

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)
OF ENVIRONMENTAL PROTECTION,)

IN THE OFFICE OF THE
SOUTHWEST DISTRICT

VS.)

OGC FILE NO. 09-3566

PINELLAS COUNTY,)
_____))

CONSENT ORDER

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

The Department finds, and Respondent neither admits nor denies 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 thereunder, Title 62, Florida Administrative Code ("F.A.C."). The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondent is a political subdivision of the State of Florida and a person within the meaning of Section 403.031(5), F.S.

3. Respondent is the owner and is responsible for the operation of the South Cross Bayou Wastewater Reclamation Facility, a 33.00 million gallons per day wastewater treatment facility with reclaimed water sent to a master reuse system, and advanced waste-treated effluent to Joe's Creek, thence to Boca Ciega Bay, a Class III water of the State, an Outstanding Florida Water and an Aquatic Preserve, as defined in Sections 403.086(1)(b) and 258.396, F.S., and Rule 62-302.700(9)(h)7, F.A.C., thence to Tampa Bay, a Class III water body, an Outstanding Florida Water and an Aquatic Preserve in Chapter 62-302, F.A.C., ("Facility"). For the purposes of this Consent Order, the sewage collection/transmission system that flows to the Facility is not a component of the definition of the Facility. Although the Facility is permitted for 33 mgd, it is currently only

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treating 21 mgd and only 7 mgd, on average, are discharged to surface waters. The Facility is located at 7401 54th Avenue North, St. Petersburg, Florida 33709. Respondent operates the Facility under Wastewater Permit No. FL0040436, which will expire March 11, 2012 ("Permit"). The Permit constitutes authorization to discharge to waters of the State under the National Pollution Discharge Elimination System. This Consent Order does not supersede Consent Order OGC File No. 92-0095.

4. The Department finds that, from a review of the Discharge Monitoring Reports ("DMRs") for the period of May 2007 through January 2010, the following violations occurred:

- a) The total phosphorus monthly average limit was exceeded three times.
- b) The total phosphorus weekly average limit was exceeded five times.
- c) The total phosphorus single sample maximum limit was exceeded 13 times.
- d) The total nitrogen single sample maximum limit was exceeded twice.
- e) The CBOD₅ single sample maximum limit was exceeded twice.
- f) The pH minimum criterion was not met 34 times.
- g) the pH maximum limit was exceeded seven times.
- h) The total residual chlorine minimum criterion for high-level disinfection was not met 80 times.
- i) The total suspended solids single sample maximum limit was exceeded 26 times.
- j) The copper single sample maximum limit was exceeded nine times.
- k) The dibromo-chloromethane annual average limit was exceeded 21 times.
- l) The dichloro-bromomethane annual average limit was exceeded 21 times.
- m) The minimum chronic toxicity endpoint for *Mysidopsis bahia* was not met twice.

5. The Department finds that, from an inspection conducted June 10, 2009 of the Facility, the eight sand filters were out of service. The Department was not notified of this interruption of treatment prior to its discovery during the inspection.

6. The Department findings in Paragraphs 4 and 5 constitute violations of Chapter 403, F.S., and Rules 62-302.530(23), 62-302.530(47)(a), 62-302.530(51)(c), 62-302.530(35)(b)2, 62-302.530(35)(b)5, 62-302.530(61), 62-600.440(5)(a), 62-600.440(5)(b), 62-600.410(1), 62-620.610(7) and 62-620.610(20), F.A.C.

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

7. The Department, in consideration of and in exchange for Respondent's commitment and agreement to adhere to the requirements of this Consent Order, hereby conditionally waives its right to sue Respondent for the violations addressed by this Consent Order or to seek judicial imposition of damages, civil penalties, or administrative penalties for violations through the date of the filing of this Consent Order of the effluent quality exceedances and operational issues addressed in this Consent Order or addressed in Warning Letter No. WL09-0001DW52SWD, dated January 7, 2009, inspection reports or DMRs generated through the date of filing of the Consent Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Consent Order. If Respondent fails to comply with any of the terms and conditions of this Consent Order, the conditions of the waiver will be considered not to have been met and the waiver will not become effective.

a) Respondent further agrees not to assert any claims of waiver or estoppel against the Department in the event Respondent fails to comply with any requirement of this Consent Order, and the Department, as a result thereof, elects to pursue Respondent for civil penalties assessed as a result of Respondent's non-compliance with the terms of this Consent Order.

b) Respondent acknowledges and agrees that in no event shall this paragraph be construed to apply as a waiver by the Department to undertake causes of action not addressed by this Consent Order.

c) The Department's conditional waiver of its right to sue as detailed in sub-paragraph 7(a) is also expressly conditioned upon Respondent's complete and timely performance of all requirements set forth in this paragraph.

d) Notwithstanding, Respondent's failure to properly budget or appropriate funds will not act to relieve or excuse Respondent for the non-performance of its obligations hereunder. Respondent shall comply with the following corrective actions within the stated time periods:

8. Effective immediately, Respondent shall ensure that the Facility and equipment function as intended or as provided by this Consent Order. Respondent shall report to the

Department any equipment malfunctions that affect treatment or disposal in contravention of this Consent Order. Respondent shall report to the Department any wastewater or effluent discharges from the Facility not permitted or not authorized by the Consent Order. Respondent shall report these events as soon as possible, but within 24 hours from when Respondent becomes aware of the abnormal event, as required by Rules 62-604.550 and 62-620.610(20), F.A.C.

9. Within 30 days of the effective date of this Consent Order, Respondent shall operate in compliance with the water quality standards for total nitrogen, pH, CBOD₅, total suspended solids and toxicity as defined in Section 403.086(4), F.S., and the Permit limits by reducing the source of these constituents, by treating to reduce these constituents in the effluent or by demonstrating entitlement to administrative relief. However, if a Permit revision or an additional Department permit or authorization is required to attain compliance, Respondent must obtain the Permit revision, the additional Department permit, or authorization prior to placing any modifications into operation.

10. By May 31, 2011, and thereafter, Respondent shall operate in compliance with the total chlorine residual requirement, as defined in Section 403.086(1), F.S., Rule 62-600.440(5), F.A.C., and the Permit. Respondent shall take whatever corrective actions are necessary to meet the total residual chlorine requirement in the Facility's effluent. However, if a Permit revision or an additional Department permit or authorization is required to attain compliance, Respondent must obtain the Permit revision, the additional Department permit, or authorization prior to placing any Facility modifications into operation.

11. Respondent continues to experience episodic problems with the continuous monitoring of total residual chlorine to both the surface water discharge and to the master reuse system. Beginning with the effective date of this Consent Order and lasting through May 31, 2011, Respondent shall continue to adhere to the procedures outlined in its approved "Operating Protocol for the South Cross Bayou WRF Reclaimed Water Reuse System", dated January 2002, with the following additional requirements.

- a) If Respondent's continuous monitoring indicates that total residual chlorine is below 1.25 mg/L while effluent is directed to the public access reuse system, Respondent shall perform amperometric titrations every 15 minutes to demonstrate chlorine residuals are at 1.25 mg/L or greater, in accordance with the Operating Protocol. Such demonstration is

necessary to determine if the continuous monitoring results represent true excursions, or monitoring equipment malfunctions. These four-times-per-hour titrations shall demonstrate whether the residual chlorine monitoring requirements of Respondent's permit have been met. Should the titrations indicate the actual chlorine residual is below 1.25 mg/L, Respondent shall adhere to the Operating Protocol and initiate a reject event.

b) If Respondent's continuous monitoring indicates that total residual chlorine is below 1.00 mg/L while effluent is directed to the surface water discharge, Respondent shall perform amperometric titrations once per hour to demonstrate total chlorine residuals are at 1.0 mg/L or greater. Such demonstration is necessary to determine if the continuous monitoring results represent true excursions, or monitoring equipment malfunctions. These hourly titrations shall demonstrate whether the residual chlorine monitoring requirements of Respondent's permit have been met.

12. By December 31, 2011, and thereafter, Respondent shall operate in compliance with the water quality standard for copper, as defined in Chapter 62-302, F.A.C., and the Permit limit by reducing the sources of copper, by treating to reduce copper so that the Facility's effluent complies with the water quality standard for copper, as defined in Rule 62-302.530(23), F.A.C. Respondent shall take whatever corrective actions are necessary to meet the limit for copper in the Facility's effluent. However, if a Permit revision or an additional Department permit or authorization is required to attain compliance, Respondent must obtain the Permit revision, the additional Department permit, or authorization prior to placing any Facility modifications into operation.

13. Upon the first month after the effective date of this Consent Order and lasting through December 31, 2011, the interim limit for copper for effluent discharged to surface waters from the Facility shall be 5.5 µg/L as a single sample maximum. The Interim Discharge Monitoring Report, incorporated herein as Attachment I, shall be used for reporting the interim limit value. This interim limit does not act as a State of Florida Department of Environmental Protection wastewater Permit effluent limitation or modified Permit limitation, nor does it authorize or otherwise justify a violation of the Florida Air and Water Pollution Control Act, Part I, Chapter 403, F.S., during the pendency of this Consent Order. The Interim DMR shall be mailed or hand delivered to the Department of Environmental Protection once each month and must be received by the Department no later than the 28th day following the end of the reporting period (e.g., the August

report would be due not later than September 28th). In addition to submitting the DMRs to the Department in accordance with the Permit, during the pendency of this Consent Order, Respondent shall submit copies of the DMRs to the Southwest District of the Department, pursuant to paragraph 29 of this Consent Order.

14. By June 30, 2013, and thereafter, Respondent shall operate in compliance with the water quality standard for dibromo-chloromethane, as defined in Chapter 62-302, F.A.C., and the Permit limit by reducing the sources of dibromo-chloromethane, by treating to reduce dibromo-chloromethane so that the Facility's effluent complies with the water quality standard for dibromo-chloromethane, as defined in Rule 62-302.530(35)(b)2, F.A.C. Respondent shall take whatever corrective actions are necessary to meet the limit for dibromo-chloromethane in the Facility's effluent. However, if a Permit revision or additional Department permit is required for the corrective actions, Respondent must obtain the Permit revision or Department permit prior to placing the modifications into operation. Respondent must govern its actions through submittal of appropriate information, applications, pertinent data, and responses to Department requests for additional information to comply with the water quality standard for dibromo-chloromethane by June 30, 2013, and thereafter.

15. Upon the first month after the effective date of this Consent Order and lasting through June 30, 2013, the interim limit for dibromo-chloromethane for effluent discharged to surface waters from the Facility shall be 90.0 µg/L as an annual average. The Interim Discharge Monitoring Report, incorporated herein as Attachment I, shall be used for reporting the interim limit value. This interim limit does not act as a State of Florida Department of Environmental Protection wastewater Permit effluent limitation or modified Permit limitation, nor does it authorize or otherwise justify a violation of the Florida Air and Water Pollution Control Act, Part I, Chapter 403, F.S., during the pendency of this Consent Order. The Interim DMR shall be mailed or hand delivered to the Department of Environmental Protection once each month and must be received by the Department no later than the 28th day following the end of the reporting period (e.g., the August report would be due not later than September 28th). In addition to submitting the DMRs to the Department in accordance with the Permit, during the pendency of this Consent Order, Respondent shall submit copies of the DMRs to the Southwest District of the Department, pursuant to paragraph 29 of this Consent Order.

16. By June 30, 2013, and thereafter, Respondent shall operate in compliance with the water quality standard for dichloro-bromomethane, as defined in Chapter 62-302, F.A.C., and the Permit limit by reducing the sources of dichloro-bromomethane, by treating to reduce dichloro-bromomethane so that the Facility's effluent complies with the water quality standard for dichloro-bromomethane, as defined in Rule 62-302.530(35)(b)5, F.A.C. Respondent shall take whatever corrective actions are necessary to meet the limit for dichloro-bromomethane in the Facility's effluent. However, if a Permit revision or additional Department permit is required for the corrective actions, Respondent must obtain the Permit revision or Department permit prior to placing the modifications into operation. Respondent must govern its actions through submittal of appropriate information, applications, pertinent data, and responses to Department requests for additional information to comply with the water quality standard for dichloro-bromomethane by June 31, 2013, and thereafter.

17. Upon the first month after the effective date of this Consent Order and lasting through June 30, 2013, the interim limit for dichloro-bromomethane for effluent discharged to surface waters from the Facility shall be 50 µg/L as an annual average. The Interim Discharge Monitoring Report, incorporated herein as Attachment I, shall be used for reporting the interim limit value. This interim limit does not act as a State of Florida Department of Environmental Protection wastewater Permit effluent limitation or modified Permit limitation, nor does it authorize or otherwise justify a violation of the Florida Air and Water Pollution Control Act, Part I, Chapter 403, F.S., during the pendency of this Consent Order. The Interim DMR shall be mailed or hand delivered to the Department of Environmental Protection once each month and must be received by the Department no later than the 28th day following the end of the reporting period (e.g., the August report would be due not later than September 28th). In addition to submitting the DMRs to the Department in accordance with the Permit, during the pendency of this Consent Order, Respondent shall submit copies of the DMRs to the Southwest District of the Department, pursuant to paragraph 29 of this Consent Order.

18. By December 31, 2011, and thereafter, Respondent shall operate in compliance with the water quality standard for total phosphorus, as defined in Section 403.086(1), F.S., and the Permit limit by reducing the sources of phosphorus, by treating to reduce phosphorus so that the Facility's effluent complies with the water quality standard for total phosphorus, as defined in

Section 403.086(1), F.S. Respondent shall take whatever corrective actions are necessary to meet the limit for total phosphorus in the Facility's effluent. However, if a Permit revision or an additional Department permit or authorization is required to attain compliance, Respondent must obtain the Permit revision, the additional Department permit, or authorization prior to placing any Facility modifications into operation.

19. Upon the first month after the effective date of this Consent Order and lasting through December 31, 2011, the interim limit for total phosphorus for effluent discharged to surface waters from the Facility shall be 3.0 mg/L as a single sample maximum. Upon the first month after the effective date of this Consent Order and lasting through December 31, 2011, the interim limit for total phosphorus for effluent discharged to surface waters from the Facility shall be 2.5 mg/L as a weekly average maximum. Upon the first month after the effective date of this Consent Order and lasting through December 31, 2011, the interim limit for total phosphorus for effluent discharged to surface waters from the Facility shall be 2.0 mg/L as a monthly average maximum. The Interim Discharge Monitoring Report, incorporated herein as Attachment I, shall be used for reporting the interim limit values. These interim limits do not act as a State of Florida Department of Environmental Protection wastewater Permit effluent limitations or modified Permit limitations, nor do they authorize or otherwise justify a violation of the Florida Air and Water Pollution Control Act, Part I, Chapter 403, F.S., during the pendency of this Consent Order. The Interim DMR shall be mailed or hand delivered to the Department of Environmental Protection once each month and must be received by the Department no later than the 28th day following the end of the reporting period (e.g., the August report would be due not later than September 28th). In addition to submitting the DMRs to the Department in accordance with the Permit, during the pendency of this Consent Order, Respondent shall submit copies of the DMRs to the Southwest District of the Department, pursuant to paragraph 29 of this Consent Order.

20. In any event, by June 30, 2013, and thereafter, the Facility shall be in compliance with all Department rules that are the subject of this Consent Order.

21. On or before June 15 and December 15 of each year during the pendency of this Consent Order, Respondent shall submit to the Department a written report containing information concerning the status and progress of projects being completed under this Consent Order,

information as to compliance or noncompliance with the applicable requirements of this Consent Order including construction requirements and effluent limitations, and any reasons for noncompliance. Such reports shall also include a projection of the work to be performed pursuant to this Consent Order during the following six-month period.

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

23. Respondent shall pay to the Department \$298,460.00 in settlement of the matters addressed in this Consent Order, excluding any penalties incurred under paragraph 25 of this Consent Order. This amount includes \$5,000.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order, \$277,460.00 in civil penalties for violation of Sections 403.086 and 403.161(1)(b), F.S., and Rules 62-302.530(23), 62-302.530(47)(a), 62-302.530(51)(c), 62-302.530(35)(b)2, 62-302.530(35)(b)5, 62-302.530(61), 62-600.440(5)(a), 62-600.440(5)(b), 62-600.410(1), 62-620.610(7) and 62-620.610(20), F.A.C., \$8,000.00 in civil penalties for violation of Rules 62-600.410(1) and 62-620.610(7), F.A.C., and \$8,000.00 in civil penalties for violation of Rule 62-620.610(20), F.A.C. Respondent shall make the payment as follows: \$16,360.00 in civil penalties and \$5,000.00 in costs within 120 days of the effective date of this Order, and 17 equal monthly installment payments of \$16,300.00 in civil penalties commencing within 120 days of the effective date of this Order. Final payment is due no later than January 31, 2012. Failure to timely make any installment payment shall accelerate the balance, which shall become immediately due. Payment shall be made by County check, cashier's check or money order. The instrument shall be made payable to the "Department of Environmental Protection" and shall include thereon the OGC File Number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund". The payment shall be sent to the Department of Environmental Protection, 13051 North

Telecom Parkway, Temple Terrace, Florida 33637-0926. For the purposes of settlement, the Department is not assessing civil penalties for those violations that occurred from April 2009 through the date of filing of this Consent Order.

24. In lieu of making full cash payment of the civil penalties set forth in paragraph 23, Respondent may, with prior approval of the Department, implement one or more in-kind penalty projects for \$234,768.00 of the settlement amount. An in-kind penalty project must be an environmental enhancement, environmental education, environmental restoration or a capital facility improvement project. The Department may also consider the donation of environmentally sensitive land. The total value of the in-kind penalty project shall be at least one and a half times the amount of the civil penalty which is being used for an in-kind project, which in this case, is the equivalent of at least \$352,152.00. Respondent submitted an in-kind penalty project proposal on May 6, 2010, to install odor control units at two sewage pump stations and the waste activated sludge ("WAS") storage tank at the South Cross Bayou WRF. The Department approved the in-kind penalty project proposal on May 7, 2010. Respondent shall remit the \$58,692.00 in civil penalties and \$5,000.00 in Department costs not subject to offset by an in-kind penalty project as follows: \$14,673.00 in civil penalties and \$5,000.00 in costs within 60 days of the effective date of this Order, and three equal monthly installment payments of \$14,673.00 commencing within 90 days of the effective date of this Order. Final payment is due no later than December 31, 2010. Failure to timely make any installment payment shall accelerate the balance, which shall become immediately due. Payment shall be made by County check, cashier's check or money order. The instrument shall be made payable to the "Department of Environmental Protection" and shall include thereon the OGC File Number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund". The payment shall be sent to the Department of Environmental Protection, 13051 North Telecom Parkway, Temple Terrace, Florida 33637-0926. If Respondent elects to implement the in-kind penalty project described above, Respondent shall comply with the following procedures and time frames:

- a) Respondent shall complete the in-kind project no later than December 31, 2011.
- b) Respondent shall provide the Department with a status report every six months after the project is approved documenting the progress being made on the implementation of the project.

- c) Respondent shall place appropriate signs during the implementation of the project indicating that Respondent's involvement with the project is the result of Department enforcement actions. Respondent may remove the signs after the project has been completed. However, after the project has been completed, Respondent shall not post any signs at the site indicating that the reason for the project was anything other than a Department enforcement action. If a specific project does not involve a physical site, then other similar type of public notification shall be required.
- d) Respondent shall forfeit the right to avail itself of the in-kind penalty option if Respondent fails to timely submit any requested information or documentation, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph. The unpaid balance of the remaining penalty, excluding the prorated amount for any completed in-kind project, as set forth in paragraph 23 of this Consent Order shall be due from Respondent to the Department within 30 days of notice.
- e) Respondent shall notify the Department within 30 days of completing the project of the project's 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. If upon review of the notification of completion the Department determines that the project cannot be accepted due to incompleteness or substantial deviation from the approved project, Respondent shall be notified in writing of the reasons which prevent acceptance of the projects. Respondent shall correct and redress all matters in the Department's written notice 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 any in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty payment option will be forfeited and the corresponding amount of civil penalties shall be due from Respondent to the Department within 30 days of receipt of the Department's notice. If the actual costs incurred in completing the project are less than the approved amount of the in-kind project, Respondent shall remit cash payment of the prorated difference to the Department within

30 days of the project completion. Otherwise, the Department shall provide a letter to Respondent acknowledging completion of the project.

25. Respondent agrees to pay the Department stipulated penalties in the amount of \$250.00 per day for each and every day Respondent fails to meet permit-imposed effluent limitations (except for total phosphorus, copper, dibromo-chloromethane or dichloro-bromomethane) or to timely comply with any of the requirements of paragraphs 8 through 12, 14, 16, 18, 20 and 39 of this Consent Order. Respondent also agrees to pay the Department stipulated penalties in the amount of \$2,500.00 per month for each and every month Respondent fails to meet the interim limit for total phosphorus, copper, dibromo-chloromethane or dichloro-bromomethane. A separate stipulated penalty shall be assessed for each violation of this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to the "Department of Environmental Protection" by County check, cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund". Payment shall be sent to the Department of Environmental Protection, 13051 North Telecom Parkway, Temple Terrace, Florida 33637-0926. The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Consent Order. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph 23 of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this paragraph.

26. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause

beyond the control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

27. With respect to any final agency action made by the Department regarding implementation of the requirements of this Consent Order, if Respondent objects to the final agency action, Respondent may file a Petition for Formal or Informal Administrative Hearing Proceeding, pursuant to Sections 120.569 and 120.57, F.S. The petition must conform with the requirements of Rule 62-110.106, F.A.C., and must be received by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3900, within 21 days of receipt of written notice from the Department of the final agency action Respondent wishes to challenge. Failure to file a petition in this time period shall constitute a waiver by Respondent of its right to request an administrative proceeding under Sections 120.569 and 120.75, F.S. The Department's final agency action upon expiration of the 21 day period if no petition is filed, or the Department's Final Order, shall be incorporated by reference into this Consent Order and made a part of it. All other aspects of this Consent Order shall remain in full force and effect.

28. Respondent shall allow all authorized representatives of the Department access to the property and Facility at reasonable times for determining compliance with the terms of this Consent Order and the rules and statutes of the Department.

29. Unless otherwise specified, all submittals and payments required by this Consent Order to be submitted to the Department shall be sent to the Department of Environmental

Protection, Domestic Wastewater Section, attn: Mr. Thomas Gucciardo, 13051 North Telecom Parkway, Temple Terrace, Florida 33637-0926.

30. This Consent Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Consent 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.

31. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order, including but not limited to undisclosed releases, contamination or polluting conditions.

32. The terms and conditions set forth in this Consent 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 Consent Order shall constitute a violation of Section 403.161(1)(b), F.S.

33. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages, civil penalties, or administrative penalties for violations through the date of the filing of this Consent Order of the effluent quality exceedances and operational issues addressed in this Consent Order, or addressed in Warning Letter No. WL09-0001DW52SWD, dated January 7, 2009, or addressed in inspection reports or DMRs generated through the date of filing of this Consent Order.

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

35. Entry of this Consent Order does not relieve Respondent of the need to comply with applicable federal, state or local laws, regulations or ordinances.

36. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent and the Department.

37. 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 Consent Order. Respondent

acknowledges its right to appeal the terms of this Consent Order, pursuant to Section 120.68, F.S., and waives that right upon signing this Consent Order.

38. 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.

39. Respondent shall publish the following notice in a newspaper of daily circulation in Pinellas County, Florida. The notice shall be published one time only within 15 days after the effective date of the Consent Order. Respondent shall provide a copy of the notice to the Department within 10 days of publication.

NOTICE OF CONSENT ORDER

The Department of Environmental Protection ("Department") gives notice of agency action of entering into a Consent Order with Pinellas County, pursuant to Section 120.57(4), F.S. The Consent Order addresses exceedences of water quality standards in the effluent discharged to Joe's Creek and Boca Ciega Bay from the South Cross Bayou Water Reclamation Facility located at 7401 54th Avenue North, St. Petersburg, Florida 33709. 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, Southwest District, 13051 North Telecom Parkway, Temple Terrace, Florida 33637-0926.

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 OGC Number assigned to this Consent Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order;
- d) A statement of when and how the petitioner received notice of the Consent Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Consent Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Consent Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the Southwest District Office at 13051 North Telecom Parkway, Temple Terrace, FL 33637-0926. 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.

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

For Respondent:

Date

Karen Williams Seel
Chairman
Pinellas County Board of County Commissioners
315 Court Street, 5th Floor
Clearwater, FL 33756

Attested to by the County Clerk
Pinellas County

Reviewed and approved by
James L. Bennett
County Attorney
Pinellas County

APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY

By James L. Bennett
Attorney

DONE AND ORDERED this _____ day of _____, 2010, in Hillsborough County, Florida.

State of Florida Department
of Environmental Protection

Deborah A. Getzoff
District Director
Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926

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

Date

Clerk

Attachment: Interim Discharge Monitoring Report

Attachment I DEPARTMENT OF ENVIRONMENTAL PROTECTION DISCHARGE MONITORING REPORT - PART A

When Completed mail this report to: Department of Environmental Protection, Wastewater Compliance Evaluation Section, MS 3551, 2600 Blair Stone Road, Tallahassee, FL 32399-2400

PERMITTEE NAME: Pinellas County Utilities
MAILING ADDRESS: 14 South Ft. Harrison Avenue
Clearwater, FL 33756

PERMIT NUMBER FL0040436

OGC No. 09-3566

FACILITY: South Cross Bayou AWWTF
LOCATION: 7401 -- 54th Avenue North
St. Petersburg, FL 33709

LIMIT: Interim
CLASS SIZE: Major

REPORT: Monthly
GROUP: Domestic

MONITORING GROUP NUMBER: D-001
MONITORING GROUP DESC: Surface water discharge, including Influent

COUNTY: Pinellas

NO DISCHARGE FROM
SITE:

☐

MONITORING PERIOD From: _____ To: _____

Parameter		Quantity or Loading		Units	Quality or Concentration			Units	No. Ex.	Frequency of Analysis	Sample Type
Flow (D-001)	Sample Measurement										
PARM Code 50050 Y Mon.Site No. FLW-01	Permit Requirement	20.0 (An.Avg.)		MGD						Monthly	Calculation
Flow (D-001)	Sample Measurement										
PARM Code 50050 I Mon.Site No. FLW-01	Permit Requirement	Report (Mo.Avg.)		MGD						Continuous	Flow Totalizer
BOD, Carbonaceous 5 day, 20C	Sample Measurement										
PARM Code 80082 Y Mon.Site No. EFA-01	Permit Requirement				5.0 (An.Avg.)			MG/L		Monthly	Calculation
BOD, Carbonaceous 5 day, 20C	Sample Measurement										
PARM Code 80082 A Mon.Site No. EFA-01	Permit Requirement				6.25 (Mo.Avg.)	7.5 (Wk.Avg.)	10.0 (Max.)	MG/L		7 Days/Week	24-hr. FPC
Solids, Total Suspended	Sample Measurement										
PARM Code 00530 Y Mon.Site No. EFA-01	Permit Requirement				5.0 (An.Avg.)			MG/L		Monthly	Calculation
Solids, Total Suspended	Sample Measurement										
PARM Code 00530 A Mon.Site No. EFA-01	Permit Requirement				6.25 (Mo.Avg.)	7.5 (Wk.Avg.)	10.0 (Max.)	MG/L		7 Days/Week	24-hr. FPC

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NAME/TITLE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT	SIGNATURE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT	TELEPHONE NO	DATE (YY/MM/DD)

COMMENT AND EXPLANATION OF ANY VIOLATIONS (Reference all attachments here):

Form prepared 5/13/10

Attachment I DISCHARGE MONITORING REPORT - PART A (Continued)

FACILITY: South Cross Bayou AWWTF
OGC File No. 09-3566

MONITORING GROUP NUMBER: D-001
MONITORING PERIOD From: _____ To: _____

PERMIT NUMBER: FL0040436
Interim

Parameter		Quantity or Loading	Units	Quality or Concentration			Units	No. Ex.	Frequency of Analysis	Sample Type
Nitrogen, Total (as N)	Sample Measurement									
PARM Code 00600 Y Mon.Site No. EFA-01	Permit Requirement			3.0 (An.Avg.)			MG/L		Monthly	Calculation
Nitrogen, Total (as N)	Sample Measurement									
PARM Code 00600 A Mon.Site No. EFA-01	Permit Requirement			3.75 (Mo.Avg.)	4.5 (Wk.Avg.)	6.0 (Max.)	MG/L		7 Days/Week	24-hr. FPC
Phosphorus, Total (as P)	Sample Measurement									
PARM Code 00665 Y Mon.Site No. EFA-01	Permit Requirement			1.0 (An.Avg.)			MG/L		Monthly	Calculation
Phosphorus, Total (as P)	Sample Measurement									
PARM Code 00665 A Mon.Site No. EFA-01	Permit Requirement			2.0 (Mo.Avg.)	2.5 (Wk.Avg.)	3.0 (Max.)	MG/L		7 Days/Week	24-hr. FPC
Solids, Total Suspended	Sample Measurement									
PARM Code 00530 B Mon.Site No. EFB-01	Permit Requirement					5.0 (Max.)	MG/L		7 Days/Week	Grab
pH	Sample Measurement									
PARM Code 00400 1 Mon.Site No. EFD-01	Permit Requirement			6.5 (Min.)		8.5 (Max.)	SU		Continuous	Meter
Coliform, Fecal, % less than detection	Sample Measurement									
PARM Code 51005 A Mon.Site No. EFA-01	Permit Requirement			75 (Min.)			PER-CENT		Monthly	Calculation
Coliform, Fecal	Sample Measurement									
PARM Code 74055 A Mon.Site No. EFA-01	Permit Requirement					25 (Max.)	#/100ML		7 Days/Week	Grab
Total Residual Chlorine (For Disinfection)	Sample Measurement									
PARM Code 50060 A Mon.Site No. EFA-01	Permit Requirement					1.0 (Min.)	MG/L		Continuous	Meter
Total Residual Chlorine (For Dechlorination)	Sample Measurement									
PARM Code 50060 1 Mon.Site No. EFD-01	Permit Requirement					0.01 (Max.)	MG/L		7 Days/Week	Grab

Attachment I DISCHARGE MONITORING REPORT - PART A (Continued)

FACILITY: South Cross Bayou AWWTF
OGC File No. 09-3566

MONITORING GROUP NUMBER: D-001

MONITORING PERIOD From: _____ To: _____

PERMIT NUMBER: FL0040436

Interim

Parameter		Quantity or Loading	Units	Quality or Concentration	Units	No. Ex.	Frequency of Analysis	Sample Type
Copper, Total Recoverable	Sample Measurement							
PARM Code 01119 1 Mon.Site No. EFD-01	Permit Requirement			5.5 (Max.)	UG/L		Monthly	Grab
Cyanide, Total (as CN)	Sample Measurement							
PARM Code 00720 1 Mon.Site No. EFD-01	Permit Requirement			Report (Max.)	UG/L		Monthly	Grab
Phenolic Compounds, Total Recoverable	Sample Measurement							
PARM Code 70029 1 Mon.Site No. EFD-01	Permit Requirement			Report (Max.)	UG/L		Monthly	Grab
Chlorodibromomethane	Sample Measurement							
PARM Code 34306 Y Mon.Site No. EFD-01	Permit Requirement			90.0 (An.Avg.)	UG/L		Monthly	Calculation
Chlorodibromomethane	Sample Measurement							
PARM Code 34306 1 Mon.Site No. EFD-01	Permit Requirement			Report (Max.)	UG/L		Monthly	Grab
Dichlorobromomethane	Sample Measurement							
PARM Code 32101 Y Mon.Site No. EFD-01	Permit Requirement			50.0 (An.Avg.)	UG/L		Monthly	Calculation
Dichlorobromomethane	Sample Measurement							
PARM Code 32101 1 Mon.Site No. EFD-01	Permit Requirement			Report (Max.)	UG/L		Monthly	Grab
Oil and Grease	Sample Measurement							
PARM Code 00556 1 Mon.Site No. EFD-01	Permit Requirement			5.0 (Max.)	MG/L		Monthly	Grab
Atrazine	Sample Measurement							
PARM Code 39033 1 Mon.Site No. EFD-01	Permit Requirement			Report (Max.)	UG/L		Monthly	Grab
Flow (Total Plant Flow)	Sample Measurement							
PARM Code 50050 P Mon.Site No. FLW-03	Permit Requirement	33.0 (An.Avg.)	MGD				Monthly	Calculation

Attachment I DISCHARGE MONITORING REPORT - PART A (Continued)

FACILITY: South Cross Bayou AWWTF
OGC File No. 09-3566

MONITORING GROUP NUMBER: D-001

PERMIT NUMBER: FL0040436

MONITORING PERIOD From: _____ To: _____ Interim

[illegible]