0	µg/L	Maximum
04/30/2019	EFD-1	Cyanide, Total (as CN)	5.5	1.0	µg/L	Maximum

c) Permit Condition 1.A.1 "Effluent Limitations and Monitoring Requirements, Surface Water Discharges," sets effluent limitations for Fecal Coliform, Enterococci, and Ultraviolet Light Dosage. These limits were not met as shown in the Table below:

Table 3: Fecal Coliform, Enterococci, and Ultraviolet Light Dosage

<u>Date</u>	<u>Monitoring Location</u>	<u>Description</u>	<u>Result</u>	<u>Limit</u>	<u>Units</u>	<u>Statistical Base</u>
09/30/2024	EFF-1	Ultraviolet Light Dosage	2.53	25	mW-s/sqcm	Minimum
07/31/2024	EFF-1	Ultraviolet Light Dosage	2.81	25	mW-s/sqcm	Minimum
02/29/2024	EFF-1	Ultraviolet Light Dosage	0	25	mW-s/sqcm	Minimum
12/31/2023	EFF-1	Ultraviolet Light Dosage	1.31	25	mW-s/sqcm	Minimum
09/30/2023	EFF-1	Ultraviolet Light Dosage	13.26	25	mW-s/sqcm	Minimum
07/31/2023	EFF-1	Ultraviolet Light Dosage	14.6	25	mW-s/sqcm	Minimum

<u>Date</u>	<u>Monitoring Location</u>	<u>Description</u>	<u>Result</u>	<u>Limit</u>	<u>Units</u>	<u>Statistical Base</u>
08/31/2019	EFD-1	Coliform, Fecal	2420	800	#/100mL	Maximum
12/31/2020	EFD-1	Coliform, Fecal	1050	800	#/100mL	Maximum
09/30/2023	EFD-1	Coliform, Fecal	1300	800	#/100mL	Maximum
05/31/2024	EFD-1	Coliform, Fecal	2420	800	#/100mL	Maximum
02/28/2025	EFD-1	Coliform, Fecal	2420	800	#/100mL	Maximum
02/28/2022	EFD-1	Enterococci	40.172	35	#/100mL	Monthly Geometric Mean

d) Permit Condition 1.A.1 "Effluent Limitations and Monitoring Requirements, Surface Water Discharges," sets effluent limitations for total recoverable iron, nickel, and total suspended solids. These limits were not met as shown in the Table below:

Table 4: Total Recoverable Iron, Nickel, Copper, and Total Suspended Solids

<u>Date</u>	<u>Monitoring Location</u>	<u>Description</u>	<u>Result</u>	<u>Limit</u>	<u>Units</u>	<u>Statistical Base</u>
12/31/2023	EFD-1	Iron, Total Recoverable	388.38	300	µg/L	Maximum
12/31/2019	EFD-1	Nickel, Total Recoverable	21.6	13	µg/L	Maximum
07/31/2021	EFD-1	Solids, Total Suspended	72.4	60	mg/L	Maximum
08/31/2022	EFD-1	Copper, Total Recoverable	10.5	7.45	µg/L	Maximum

e) The Department finds that the discharges as depicted above in the Table 1-4 are violations of Rule 62-620.300(5), F.A.C., which requires the facility to operate in a manner that is consistent with the terms of the Permit, and section 403.161(1)(a), F.S., which states that it is a violation to cause pollution so as to harm or injure human health or welfare, animal, plant, aquatic life or property.

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

ORDERED:

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

a) Within 60 days of the effective date of this Order, Respondent shall submit to the Department, Compliance Plans (Plans) to meet the permit effluent limits exceeded in Tables 2, 3, and 4 above.

b) The Plans may involve modifications to the Facility, modifications to the treatment processes, or reductions in the amount of contaminants entering the facility. The Plan shall be prepared and sealed by a professional engineer registered in the State of Florida and shall include a time schedule by which compliance shall be achieved. Respondent must receive written notification of review and acceptance of the Plans from the Department (Notification) prior to implementation. If the Plans are deemed incomplete by the Department, or if the Department Requests Further Information (RFI), the Respondent shall provide this information in a written response within 30 days of the date of the RFI.

c) The Plans shall be implemented within 30 days of the date of Notification, or the timeframe included within the accepted Compliance Plans.

d) Any design modifications to remedy the violations identified in paragraph 4 above and to ensure the Facility, including the effluent disposal system and associated collection system, will function in full and consistent compliance with

all applicable rules, shall be prepared and submitted to the Department under seal by a professional engineer registered in the state of Florida.

e) Respondent shall submit a complete application for a Department wastewater permit to construct the modifications submitted pursuant to the Plans, if such permit is required. In the event the Department requires additional information to process the permit application, Respondent shall provide a written response to information requested by the department within 30 days of the date of the request.

f) Within 60 days after completion of the construction, Respondent shall submit to the Department a Certification of Completion, prepared and sealed by a professional engineer registered in the State of Florida, stating that modifications to the Facility, effluent disposal system, and collection system have been constructed in accordance with the provisions of the Permit or, if no Permit is required, the design modification(s) submitted pursuant to the Plans.

6. The facility is currently operating under Toxicity Plan for Correction (PFC) dated July 25, 2022. The PFC outlines steps to correct the toxicity violations. This Toxicity Plan may need to be updated with current evaluation information for acute and chronic WET. The permittee also presented a toxicity study update, dated October 1, 2024, developed by consultant firm, CDM Smith. The recommendations and schedules in this study shall continue to be implemented. The paragraphs below provide procedures on updating the toxicity PFC.

a) The permittee shall update and develop the PFC in accordance with Department guidelines for acute and chronic WET. A copy of the PFC guidelines shall be provided to the permittee in a separate document. The standard components of the toxicity PFC shall be addressed and include the additional information below:

i) Specific steps that will be taken to identify the root cause of the whole chronic toxicity, and steps that will be implemented to address this root cause. If a root cause cannot be identified, the plan should consist of

steps that can be taken to address any potential causes of whole effluent toxicity based on reasonable scientific judgment.

- ii) A time schedule, with proposed intermediate milestone dates and submittal of progress reports, by which compliance with permit toxicity limits shall be achieved. This should include short-term and long-term goals for achieving compliance.
- iii) The PFC shall include a review of bioassay reports, pretreatment data, permit limitation exceedances, chemicals used in facility processes or in housekeeping.
- iv) If the data generated in 6(a)(iii) does not identify any chemical, process, or disinfectant issues that may have affected toxicity or if the proposed plant upgrades in 6(a)(i) do not correct the toxicity issues, then the PFC shall include an option to continue conducting formal Toxicity Identification Evaluation (TIE) per EPA-821-R-02-013.
- v) If the TIE identifies chemicals, processes, or disinfectant issues that contribute to toxicity, within 30 days, the plan should be revised to address these issues and submitted to the department. The revised plan should include updated timelines if needed.
- vi) The testing frequency shall be conducted bimonthly for acute and chronic WET. Acute and chronic toxicity results shall be submitted quarterly with progress reports, as noted in paragraph 8 below.
- vii) The Permittee shall schedule a semiannual meeting to discuss the toxicity progress updates, test results, and any proposals to show compliance with this Order.

7. Beginning on the first day of the month following the effective date of this Order, and lasting 48 months, the Respondent shall comply with the following WET interim limitations, as shown in Table 5, below:

Table 5 - WET Interim Limits

<u>Parameter</u>	<u>Units</u>	<u>Max/Min</u>	<u>Limit</u>	<u>Statistical Basis</u>	<u>Frequency of Analysis</u>	<u>Monitoring Site</u>	<u>Sample Type</u>
Chronic Whole Effluent Toxicity, 7-Day IC25 (<i>Americamysis bahia</i>)	percent	Min	Report	Single Sample	Bimonthly	EFD-1	24-hr FPC
Chronic Whole Effluent Toxicity, 7-Day IC25 (<i>Menidia beryllina</i>)	percent	Min	Report	Single Sample	Bimonthly	EFD-1	24-hr FPC

- a) Tests conducted pursuant to this monitoring program shall conform to Rule 62-4.246, Rule 62-160, and Rule 62-600, F.A.C., and 40 Code of Federal Regulations 136, as appropriate.
- b) Analyses shall be reported electronically using the Department's Electronic Discharge Monitoring Reports (DMR) System. Completed DMRs must be submitted by the 28th of the month following the month of operation.
- c) These monitoring requirements do not act as State of Florida Department of Environmental Protection Wastewater Permit effluent limitations, nor do they authorize or otherwise justify violation of the Florida Air and Water Pollution Control Act (Act), Part I, Chapter 403, F.S., during the pendency of this Order.

8. Every quarter after the effective date of this Order and continuing until all corrective actions have been completed, Respondent shall submit to the Department a written report containing information about the status and progress of projects being completed under this Order, information about compliance or noncompliance with the applicable requirements

of this Order, including construction requirements and effluent limitations, and any reasons for noncompliance. These reports shall also include a projection of the work Respondent will perform pursuant to this Order during the 12-month period which will follow the report. Respondent shall submit the reports to the Department within 30 days following the end of each quarter.

9. Respondent shall complete all corrective actions required by paragraphs 5-10 within four years of the effective date of this Order, and be in full compliance with Rule 62-620.300, F.A.C.

10. **Within 30 days of the effective date of this Order**, Respondent shall pay the Department \$24,750.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$24,000.00 for civil penalties and \$750.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The civil penalties in this case include 6 violations that each warrant a penalty of \$4,000.00 or more.

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

12. In lieu of making cash payment of \$24,000.00 in civil penalties as set forth in paragraph 10 above, Respondent may elect to off-set this amount by implementing an in-kind penalty project, which must be approved by the Department. An in-kind project must be either an environmental enhancement, environmental restoration, or a capital/facility improvement project, and may not be a corrective action requirement of the Order or otherwise required by law. The Department may also consider the donation of environmentally sensitive land as an

in-kind project. The value of the in-kind penalty project shall be one and a half times the civil penalty offset amount, which in this case is the equivalent of at least \$36,000.00. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election by certified mail within 15 days of the effective date of this Consent Order. Notwithstanding the election to implement an in-kind project, payment of the remaining \$750.00 in costs must be paid within 30 days of the effective date of this Consent Order. If Respondent elects to implement an in-kind project as provided in paragraph 12, then Respondent shall comply with all of the requirements and time frames found in Exhibit A: In-Kind Projects.

13. Respondent agrees to pay the Department stipulated penalties in the amount of \$200.00 per day for each and every day Respondent fails to timely comply with any of the requirements of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment and shall do so as further described in paragraph 14 below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any stipulated penalties assessed under this paragraph shall be in addition to the civil penalties agreed to in paragraph 10 of this Order. In lieu of making cash payment of the amount required under this paragraph (stipulated penalties) above, the Department, at its discretion, may allow Respondent to offset this amount by implementing an in-kind project, which must be approved by the Department.

14. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Wastewater, Compliance Assurance Program, Department of Environmental Protection, 8800 Baymeadows Way West Suite 100, Jacksonville, Florida 32256.

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

16. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its

right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

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

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

19. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$15,000.00 per day per violation, and criminal penalties.

20. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, F.S., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, F.S.

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

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

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

24. Respondent shall publish the following notice in a newspaper of daily circulation in Duval County, Florida. The notice shall be published one time only within 30 days of the effective date of this Order. Respondent shall provide a certified copy of the published notice to the Department within 10 days of publication.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF CONSENT ORDER

The Department of Environmental Protection (Department) gives notice of agency action of entering into a Consent Order with JEA pursuant to section 120.57(4), F.S. The Consent Order addresses the failure to meet permit limitations for effluent discharging into the St. Johns River at 2221 Buckman Street, Jacksonville, Florida. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, 8800 Baymeadows Way W, Jacksonville, FL.

Persons who are not parties to this Consent Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under sections 120.569 and 120.57, F.S. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Consent Order means that the Department's final action may be different from the position it has taken in the Consent Order.

The petition for administrative hearing must contain all of the following information:

- a) The name and address of each agency affected and each agency's file or identification number, if known;
- b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a

qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

- c) A statement of when and how the petitioner received notice of the agency decision;
- d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
- f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at 8800 Baymeadows Way West, Suite 100, Jacksonville, FL 32256. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, F.S. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, F.S. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, F.S., and Rule 62-110.106(12), F.A.C.

25. Rules referenced in this Order are available at

<http://www.dep.state.fl.us/legal/Rules/rulelist.htm>

FOR THE RESPONDENT:

Lindsay Starner
Director Environmental Policy and Regulation

Date

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this _____ day of _____, 2025, in Duval, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Gregory J. Strong
District Director
Northeast District



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

Clerk

Date

Copies furnished to:

Lea Crandall, Agency Clerk, Mail Station 35 (executed copy only)
FDEP: Conor Lucey, Joni Petry, Herndon Sims
DWRM: WCAPHQ@dep.state.fl.us (executed copy only)

Exhibit A
In-Kind Projects

I. **Introduction**

Proposal

a. Within 60 days of the effective date of this Consent Order, or of the Department's notification that applying stipulated penalties to an in-kind project is acceptable, Respondent shall submit, by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

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

c. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new proposal within 30 days of receipt of written notice. In the event that the revised proposal is not approved by the

Department, Respondent shall make cash payment of the civil penalties as set forth in paragraph 10 above, within 30 days of Department notice.

d. Within 120 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable Respondent shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within 120 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable then Respondent shall make cash payment of the civil penalties as set forth in paragraph 10 above, within 30 days of Department notice.

e. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to paragraph 12 above, Respondent shall complete the entire in-kind project.

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

g. In the event, Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited, and

the entire amount of civil penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$24,000.00 penalty, no additional penalties shall be assessed under paragraph 13 for failure to complete the requirement of this paragraph.

h. Within 15 days of completing the in-kind project, Respondent shall notify the Department, by certified mail, of the project completion and request a verification letter from the Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

i. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalty shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and

Respondent timely remits the \$24,000.00, no additional penalties shall be assessed under paragraph 13 for failure to complete the requirements of this paragraph.