

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION	)	IN THE OFFICE OF THE SOUTHEAST DISTRICT
	)	
v.	)	OGC FILE NO. 17-0072
	)	
INDIAN RIVER COUNTY, FLORIDA, A political subdivision of the State of Florida	)	
	)	
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**CONSENT ORDER**

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and Indian River County, Florida, a political subdivision of the State of Florida (“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 and authorized in Title 62, Florida Administrative Code (“F.A.C.”). The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is 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 Indian River County Utilities West Regional Wastewater Treatment Plant (“Facility”), a 6.0 million gallons per day, “Bardenpho” process domestic wastewater treatment plant with disposal to the following permitted site designations: R-001, a created wetland treatment/reuse system; D-001, a surface water discharge from the created wetland treatment/reuse to the Lateral D Canal, Class III fresh Waters of the State; R-002, Part III public access reclaimed water for irrigation and industrial uses; and R-003, three on-site rapid infiltration basins. The Facility is operated under Department Wastewater Permit No. FL0041637-009 (attached and incorporated hereto as

Exhibit C), issued on March 15, 2016, with an effective date of April 12, 2016 and an expiration date of April 11, 2021. The Facility is located at 8405 8<sup>th</sup> Street, Vero Beach, Florida, 32968, Indian River County, Florida (“Property”). Respondent owns the Property on which the Facility is located.

4. The Facility’s Permit has a schedule of corrective actions to be conducted to improve the quality of effluent discharged to surface waters. Additionally, the Facility has been following a Compliance Action Plan submitted to the Department on January 14, 2016 in response to the Department’s Compliance Assistance Offer letter of December 17, 2015. The effluent discharged to surface waters improved during 2016 but did not meet Permit limits. A Second Compliance Action Plan was submitted to the Department on January 17, 2017 and is under review.

5. The Facility volunteered to temporarily cease discharges to surface waters in November of 2016.

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

a. From November 1, 2014 through February 28, 2017, the Facility exceeded Permit limits for multiple parameters at both D-001 and R-001 on numerous occasions, as listed in Exhibit A.

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

**ORDERED:**

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

a. Respondent shall not move forward with the activities proposed in the Second Compliance Action Plan until the Plan is approved by the Department, except for the proposed routine maintenance activities consisting of aquatic weed control and sediment removal. If the Department determines that the Second Compliance Action Plan deviates from the current Permit, a Permit revision may be required for those alterations. Changes in flow pattern do not require a Permit revision if the wetland treatment and disposal system meets the maximum hydraulic loading rate, maximum nutrient loading rates, and minimum detention time

as defined in Chapter 62-611, Florida Administrative Code. In addition, if the discharge to surface waters changes from intermittent to continuous, the current equivalent loading limits may have to be replaced with nutrient concentration limits through a Permit revision. Respondent shall obtain all necessary federal, state, and local permits, or confirm with the regulatory agencies that no permit is required, prior to making any alterations to the wetlands treatment and disposal system. Upon Department approval, the Second Compliance Action Plan shall be incorporated as an enforceable part of this Consent Order. Within 30 days of the Department's approval, the Respondent shall begin implementing the Second Compliance Action Plan.

b. If, after implementing the Second Compliance Action Plan, the Department determines that the effluent discharged at D-001 has not come into compliance with permit limits, the Respondent shall, within 30 days of Department notification, submit a draft Amended Second Compliance Action Plan to the Department for review before commencement of any additional changes. Within 30 days of the Department's approval, the Respondent shall begin implementing the Amended Second Compliance Action Plan, which upon approval shall also become an enforceable part of this Consent Order.

c. On or before April 12, 2017, Respondent shall submit to the Department the results of a comprehensive Industrial Waste Survey, as described in Permit Condition IV.1.2a. The permit requirement reads, in part:

*As actual WWTF loadings for influent CBOD5 and total suspended solids greatly exceed design loadings, evaluate users that do not meet the County's local pretreatment limits for CBOD5 and TSS by conducting a comprehensive Industrial Waste Survey that meets the requirements described in paragraph 62-625.500(2)(b), F.A.C.*

i) If the Industrial Waste Survey determines that the Indian River County Dewatering Facility discharge to the wastewater treatment plant exceeds the County's local limits for CBOD5 and TSS, Respondent shall complete corrective actions as described in Permit Conditions IV.1.2c-2d.

ii) If the Industrial Waste Survey fails to identify the source(s) of the high influent CBOD5 and TSS loadings, Respondent shall undertake further investigation to identify other sources and any sampling, analytical, or documentation errors that have

contributed to the high values reported for influent CBOD5 and TSS data. On or before June 15, 2017, Respondent shall submit a Supplemental Survey Report identifying any additional sources or reasons for the high influent CBOD5 and TSS values, with descriptions of how the supplemental survey was conducted, with a Plan and schedule for specific corrective actions. Upon Department approval, the Supplemental Survey Report and schedule shall be incorporated as an enforceable part of this Consent Order.

d. Respondent shall submit a Plan and Schedule for specific corrective actions to address permit limit exceedances at R-001 within 60 days from the effective date of this Consent Order. The Plan shall include interim measures for controlling Total Nitrogen and Total Phosphorus at R-001 to consistently meet permit limits while permanent corrective actions are implemented. Upon Department approval, the Plan and Schedule shall be incorporated as an enforceable part of this Consent Order. Within 30 days following the Department's approval, the Respondent shall begin implementing the Plan and Schedule.

e. Within 90 days of the effective date of this Consent Order, Respondent shall resolve the issue of exceedances that may be due to procedural errors by Respondent's contract laboratory, either by having the laboratory correct the procedures or by contracting a different laboratory certified to perform the analyses required. Respondent remains subject to enforcement for submission of invalid data and for noncompliance with permit limits for all samples.

f. Respondent shall timely complete the Compliance Schedule Improvement Items, as specified in Section VI., "Compliance Schedules," of the Permit. It will be considered a separate violation of the terms of this Consent Order for each and every Compliance Schedule Improvement Item that exceeded the applicable deadline due date.

g. Within 30 days of the effective date of this Consent Order, and within 30 days of the end of each calendar quarter thereafter, Respondent shall submit quarterly written Reports to the Department until this Consent Order has been closed by the Department. The Reports shall contain the following:

i) Information outlining the status and progress towards the completion of improvements to the Wetland Disposal System, as described in the Second Compliance Action Plan and any subsequent Plans.

ii) Information outlining the status and progress towards the completion of the mandated Compliance Schedule Action Improvement Items as specified in Section VI. of the Permit.

iii) Any issues of noncompliance experienced by this Facility, other than formerly requested, during the specified monitoring period as referenced.

h. Interim limits for D-001 and R-001 are identified in the tables below, and shall be effective from the executed date of this Consent Order through October 31, 2017. All other Permit limits and requirements for D-001 and R-001 remain in effect.

i) Interim limits for Discharge D-001:

Parameter	Units	Max/ Min	Effluent Limitations		Monitoring Requirements		
			Limit	Statistical Basis	Frequency of Analysis	Sample Type	Monitoring Site Number
BOD, Carbonaceous 5 day, 20C	mg/L	Max Max Max Max	Report	Annual Average Monthly Average Weekly Average Single Sample	Weekly	24-hr FPC	WEP-1
Solids, Total Suspended	mg/L	Max Max Max Max	Report	Annual Average Monthly Average Weekly Average Single Sample	Weekly	24-hr FPC	WEP-1
Nitrogen, Total	lb/yr	Max	Report	Annual Average	Monthly	Calculated	WEP-1
Nitrogen, Total	lb/day	Max Max Max	Report	Monthly Average Weekly Average Daily Average	Monthly	Calculated	WEP-1
Nitrogen, Ammonia, Total unionized (as N)	mg/L	Max	Report	Single Sample	Weekly	24-hr FPC	WEP-1
Phosphorus, Total (as P)	lb/yr	Max	Report	Annual Average	Monthly	Calculated	WEP-1
Phosphorus, Total (as P)	lb/day	Max Max Max	Report	Monthly Average Weekly Average Daily Average	Monthly	Calculated	WEP-1

ii) Interim limits for R-001:

Parameter	Units	Max/ Min	Effluent Limitations		Monitoring Requirements		
			Limit	Statistical Basis	Frequency of Analysis	Sample Type	Monitoring Site Number
Nitrogen, Total	mg/L	Max Max Max Max	Report	Annual Average Monthly Average Weekly Average Daily Average	Monthly	Calculated	WEP-1
Phosphorus, Total (as P)	mg/L	Max Max Max Max	Report	Annual Average Monthly Average Weekly Average Daily Average	Monthly	Calculated	WEP-1

i. Tests conducted pursuant to this monitoring program shall conform to 62-601, F.A.C.

j. 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.

k. Sampling of the discharge at D-001 shall be in accordance with the interim limit table in Subparagraph 7(h) above, beginning with the first day of the initial discharge.

l. The Respondent shall remain liable and the Department may demand stipulated penalties at any time for discharges to surface waters that result in Permit Limit exceedance violations that occur before or after the interim limit period.

m. If the effluent discharged to R-001 or D-001 is expected to continue to exceed Permit limits at the end of interim limit period, within 10 days of the end the interim limit period the Respondent may request, in writing, an extension of the interim limit period. The Department, when deciding to grant or deny the extension, shall consider if the Respondent has used all reasonable measures to prevent Permit limit exceedances. The Department will notify

the Respondent in writing whether the extension is granted or denied. If an extension is granted, the Department will also notify the Respondent of the duration of the extension.

8. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by this Consent Order within 2 years of the effective date of this Consent Order, and shall be in full compliance with Rule 62-620.300, F.A.C., regardless of any intervening events or alternative time frames imposed in this Order.

9. Within 90 days of the effective date of this Consent Order, Respondent shall submit a written estimate of the total cost of the corrective actions required by this Consent Order to the Department. The written estimate shall identify the information the Respondent relied upon to provide the estimate.

10. Within 60 days of the effective date of this Order, Respondent shall pay the Department \$10,500.00 in settlement of the regulatory matters addressed in this Consent Order. This amount includes \$10,00.00 for civil penalties and \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order.

11. Respondent agrees to pay the Department stipulated penalties in the amount of \$250.00 per day for each and every day Respondent fails to timely comply with any of the requirements of Paragraphs 7, 8, and 9 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 12, 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.

12. 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 and effective and filed with the Clerk of the Department before ability to make online payment is available.

### **In-Kind Option**

In lieu of making cash payment of \$10,000.00 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. 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 off-set amount, which in this case is the equivalent of at least **\$15,000.00**. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election by **electronic 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 \$500.00 in costs shall be paid within 60 days of the effective date of the Consent Order as further described in Paragraph 13, above.**

If Respondent elects to implement an in-kind project as provided in “*In Kind Option*” paragraph above, then Respondent shall comply with all of the requirements and time frames in **Exhibit B** entitled **In-Kind Projects**.

13. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Jeff Christian, Department of Environmental Protection, 3301 Gun Club Rd. MSC 7210-1, West Palm Beach, FL 33406. Electronic submittal may be made at [Jeff.Christian@dep.state.fl.us](mailto:Jeff.Christian@dep.state.fl.us).

14. 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 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. Neither economic circumstances nor 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 shall be considered circumstances 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 by the next working day and shall, within seven calendar days notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) 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. The agreement to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

15. 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.

16. 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.

17. 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.

18. 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 \$10,000.00 per day per violation, and criminal penalties.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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, Florida Statutes. 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 District Office at 3301 Gun Club Rd. MSC 7210-1, West Palm Beach, FL 33406. 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. 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, Florida Statutes. 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, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

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



**Exhibit A**

Exceedances for Discharge D-001:

<b>Date</b>	<b>Monitor Location</b>	<b>Parameter</b>	<b>Description</b>	<b>Result</b>	<b>Limit</b>	<b>Units</b>	<b>Statistical Base</b>
6/30/2015	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	7	6.0	mg/L	Maximum
6/30/2015	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	6.2	3.75	mg/L	Monthly Average
6/30/2015	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	6.2	4.5	mg/L	Weekly Average
4/30/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	7.3	6.0	mg/L	Maximum
4/30/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	4.2	3.75	mg/L	Monthly Average
5/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	3.46	3.0	mg/L	Annual Average
5/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	40	6.0	mg/L	Maximum
5/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	10.2	3.75	mg/L	Monthly Average
5/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	10.2	4.5	mg/L	Weekly Average
6/30/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	3.5	3.0	mg/L	Annual Average
6/30/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	16	6.0	mg/L	Maximum
6/30/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	6.2	3.75	mg/L	Monthly Average
6/30/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	6.2	4.5	mg/L	Weekly Average
7/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	4.02	3.0	mg/L	Annual Average
7/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	11.2	6.0	mg/L	Maximum
7/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	6.8	3.75	mg/L	Monthly Average
7/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	6.8	4.5	mg/L	Weekly Average
8/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	4.6	3.0	mg/L	Annual Average
8/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	11.9	6.0	mg/L	Maximum
8/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	6.7	3.75	mg/L	Monthly Average
8/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	6.7	4.5	mg/L	Weekly Average
9/30/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	5.15	3.0	mg/L	Annual Average
9/30/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	40	6.0	mg/L	Maximum
9/30/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	7.8	3.75	mg/L	Monthly Average
9/30/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	7.8	4.5	mg/L	Weekly Average
10/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	5.31	3.0	mg/L	Annual Average
10/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	4.6	3.75	mg/L	Maximum
10/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	4.6	4.5	mg/L	Weekly Average
11/30/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	5.24	3.0	mg/L	Annual Average
12/31/2016	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	5.5	3.0	mg/L	Annual Average
1/31/2017	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	5.87	3.0	mg/L	Annual Average
2/28/2017	WEP-1	P 80082	BOD, Carbonaceous 5 day, 20C	5.72	3.0	mg/L	Annual Average
6/30/2015	WEP-1	P 00980	Iron, Total Recoverable	196	1.0	ug/L	Maximum
12/31/2015	WEP-1	P 00980	Iron, Total Recoverable	20	1.0	ug/L	Maximum
6/30/2015	WEP-1	P 00600	Nitrogen, Total	2.3	2.0	mg/L	Maximum
6/30/2015	WEP-1	P 00600	Nitrogen, Total	2.13	1.25	mg/L	Monthly Average
6/30/2015	WEP-1	P 00600	Nitrogen, Total	2.13	1.5	mg/L	Weekly Average
9/30/2015	WEP-1	P 00600	Nitrogen, Total	1.3	1.25	mg/L	Monthly Average
10/31/2015	WEP-1	P 00600	Nitrogen, Total	1.36	1.25	mg/L	Monthly Average
11/30/2015	WEP-1	P 00600	Nitrogen, Total	1.26	1.25	mg/L	Monthly Average

Exceedances for Discharge R-001:

Date	Monitor Location	Parameter	Description	Result	Limit	Units	Statistical Base
2/29/2016	EFA-1	P 00600	Nitrogen, Total	23.9	12.0	mg/L	Maximum
2/29/2016	EFA-1	P 00600	Nitrogen, Total	15.33	7.5	mg/L	Monthly Average
2/29/2016	EFA-1	P 00600	Nitrogen, Total	15.33	9.0	mg/L	Weekly Average
4/30/2016	WEP-1	P 00600	Nitrogen, Total	1.43	1.25	mg/L	Monthly Average
5/31/2016	WEP-1	P 00600	Nitrogen, Total	1.75	1.25	mg/L	Monthly Average
5/31/2016	WEP-1	P 00600	Nitrogen, Total	1.75	1.5	mg/L	Weekly Average
7/31/2016	EFA-1	P 00600	Nitrogen, Total	6.3	6.0	mg/L	Annual Average
7/31/2016	EFA-1	P 00600	Nitrogen, Total	12.2	12.0	mg/L	Maximum
7/31/2016	EFA-1	P 00600	Nitrogen, Total	7.55	7.5	mg/L	Monthly Average
8/31/2016	EFA-1	P 00600	Nitrogen, Total	6.7	6.0	mg/L	Annual Average
8/31/2016	EFA-1	P 00600	Nitrogen, Total	16.7	12.0	mg/L	Maximum
8/31/2016	EFA-1	P 00600	Nitrogen, Total	11.4	7.5	mg/L	Monthly Average
8/31/2016	EFA-1	P 00600	Nitrogen, Total	14.25	9.0	mg/L	Weekly Average
9/30/2016	EFA-1	P 00600	Nitrogen, Total	6.8	6.0	mg/L	Annual Average
9/30/2016	EFA-1	P 00600	Nitrogen, Total	8.45	7.5	mg/L	Monthly Average
10/31/2016	EFA-1	P 00600	Nitrogen, Total	7	6.0	mg/L	Annual Average
10/31/2016	EFA-1	P 00600	Nitrogen, Total	13	12.0	mg/L	Maximum
10/31/2016	EFA-1	P 00600	Nitrogen, Total	8.65	7.5	mg/L	Monthly Average
11/30/2016	EFA-1	P 00600	Nitrogen, Total	7.4	6.0	mg/L	Annual Average
11/30/2016	EFA-1	P 00600	Nitrogen, Total	8.3	7.5	mg/L	Monthly Average
12/31/2016	EFA-1	P 00600	Nitrogen, Total	7.7	6.0	mg/L	Annual Average
1/31/2017	EFA-1	P 00600	Nitrogen, Total	7.9	6.0	mg/L	Annual Average
2/28/2017	EFA-1	P 00600	Nitrogen, Total	7.6	6.0	mg/L	Annual Average
2/28/2017	EFA-1	P 00600	Nitrogen, Total	14.7	12.0	mg/L	Maximum
2/28/2017	EFA-1	P 00600	Nitrogen, Total	12.23	7.5	mg/L	Monthly Average
2/28/2017	EFA-1	P 00600	Nitrogen, Total	12.23	9.0	mg/L	Weekly Average
4/30/2015	EFA-1	P 00665	Phosphorus, Total (as P)	1.6	1.5	mg/L	Maximum
5/31/2015	EFA-1	P 00665	Phosphorus, Total (as P)	4.2	1.5	mg/L	Maximum
5/31/2015	EFA-1	P 00665	Phosphorus, Total (as P)	2.084	0.94	mg/L	Monthly Average
5/31/2015	EFA-1	P 00665	Phosphorus, Total (as P)	2.084	1.125	mg/L	Weekly Average
6/30/2015	WEP-1	P 00665	Phosphorus, Total (as P)	0.183	0.125	mg/L	Monthly Average
6/30/2015	WEP-1	P 00665	Phosphorus, Total (as P)	0.183	0.15	mg/L	Weekly Average
6/30/2015	EFA-1	P 00665	Phosphorus, Total (as P)	1.8	1.5	mg/L	Maximum
6/30/2015	EFA-1	P 00665	Phosphorus, Total (as P)	0.992	0.94	mg/L	Monthly Average
8/31/2015	EFA-1	P 00665	Phosphorus, Total (as P)	3.2	1.5	mg/L	Maximum
8/31/2015	EFA-1	P 00665	Phosphorus, Total (as P)	2.05	0.94	mg/L	Monthly Average
8/31/2015	EFA-1	P 00665	Phosphorus, Total (as P)	2.05	1.125	mg/L	Weekly Average
9/30/2015	WEP-1	P 00665	Phosphorus, Total (as P)	0.13	0.125	mg/L	Monthly Average
9/30/2015	EFA-1	P 00665	Phosphorus, Total (as P)	3.7	1.5	mg/L	Maximum

9/30/2015	EFA-1	P 00665	Phosphorus, Total (as P)	1.293	0.94	mg/L	Monthly Average
9/30/2015	EFA-1	P 00665	Phosphorus, Total (as P)	1.293	1.125	mg/L	Weekly Average
10/31/2015	EFA-1	P 00665	Phosphorus, Total (as P)	3.6	1.5	mg/L	Maximum
10/31/2015	EFA-1	P 00665	Phosphorus, Total (as P)	1.162	0.94	mg/L	Monthly Average
10/31/2015	EFA-1	P 00665	Phosphorus, Total (as P)	1.162	1.125	mg/L	Weekly Average
12/31/2015	EFA-1	P 00665	Phosphorus, Total (as P)	0.768	0.75	mg/L	Annual Average
1/31/2016	EFA-1	P 00665	Phosphorus, Total (as P)	0.777	0.75	mg/L	Annual Average
2/29/2016	EFA-1	P 00665	Phosphorus, Total (as P)	0.777	0.75	mg/L	Annual Average
3/31/2016	EFA-1	P 00665	Phosphorus, Total (as P)	0.779	0.75	mg/L	Annual Average
4/30/2016	WEP-1	P 00665	Phosphorus, Total (as P)	0.129	0.125	mg/L	Monthly Average
4/30/2016	EFA-1	P 00665	Phosphorus, Total (as P)	0.889	0.75	mg/L	Annual Average
4/30/2016	EFA-1	P 00665	Phosphorus, Total (as P)	6	1.5	mg/L	Maximum
4/30/2016	EFA-1	P 00665	Phosphorus, Total (as P)	1.81	0.94	mg/L	Monthly Average
4/30/2016	EFA-1	P 00665	Phosphorus, Total (as P)	1.81	1.125	mg/L	Weekly Average
5/31/2016	WEP-1	P 00665	Phosphorus, Total (as P)	0.129	0.125	mg/L	Monthly Average
5/31/2016	EFA-1	P 00665	Phosphorus, Total (as P)	0.822	0.75	mg/L	Annual Average
5/31/2016	EFA-1	P 00665	Phosphorus, Total (as P)	3.8	1.5	mg/L	Maximum
5/31/2016	EFA-1	P 00665	Phosphorus, Total (as P)	1.28	0.94	mg/L	Monthly Average
5/31/2016	EFA-1	P 00665	Phosphorus, Total (as P)	2.135	1.125	mg/L	Weekly Average
6/30/2016	EFA-1	P 00665	Phosphorus, Total (as P)	0.794	0.75	mg/L	Annual Average
6/30/2016	EFA-1	P 00665	Phosphorus, Total (as P)	3.8	1.5	mg/L	Maximum
7/31/2016	EFA-1	P 00665	Phosphorus, Total (as P)	0.788	0.75	mg/L	Annual Average
8/31/2016	EFA-1	P 00665	Phosphorus, Total (as P)	5.2	1.5	mg/L	Maximum
8/31/2016	EFA-1	P 00665	Phosphorus, Total (as P)	1.506	0.94	mg/L	Monthly Average
8/31/2016	EFA-1	P 00665	Phosphorus, Total (as P)	5.2	1.125	mg/L	Weekly Average
1/31/2017	EFA-1	P 00665	Phosphorus, Total (as P)	1.6	1.5	mg/L	Maximum
2/28/2017	EFA-1	P 00665	Phosphorus, Total (as P)	0.766	0.75	mg/L	Annual Average
2/28/2017	EFA-1	P 00665	Phosphorus, Total (as P)	5	1.5	mg/L	Maximum
2/28/2017	EFA-1	P 00665	Phosphorus, Total (as P)	2.23	0.94	mg/L	Monthly Average
2/28/2017	EFA-1	P 00665	Phosphorus, Total (as P)	2.23	1.125	mg/L	Weekly Average

**Exhibit B**

**In-Kind Projects**

I. Introduction - An In-Kind project

a. Within 60 days of the effective date of this Consent Order, Respondent shall submit, by **electronic 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 fees 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 electronic mail, all requested additional information, clarification, and modifications within 15 days of receipts 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 of the matters at issue and submit, **by electronic 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 The Department's Offer paragraph above, within 30 days of Department notice.

d. Within 120 days of the effective date of this Consent Order, 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, then Respondent shall make cash payment of the civil penalties as set forth in the Department's Offer paragraph 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 a. 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 \$10,000.00 penalty, no additional penalties shall be assessed under Paragraph 10 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 electronic 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 of the matters at issue and submit, **by electronic 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 \$10,000.00 no additional penalties shall be assessed under Paragraph I.g. for failure to complete the requirements of this paragraph.