

Meeting Date
March 20, 2018



AGENDA	
Section	New Business
Item No.	III, A.1.

**AGENDA REPORT**  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Ratification of Florida Department of Environmental Protection (FDEP) Consent Order
DEPT/OFFICE:	Utility Services Department

**Requested Action:**  
 It is requested that the Board of County Commissioners ratify the execution of the Florida Department of Environmental Protection Consent Order dated February 27, 2018.

**Summary Explanation & Background:**

During severe weather (rainfall) associated with and after Hurricane Irma, the Brevard county sanitary sewer collection and transmission system experienced sanitary sewer discharges of approximately 20 million gallons of diluted sewage.

On October 19, 2017, FDEP notified the Utility Services Department (USD) of a pending consent order and requested a meeting be set up with staff. A meeting was scheduled and attended by staff on November 16, 2017 to discuss and negotiate a consent order.

On February 16, 2018 the FDEP consent order was received by the Utility Services Department. The consent order stipulated that the county will complete three projects by 2020. The three projects include the replacement of 3.4 miles of the North Riverside Force Main, slip lining gravity mains for reduction of inflow and infiltration (I & I) and the Satellite Beach Smoke Testing (Pilot Program) to identify I & I issues on private property. It should be noted that all three of the required projects are already in various stages of design and/or construction. FDEP requested that the document be signed and returned to them by February 23.

On February 22, 2018 Commissioner Chair Rita Pritchett signed the consent order at the request of the USD to meet the FDEP's legislative deadline.

At this time we would respectfully request the ratification of the Chair's execution of the attached consent order.

Fiscal Impact: \$500.00 Administrative Fee

Contact: Jim Helmer, Utility Services Director, 321-633-2091, [Jim.Helmer@brevardfl.gov](mailto:Jim.Helmer@brevardfl.gov)

Clerk to the Board Instructions:

Exhibits Attached: FDEP Consent Order

<b>Contract /Agreement (If attached):</b>	<b>Reviewed by County Attorney</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager Frank Abbate	Assistant County Manager John Denninghoff	Department Director / Extension
	Interim Assistant County Manager Jim Liesenfelt	Jim Helmer, Utility Services Director / x52091



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

March 21, 2018

MEMORANDUM

TO: Jim Helmer, Utility Services Director

RE: Item VI.A.1., Ratification for Florida Department of Environmental Protection (FDEP) Consent Order

The Board of County Commissioners, in regular session on March 20, 2018, approved ratifying the execution of the FDEP Consent Order dated February 27, 2018.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*

Tammy Rowe, Deputy Clerk

/ds

cc: Finance  
Budget



## Florida Department of Environmental Protection

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

Rick Scott  
Governor

Carlos Lopez-Cantera  
Lt. Governor

Noah Valenstein  
Secretary

February 27, 2018

Jim Helmer, Director  
Brevard County Utilities Department  
2725 Judge Fran Jamieson Way  
Viera, FL 32940  
[Jim.Helmer@brevardfl.gov](mailto:Jim.Helmer@brevardfl.gov)

Re: BCUD Irma SSO's  
OGC Case #18-0068

Dear Mr. : Helmer

Enclosed is the executed Consent Order to resolve the above referenced case. This copy is for your records.

Should you have any questions or comments, please contact Manuel F. Cardona at 407-897-4134 or via e-mail at [Manuel.Cardona@floridadep.gov](mailto:Manuel.Cardona@floridadep.gov).

Your cooperation in this matter will be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Prather", is written over a horizontal line.

Jeff Prather  
Director, Central District

Enclosure

cc: Shelley Locklear, [Shelley.Locklear@brevardfl.gov](mailto:Shelley.Locklear@brevardfl.gov)  
Mark Reagan, [Mark.Reagan@brevardfl.gov](mailto:Mark.Reagan@brevardfl.gov)  
Lea Crandall, OGC  
Reggie Phillips, Central District  
Manuel F. Cardona, Central District  
Adrienne Pennington, DWRM

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT )	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION )	CENTRAL DISTRICT
)	
v. )	OGC FILE NO. 18-0068
)	
BREVARD COUNTY )	
_____ )	

CONSENT ORDER

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

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes ("F.S."), and the rules promulgated and authorized in Title 62, Florida Administrative Code ("F.A.C."). The Department has jurisdiction over the matters addressed in this 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 Brevard County Utilities Department (BCUD) Port St. John wastewater treatment facility (WWTF) and collections system, 0.490 million gallons per day (MGD) annual average daily flow (AADF) domestic WWTF facility with land application (R-001), (R-002), and (R-003) ("Facility"). The Facility is operated under Wastewater Permit No. FLA102750 ("Permit"), which was issued on July 1, 2014 and will expire on June 30, 2019. The Facility is located at 3710 Juanita Street, Port St. John, FL 32927, in Brevard County, Florida ("Property"). Respondent owns the Property on which the Facility is located.
4. Respondent is the owner and is responsible for the operation of the BCUD South Beaches WWTF and collections system, an 8.0 MGD AADF domestic WWTF facility with

surface water discharge (D-001), underground injection (U-001), and land application (R-001) ("Facility"). The Facility is operated under Wastewater Permit No. FL0040622 ("Permit"), which was issued on March 13, 2014 and will expire on March 19, 2019. The Facility is located at 2800 South Highway A1A, Melbourne Beach, FL 32951, in Brevard County, Florida ("Property"). Respondent owns the Property on which the Facility is located.

5. Respondent is the owner and is responsible for the operation of the BCUD South Central Regional WWTF and collections system, a 6.0 MGD AADF domestic WWTF facility with surface water discharge (D-001) and land application (R-001) and (R-002) ("Facility"). The Facility is operated under Wastewater Permit No. FL0102679 ("Permit"), which was issued on May 5, 2016 and will expire on May 4, 2021. The Facility is located at 10001 North Wickham Road, Melbourne, FL 32940, in Brevard County, Florida ("Property"). Respondent owns the Property on which the Facility is located.

6. Respondent is the owner and is responsible for the operation of the BCUD Sykes Creek Regional WWTF and collections system, a 6.0 MGD AADF domestic WWTF facility with underground injection (U-001) and land application (R-001) ("Facility"). The Facility is operated under Wastewater Permit No. FLA102695 ("Permit"), which was issued on August 1, 2014 and will expire on July 31, 2019. The Facility is located at 3630 North Courtney Parkway, Melbourne, FL 32953, in Brevard County, Florida ("Property"). Respondent owns the Property on which the Facility is located.

7. Respondent is the owner and is responsible for the operation of the BCUD Barefoot Bay Advanced WWTF and collections system, a 0.900 MGD AADF domestic WWTF facility with surface water discharge (D-001) and land application (R-001) ("Facility"). The Facility is operated under Wastewater Permit No. FL0042293 ("Permit"), which was issued on September 10, 2013 and will expire on September 9, 2018. The Facility is located at 7773 Dottie Drive, Barefoot Bay, FL 32976, in Brevard County, Florida ("Property"). Respondent owns the Property on which the Facility is located.

8. The Department sent a Warning Letter (WL) on October 18, 2017 to the Respondent that addressed the following:

a) From September 11, 2017, through October 18, 2017, power outages, inflow, and collection system failures resulted in County-wide unauthorized releases totaling greater than 19,000,000 gallons of untreated wastewater to surface water and ground.

b) Since Hurricane Irma and subsequent heavy rainfall, the following reported SSOs as shown in the table below, have resulted in greater than 22,000,000 gallons being discharged.

**Table 1- SSOs and Spills**

Facility Name/ID	Date(s) of Overflow	Total Volume Spilled (gallons)	Source/Cause	Affected Area
Port St. John/FLA102750	9/12/17	372,443	Discharge/excessive rain	Retention pond
South Beaches/FL0040622	9/11/17-9/15/17	500	Manholes/excessive rain	Ground surface
South Beaches/FL0040622	9/11/17-9/22/17	57,600	LS-S17/excessive rain	Ground surface
South Beaches/FL0040622	9/13/17-9/25/17	10,676,250	LS-B20/excessive rain	Canal adjacent to the Banana River
South Beaches/FL0040622	10/1/18-10/10/17	8,950,000	LS-B20/excessive rain	Canal adjacent to the Banana River.
South Beaches/FL0040622	10/2/17	81,000	Manholes/excessive rain	Ground surface
South Beaches/FL0040622	10/2/17-10/9/17	150,000	Manholes/excessive rain	Ground surface
South Beaches/FL0040622	10/3/17-10/9/17	10,000	Manholes/excessive rain	Ground surface
South Beaches/FL0040622	10/3/17-10/17/17	5,000	Manholes/excessive rain	Ground surface
South Beaches/FL0040622	10/5/17-10/13/17	90,000	Manholes/excessive rain	Ground surface
South Beaches/FL0040622	10/17/17-10/19/17	1,901,250	LS-B20/excessive rain	DOT retention pond
South Central/FL0102679	9/12/17	10,000	Manholes/excessive rain	Ground surface
South Central/FL0102679	9/13/17	300	Manholes/excessive rain	Ground surface
South Central/FL0102679	9/15/17	10,000	Manholes/excessive rain	Ground surface
South Central/FL0102679	10/5/17-10/18/17	2,000	Manholes/excessive rain	Ground surface
South Central/FL0102679	10/25/17	3,496	LS-W15/excessive rain	Ground surface
Sykes Creek/FLA102695	9/14/17-9/15/17	200	Manholes/excessive rain	Ground surface

Sykes Creek/FLA102695	9/13/17-9/26/17	17,000	Manholes/excessive rain	Ground surface
Sykes Creek/FLA102695	10/2/17-10/10/17	10,000	Manholes/excessive rain	Ground surface
Sykes Creek/FLA102695	10/2/17-10/4/17	126,000	6" lateral/excessive rain	Ground surface
Barefoot Bay/FL0042293	10/5/17-10/7/17	309,400	Manholes/excessive rain	Canal behind 439 Egret Circle

9. In response to the overflows listed in Table 1, the Respondent took the following corrective action:

- a) Public notice signs, reverse notification, and press releases were used to alert the community of the affected areas and water usage restriction.
- b) On October 17, 2017, overflow from lift station B20 (South Beaches FL0040622) was diverted from the canal to a nearby Department of Transportation self-contained retention pond. The pond was aerated to assist with recovery.
- c) Vac trucks were used to collect the overflow from manholes into swales. Once the overflow ceased, areas were disinfected and re-sodded.

10. The Department finds that each of the discharges listed in Table 1 is a violation of Rule 62-604.130, F.A.C., which prohibits the release or disposal of excreta, sewage, or other wastewaters or domestic wastewater residuals without providing proper treatment approved by the Department.

11. In an effort to limit the occurrence of future sanitary sewer overflows, the Respondent has implemented the following projects:

- a) **N. Riverside FM Replacement** - replace the North Riverside Drive PVC Force Main (3.5 miles +/-) from East Eau Gallie Boulevard (SR 518) south to Oakland Avenue in Indialantic, Florida. Design is expected to take one year. Construction is expected to take approximately 1.5 years to complete. For purposes of this Order, respondent shall complete the project by 12/31/20. The total cost of the project is estimated at \$10 million.

b) **South Beaches Inflow & Infiltration Reduction Program** - rehabilitate the South Beaches collection system consisting of Vitrified Clay Pipe with the Cured-In-Place Pipe lining method. Basins to be lined are B-20, S-18, S-25, S-10, S-13, S-22 and S-08. The program began on 10/22/17 and shall be completed by 4/30/19. The total estimated cost of the project is \$1.9 million.

c) **Satellite Beach Smoke Testing (Pilot Program)** -Phase I: Preliminary Field Work, Investigations, and Work Plan Development. Phase II: Smoke Testing. Phase III: Baseline Sanitary Sewer Assessment and Presentation of Finding and Recommendations. Total estimated cost is \$185,000. All phases should be completed 4/30/19. Incorporated into this project will be an initiative to replace the clean out caps on residential owned systems and, educating the homeowners on their role in preventing sanitary sewer overflows during a storm event.

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

**ORDERED:**

13. Every quarter after the effective date of this Order and continuing until all corrective actions have been completed, Respondent shall submit to the Department a written report containing information about the status and progress of projects being completed under this Order, information about compliance or noncompliance with the applicable requirements of this Order, including construction requirements and effluent limitations, and any reasons for noncompliance. These reports shall also include a projection of the work Respondent will perform pursuant to this Order during the 12-month period which will follow the report. Respondent shall submit the reports to the Department within 30 days of the end of each quarter.

14. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions referenced in paragraph 11 on or before December 31, 2020 and be in full compliance with Chapter 62, F.A.C., regardless of any

intervening events or alternative time frames imposed in this Order, other than those excused delays agreed to by the Department, as described in paragraph 23.

15. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$14,237 in settlement of the regulatory matters addressed in this Order. This amount includes \$13,737 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 Order.

16. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph(s) 13,14 and 15 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 20, 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 15 of this Order.

17. In lieu of making cash payment of \$13,737 in civil penalties as set forth in paragraph 15 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. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election by certified mail within 15 days of the effective date of this Consent Order. Notwithstanding the election to implement an in-kind project, payment of the remaining \$500.00 in costs must be paid within 30 days of the effective date of the Consent Order.

18. If Respondent elects to implement an in-kind project as provided in paragraph 17, then Respondent shall comply with all of the requirements and time frames in Exhibit A, entitled In-Kind Projects.

19. 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 filed with the Clerk of the Department before ability to make online payment is available.

20. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Manuel F. Cardona, Environmental Specialist, Department of Environmental Protection, 3319 Maguire Boulevard, Suite 232, Orlando, FL 32803.

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

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 Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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 3319 Maguire Boulevard, Suite 232, Orlando, FL 32803. 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.

33. Rules referenced in this Order are available at

<https://softlive.dep.state.fl.us/ogc/ogc/content/rules>

FOR THE RESPONDENT:



(signature)

Rita Pritchett

(print name)

Chair

(print title)

2/27/18

Date

DONE AND ORDERED this 27th day of February 2018 in Orange County Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



Jeff Prather

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

February 27, 2018

Date

Copies furnished to:  
Lea Crandall, Agency Clerk  
Mail Station 35

Exhibit A

**In-Kind Projects**

1. Introduction

An in-kind project

- a. Within 60 days of the effective date of this Consent Order, Respondent shall submit, by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.
- b. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, Respondent shall submit, by certified mail, all requested additional information, clarification, and modifications within 15 days of 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 certified mail, a new proposal within 30 days of receipt of written notice. In the event

that the revised proposal is not approved by the Department, Respondent shall make cash payment of the civil penalties as set forth in paragraph 15 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 paragraph 15 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 1. (a) above, Respondent shall complete the entire in-kind project.

f. 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.