



# FLORIDA DEPARTMENT OF Environmental Protection

Central District Office  
3319 Maguire Blvd., Suite 232  
Orlando, Florida 32803

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

April 27, 2023

Marion County Board of County Commissioners  
Marion County Utilities  
11800 South US Highway 441  
Bellevue, Florida 34420

SUBJECT: Department of Environmental Protection v. Marion County Utilities, OGC  
File No.: 23-007  
Rainbow Lakes Estates, Facility ID 6424083

Mr. Kirkman:

The State of Florida Department of Environmental Protection ("Department") finds that Marion County Utilities ("Respondent") failed to monitor for Lead and Copper during the year of 2022, in violation of Chapter 62-550 Florida Administrative Code. Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violation. These actions have since been completed. However, due to the nature of the violation, the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

### The Department's Offer

Based on the violations described above, the Department is seeking \$3,000.00 in civil penalties and \$250.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$ 3,250.00. The civil penalties are apportioned as follows: \$3,000.00 for violation of Rule 62.550.730, F.A.C.

However, in lieu of paying the full civil penalty, the Department has determined that \$3,000.00 of the civil penalty may be offset through implementation of the In-Kind Project described in the attached Exhibit A. This amount is referred to as the "offset amount."

### **Respondent's Acceptance**

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Department at Department at Central District, 3319 Maguire Blvd. Suite 232, Orlando, FL 32803 by **June 19, 2023** [approved/revised due date]. The Department will then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

By accepting this offer you, Marion County Utilities:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final;
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.

The Department acknowledges that the Respondent's acceptance of this offer does not constitute an admission of liability for the violation(s) referenced above.

### **Respondent's Performance**

After signing and returning this document to the Department,

- (1) Upon signing this letter, you must implement the In-Kind Project in accordance with the requirements identified in the attached Exhibit A. You must begin the In-Kind Project within 30 days, and fully complete the In-Kind Project within 210 days of your signing this letter. Your failure to timely start or complete the In-Kind Project or timely provide the Department with the Final Report, will cause the In-Kind Project option to be forfeited and the balance of the civil penalty shall be due within 10 days of notice from the Department.
- (2) Respondent shall pay \$250.00 within 30 days of the effective date of this Order.
- (3) The payment(s) must: (a) be in the form of a cashier's check or money order; (b) be payable to the "Department of Environmental Protection"; (c) include the OGC Number assigned above and the notation "Water Quality Assurance Trust Fund"; and (d) be sent to the Department at Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando, FL 32803.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, F.S.

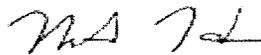
Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondent, whose interests will be substantially affected.

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.

Please be aware that if the Respondent declines to respond to the Department's offer, the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

If you have any questions, please contact Jennifer Parker at 407-897-4184 or at [Jennifer.Parker@FloridaDEP.gov](mailto:Jennifer.Parker@FloridaDEP.gov).

Sincerely,



*On behalf of:*

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Aaron Watkins  
District Director  
Central District

FOR THE RESPONDENT:

I, \_\_\_\_\_ [Type or Print Name], **HEREBY ACCEPT  
THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
[Signature]

Title: \_\_\_\_\_  
[Type or Print]

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**FOR DEPARTMENT USE ONLY**

DONE AND ORDERED this \_\_\_ day of \_\_\_\_\_, 2023, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

\_\_\_\_\_  
Aaron Watkins  
District Director  
Central 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

Attachments: Notice of Rights  
In-Kind Project Summary Exhibit

Final clerked copy furnished to:

Lea Crandall, Agency Clerk ([lea.crandall@dep.state.fl.us](mailto:lea.crandall@dep.state.fl.us))

## NOTICE OF RIGHTS

Persons who are not parties to this 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, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the 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 the address indicated above. 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, Florida Statutes. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.

## Exhibit A

### In-Kind Project Summary

*Marion County Utilities*

Rainbow Lakes Estates

Facility PWS # 6424083

19514 SW Rainbow Lakes Blvd

Dunnellon, FL 34431

Jennifer Parker, FDEP Central District Case Manager

A. **Project Description:** Marion County Utilities has proposed to replace approx. 600 ft of Asbestos Concrete (AC) pipe within the subdivision Rainbow Lakes Estates. The project will encompass in-house engineer plans, permitting and the County would contract the construction work to be completed to finish the project.

B. **Environmental and Economic Benefits:** The project will provide a more reliable, safe and environmentally friendly water main material for the drinking water system within the subdivision.

C. **Project Cost:** The projected cost for this project is approx. \$72,000 to replace the 600 ft of pipe.

#### Project Proposal:

[https://depdms.dep.state.fl.us:443/Oculus/servlet/shell?command=hitlist&\[freeText=\]&\[folderName=\]&\[profile=Enforcement\\_Legal\]&\[creator=\]&\[entityType=any\]&\[createdDateTo=\]&\[catalog=32\]&\[searchBy=Profile\]&\[sortBy=Document+Date\]&\[createdDate=\]&\[County= EQ MARION\]&\[District= EQ\\_CD\]&\[Facility-Site+ID= EQ\\_6424083\]](https://depdms.dep.state.fl.us:443/Oculus/servlet/shell?command=hitlist&[freeText=]&[folderName=]&[profile=Enforcement_Legal]&[creator=]&[entityType=any]&[createdDateTo=]&[catalog=32]&[searchBy=Profile]&[sortBy=Document+Date]&[createdDate=]&[County= EQ MARION]&[District= EQ_CD]&[Facility-Site+ID= EQ_6424083])