



PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY

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## ***WASTEWATER PERMIT COMPLIANCE IN CLEARWATER AND LARGO***

Florida's west coast is home to Pinellas County the northern region of which includes the Cities of Largo and, just 5 miles to its northwest, Clearwater. According to the last census, the two cities have populations of [84,948](#) and [116,946](#) respectively. Both cities are also just a few miles away from the Gulf of Mexico. The two cities are also served by multiple wastewater treatment plants, and these plants have a checkered history includes numerous violations of the wastewater permits that govern their operation. Given that the two cities, and the residents that they serve, are in close proximity to each other, we have opted to consider the regional impact of the plants serving those communities in the following white paper.

### ***Overview of the FDEP Compliance and Enforcement Process***

The Florida, Department of Environmental Protection (FDEP) is responsible for administering Florida's wastewater program. This program includes the administration of the federal Clean Water Act's (CWA) National Pollutant Discharge Elimination System (NPDES). The NPDES program regulates the discharges of wastewater to surface waters of the United States. The NPDES program is administered under an agreement between the FDEP and the U.S. Environmental Protection Agency (EPA). Under this agreement, the FDEP is responsible for drafting and issuing operating permits to each discharger, and then it is responsible for ensuring that the facilities comply with those permits. When compliance is not met, the FDEP is responsible for initiating enforcement designed to (a) bring the offending facility back into compliance, and (b) penalize the facility for the violations that have been committed.

Compliance is determined by evaluation of multiple areas. Those areas include the results of FDEP/EPA inspections, reviews of discharge monitoring reports (DMRs) that are sent monthly by each facility to the FDEP, and evaluations of notices of sanitary sewer overflows (SSOs) that are sent to the state when a facility experiences a breakdown in its collection system that leads to an unpermitted discharge of wastewater and/or reclaimed water to the environment.

When noncompliance issues are identified the FDEP has several options. For at least the last 20 years, the agency has been strongly disinclined to initiate formal enforcement. Instead, it now typically opts to send a Compliance Assistance Offer (CAO) to the facility telling it that enforcement will be waived if the facility agrees to work with the FDEP on resolution of the issue. Under this approach no penalties are assessed, and no formal administrative orders are issued. Additionally, it enables the permittee to claim to the public (and the FDEP to concur) that

it has not been the subject of an enforcement case. Should, however, the FDEP elect to be stricter, it can initiate formal enforcement by issuing a Warning Letter (Warning Letter) telling the facility that such enforcement is beginning, and that the facility must respond to the Warning Letter within a set time frame. After that, the parties typically meet and then enter into a settlement agreement called a consent order that addresses the noncompliance issues. If no agreement can be reached the FDEP has the option to initiate formal litigation either through the Department of Administrative Hearings or in Circuit Court.

There are two types of Consent Orders. The shortest is called a short-form consent order. This version does nothing more than obligate the permit holder to pay an agreed-upon penalty. The second is called a long-form consent order that sets out the case history and then sets out the required steps to be taken by the permittee to bring the facility back into compliance. These actions on the part of the permittee almost always require additional work and oversight on the FDEP’s part. In addition, these orders almost always require a payment of a civil penalty.

***PEER’s Review Process***

PEER’s review of the compliance status of the wastewater facilities in the Clearwater area involved the review of permitting, compliance and enforcement files located on the FDEP’s public website, Oculus. In addition, when necessary we submitted a public records request. We further considered notices received by the FDEP of SSOs that have occurred in the region.

***The Clearwater and Largo Wastewater Facilities***

Residents in the Clearwater region are served by four wastewater plants. Clearwater East (Clearwater East) is a facility that operates under FDEP wastewater permit number FL0021865. Clearwater Marshall Street (Clearwater Marshall Street) operates under wastewater permit number FL0021857, and Clearwater Northeast (Clearwater Northeast) operates under wastewater permit number FL0128937. The City of Largo’s (Largo) wastewater treatment facility operates under FDEP wastewater permit number FL0026603. Each of these wastewater plants is considered to be a major discharger, meaning that each is permitted to discharge at least 1 million gallons per day of treated effluent into Florida’s surface waters.

The effluent that is discharged by the below-discussed wastewater facilities contains contaminants that are largely found, to varying degrees, in most such facilities in the state. The permits issued to these facilities limit the amount of the contaminants that can be discharged into Florida’s surface waters. The objective is to keep the surface waters safe for the public and wildlife by limiting these amounts. Our review found permit violations of several different contaminants at these facilities. The most prevalent are:

<b>Contaminant</b>	<b>Issues Connected with Contaminant</b>
<b>Dissolved Oxygen</b>	Oxygen is obviously not what people would consider to be a “contaminant.” However,

	when the levels are too low or too high in water it can <a href="#">adversely affect aquatic life</a> .
<b>Biochemical Oxygen Demand (BOD)</b>	“Biochemical oxygen demand (BOD) represents the amount of oxygen consumed by bacteria and other microorganisms while they decompose organic matter under aerobic (oxygen is present) conditions at a specified temperature.” Source: <a href="#">USGS</a> Consequently, if these levels are too low or too high, there are adverse consequences to aquatic life.
<b>Nitrogen</b>	Excessive nitrogen levels can <a href="#">overstimulate algae growth as well as other aquatic plants in surface waters</a> . In turn, the waterbody can experience lower levels of dissolved oxygen.
<b>Phosphorus</b>	Excessive phosphorus levels can cause the same problems as nitrogen, <a href="#">eventually causing algal toxins</a> .
<b>Total Suspended Solids</b>	TSS can be an indicator of <a href="#">high bacteria levels</a> , and they can interfere with <a href="#">the proper treatment of drinking water</a> and aquatic health.
<b>Dichlorobromomethane</b>	This compound is in a class of <a href="#">trihalomethanes</a> that result from the combination of chlorine and organic compounds in wastewater. The <a href="#">resulting product</a> is known to be <a href="#">carcinogenic</a> .
<b>Dibromochloromethane</b>	As with dichlorobromomethane, this compound is in a class of <a href="#">trihalomethanes</a> that result from the combination of chlorine and organic compounds in wastewater. The <a href="#">resulting product</a> is known to be <a href="#">carcinogenic</a> .
<b>Bromo-dichloromethane</b>	As with dichlorobromomethane, this compound is in a class of <a href="#">trihalomethanes</a> that result from the combination of chlorine and organic compounds in wastewater. The <a href="#">resulting product</a> is known to be <a href="#">carcinogenic</a> .
<b>Total Residual Chlorine</b>	Chlorine residual is <a href="#">toxic</a> to aquatic life. It is also corrosive.
<b>Fecal Coliform</b>	Excessive levels of fecal coliform are an indicator that the waterbody has been <a href="#">contaminated with fecal matter</a> . Thus, these violations require further testing to identify the extent of the contamination and the

	initiation of measures to eliminate the problem.
<b>Toxicity</b>	Toxic compounds in wastewater can be lethal to aquatic systems, and humans. <a href="#">The goal of routine toxicity testing</a> by wastewater plants is to identify compounds in the effluent that have reached unsafe levels so that appropriate reductions can be made.
<b>Biochemical Oxygen Demand (BOD)</b>	<a href="#">According to EPA</a> , “BOD is a measurement of the amount of oxygen utilized by the decomposition of organic material, over a specified time period (usually 5 days) in a wastewater sample.” These violations address the efficiency with which BOD is removed during the treatment process.
<b>Carbonaceous 5-day(CBOD5)</b>	CBOD is measured to provide information about the extent to which <a href="#">dissolved oxygen has been depleted</a> in the wastewater due to <a href="#">carbonaceous sources</a> .
<b>Mercury</b>	Mercury is a poisonous metal that is naturally occurring and, when released into the environment, can “ <a href="#">be converted to a biologically toxic form of methylmercury (MeHg) by microorganism found in soil and in the aquatic environment</a> .” For that reason, it is highly monitored and limited in wastewater effluent.
<b>Cyanide</b>	<a href="#">Wastewater is known to be a vehicle that can facilitate the release of highly toxic cyanide into the environment</a> . According to the CDC, <a href="#">exposure to cyanide can have severe consequences up to and including death</a> .
<b>Cadmium</b>	<a href="#">According to the World Health Organization</a> , “[c]admium is a heavy metal with a high toxicity. Cadmium is toxic at very low exposure levels and has acute and chronic effects on health and environment. Cadmium is not degradable in nature and will thus, once released to the environment, stay in circulation... Cadmium accumulates in the human body and especially in the kidneys. According to the current knowledge kidney damage (renal tubular damage) is probably the critical health effect.”
<b>Peracetic Acid</b>	Peracetic acid is used as a disinfectant and has been shown to be useful in <a href="#">odor control</a> and

the [control of fecal coliform](#). However, [excessive levels of this contaminant can result in microbial regrowth](#), i.e., increased levels of organic content in the wastewater stream.

With the above in mind, we examine each facility's history below.

### A. Clearwater East

The Clearwater East facility operates under a NPDES permit (East Permit) that was issued in 2017 and expires on June 21, 2022. The East Permit authorizes the operation of a 5.0 Million Gallon per Day (MGD) wastewater facility with a discharge to Old Tampa Bay. There is a mixing zone for Dichlorobromomethane. The Fact Sheet that accompanies the Notice of Permit Issuance indicates that there is no enforcement history with the facility, and consequently, the permit was not accompanied by an administrative order. However, the Fact Sheet does report 15 BOD exceedances, 5 nitrogen exceedances, 3 total phosphorus exceedances and 2 total suspended solids exceedances, all of which occurred during the previous permit cycle. The Fact Sheet does not indicate the results of previous inspections conducted by the FDEP.

The Fact Sheet notwithstanding, this facility is one that has a history of poor ratings when it is inspected by the FDEP. Except for 2015 and 2017, From as far back as 2011, the FDEP has inspected the facility annually. In every inspection from 2011 through 2014, the rating given by the FDEP has been one of noncompliance. Typically, the ratings have been based upon effluent violations that have been toxic, although, in 2013 the FDEP simply ignored the effluent violations and based its rating upon the fact that reporting records were incomplete. In 2014, after the 4<sup>th</sup> inspection that rated the facility as being in noncompliance, the FDEP sent Clearwater a Compliance Assistance Offer (CAO) and offered to forego enforcement if Clearwater would explain its violations. Clearwater did this, after which the FDEP concluded (without a new inspection) that the facility was now in compliance.

Two years later, on May 2, 2016, the FDEP again inspected the facility. This time, the FDEP only evaluated the facility's effluent and concluded that it was in compliance.

After another 2 years passed, the FDEP conducted another inspection. The inspection was conducted on July 19, 2018. This time, the FDEP found the facility to be in significant non-compliance, a situation that would normally call for formal enforcement. The identified problems included operation and maintenance issues, effluent quality, and problems with SSOs. The FDEP's response to these findings was to avoid formal enforcement by sending another CAO to the facility.

Another 14 months passed before the FDEP would conduct another inspection. This one took place on October 2, 2019. Once again, problems were found with the facility's effluent (it was found to be toxic and had a history of BOD violations). SSO violations were again identified—there were SSOs to surface waters and ground surfaces. The inspection report noted that the effluent violations were being addressed in a compliance plan, and that 2 Warning Letters had

already been sent. Despite this, however, the FDEP amazingly rated the facility as being in compliance.

From 2011 through January 2021, this facility has been responsible for at least 89 SSOs. 30 of those have occurred since January 2017. Each of them constitutes a permit violation of, at minimum, General Condition 5 of the permit.

Despite the multiple permit violations, including the SSOs that have befouled the region's surface waters, the FDEP has taken enforcement only once since 2011. That case was brought in May 2020 in the form of a short-form consent order that required the payment of \$53,842.64 in civil penalties. The enforcement case was brought after 9 SSOs were attributable to the facility in 2019.

### **B. Clearwater Marshall Street**

This facility is operated under NPDES permit number FL0021857. The current permit was issued on February 2, 2017 and expires on February 1, 2022. It allows the operation of a wastewater treatment facility that is designed to treat wastewater up to 10.0 MGD Annual Average Daily Flow (AADF). It discharges to Stevenson Creek which then flows to Clearwater Harbor (North). There is an approved mixing zone for Dichlorobromomethane and Dibromochloromethane. The facility is also authorized to apply up to 10.0 MGD AADF towards land application via the City of Clearwater Master Reuse System. The Fact Sheet that accompanied the issued permit notes that a consent order was executed on January 27, 2011, and it put the facility on a schedule to meet Dichlorobromomethane and Dibromochloromethane effluent limits. The Fact Sheet also notes that there were several other effluent violations over the course of the prior permit. Finally, the Fact Sheet identifies Stevenson Creek as being impaired for dissolved oxygen, mercury, fecal coliform, and nutrients. This means that Stevenson Creek's health was marginal, at best, thus requiring further limits of contaminants that could be dumped into it.

Beginning in 2016, the facility has had 3 successive Compliance Evaluation Inspections (CEIs) in which it was rated as being in noncompliance. The last primary driver of these low ratings has always been multiple effluent violations. The effluent violations have been for total residual chlorine, fecal coliform, total phosphorus, BOD, Carbonaceous 5-day(CBOD5), total suspended solids, toxicity and dibromochloromethane. In addition, there have been operation and maintenance issues, along with SSO problems. After each of these inspections the FDEP avoided formal enforcement and sent a CAO to the facility. It doesn't appear that any consideration was given to the facility's poor history of violations, or the health of Stevenson Creek.

This facility has had at least 103 SSOs from January 2016 to the present. There were 32 overflows in 2020. Of the 32 in 2020, 6 were to surface waters of the state. The largest of the 6 was a 123,388 gallon discharge to Alligator Creek. As indicated above, each of the SSOs constitutes a permit violation of, at minimum, General Condition 5 of the permit. On December 29, 2020, the FDEP issued 14 separate letters to Clearwater notifying it that it would not take

enforcement in response to 14 unauthorized non-surface water discharges in 2020. Those discharges totaled 1,351 gallons.

The only enforcement that the FDEP has taken against this facility occurred as a result of SSOs. After Hurricane Irma struck Florida, the FDEP and Clearwater agreed upon a short-form consent order (SFCO). This was executed on February 26, 2018, and Clearwater agreed to pay \$4,500 for discharging over 2,000,000 gallons of effluent to surface waters during the storm. This year, on May 29, 2020 another SFCO was issued because of 9 SSOs for which the facility was responsible. Notably, the SFCO did not address 10 other SSOs that the FDEP had previously included in Warning Letters sent to Clearwater. Nevertheless, Clearwater was fined \$53,842.64 because of the 9 SSOs addressed by the SFCO. To date, there has been no other enforcement taken against the facility.

### **C. Clearwater Northeast**

The Clearwater Northeast wastewater treatment plant is operated by the City of Clearwater. Its operations are governed by NPDES permit number FL0128937. This permit was last issued on July 2, 2017, and it expires on July 1, 2022. The facility is permitted to treat up to 13.5 MGD of waste and to discharge it into Old Tampa Bay. The discharge point is also used by the Clearwater East facility. There is a mixing zone established to allow for dilution of the high dichlorobromomethane levels that are contained in the process wastewater. The facility also processes and distributes up to 12.0 MGD of reclaimed water to the master reuse system. The Fact Sheet that accompanied the issuance of this latest permit notes that the facility had 2 BOD exceedances, a TRC exceedance and 3 total nitrogen exceedances during the life of the previous permit.

This facility has been inspected 4 times between March 2015, and the present. On March 3, 2015, it was rated as being in compliance, despite an effluent toxicity exceedance. A little over a year later, on May 2, 2016, it was rated as being out of compliance, due to operation and maintenance problems, including a leaking sludge mixing tank, and effluent exceedances (2 total nitrogen, 1 BOD, and 1 toxicity). The FDEP's response to this rating was to send a Compliance Assistance Offer to Clearwater, thereby avoiding any formal enforcement. This was the last inspection prior to issuance of the renewal permit identified above.

The FDEP has conducted 2 additional inspections of the facility. The inspection on July 18, 2018, rated the facility as being in noncompliance due to operation and maintenance issues. Effluent quality was rated as being in compliance, despite a total residual chlorine violation. SSOs were also rated as being in compliance. After the inspection, the FDEP again sent a CAO to the facility and took no enforcement. On October 1, 2019, another inspection was conducted. Once again, the facility was found to be in noncompliance. This time, there were noted problems with effluent quality because of a fecal coliform violation, as well as a toxicity violation. In addition, the inspection noted that there had been "several overflows," and therefore this section was rated as being out of compliance. After this inspection, the FDEP sent a letter to the facility stating that it is in compliance.

This facility has been responsible for 61 SSOs between January 1, 2015, and February 3, 2021. 16 of those SSOs have been to surface waters, with 10 of the 16 occurring during or after Hurricane Hermine struck Florida’s panhandle. Each of the 61 SSOs constituted a violation of Clearwater’s permit for this facility.

Enforcement resulting from the facility’s multiple violations has been limited, at best. A short-form consent order was executed on February 26, 2018, requiring the payment of a \$5,000.00 civil penalty because of 3 SSOs. Since then, the FDEP has sent 3 Warning Letters to Clearwater, each of which addresses a portion of 22 enumerated SSOs. The latest Warning Letter was sent on August 25, 2020. It addresses 3 of the 22 SSOs. However, no further enforcement has been taken for the SSOs, and no enforcement has been taken following the 3 latest inspections that detail permit noncompliance.

**D. City of Largo**

The City of Largo (Largo) facility is a 15.0 MGD AADF facility that discharges to Feather Sound, a Class III water. It also has a 12.0 MGD reuse operation. The facility operates under NPDES permit number FL0026603. The permit that was issued on October 26, 2012, was issued with an administrative order (AO) that was needed because of concerns that the facility could not meet load allocations (limitations) for total nitrogen. There were also dichlorobromomethane exceedances that were being addressed under a consent order (OGC #03-0666). On February 26, 2019, the permit was renewed with the same conditions, except that the AO was not retained. Then, on June 20, 2020, the permit was modified to add another chlorine contact chamber. The two chlorine contact chambers can treat a combined 588,053 gallons. The current permit expires on February 25, 2024.

Since early 2013 through October 2019, the FDEP has inspected this facility 5 times. Effluent quality was found to be in various states of noncompliance in every inspection. And, in all but 1 of those inspections the facility was found to be in overall noncompliance. The 1 inspection that rated the facility in overall compliance was conducted on March 28, 2018. At that time, the inspector found that effluent quality was in “minor out of compliance;” however, the cover letter sent by FDEP to Largo stated that any areas of noncompliance had been corrected. The latest inspection, which was conducted on October 9, 2019, rated the facility as being in overall noncompliance, as was the effluent quality.

The consistently bad effluent quality is because of the following contaminates:

Date of Inspection	Effluent Exceedances	FDEP Response
5-28-2013	Total phosphorus (4), high fecal coliform percentage (1), total chlorine residual (1), low dissolved oxygen levels	Compliance Assistance Offer

	(1), total cyanide (1). And biosolids had cadmium exceedances (3).	
3-18-2014	Total phosphorus (1), high fecal coliform percentage (4), total cyanide (1), dichlorobromomethane (4).	Nothing other than modifying permit
2-9-2016	Chronic toxicity (2), total residual chlorine (1), fecal coliform exceedances (2), total nitrogen (3), total dissolved oxygen levels not met <b>(36)</b> .	Compliance Assistance Offer
3-28-2018	total dissolved oxygen levels not met (9), dichlorobromomethane <b>(12)</b> , fecal coliform percentage (3).	Nothing other than to amend consent order to allow higher interim limits
10-9-2019	Total residual chlorine (1), total nitrogen (7), total suspended solids (2), fecal coliform percentage (4 at discharge point, 5 in reuse water), total phosphorus (1), peracetic acid (1 at discharge point, 1 in reuse water), dichlorobromomethane (1)	Compliance Assistance Offer

From January 2015 through February 5, 2021, this facility has had 223 sewage overflows. However, that count is actually low, because another 22 overflows occurred when Hurricane Hermine hit the Florida Big Bend region in late August 2016. Notable spills include: a 189,000-gallon spill on February 8, 2017, a 138,950-gallon spill on August 16, 2019, a 125,140-gallon spill on August 16, 2019, a separate 187,300 spill on August 16, 2019, and 97,200 gallons that were spilled on August 8, 2019.

FDEP's enforcement efforts have largely centered around a consent order that was entered on April 10, 2006. That consent order was necessary because of two issues. First, there were multiple exceedances of permitted levels (22 µg/L) of a toxic chemical known as bromo-dichloromethane. EPA [describes this chemical](#) as a probable human carcinogen. The second need for the consent order arose because of multiple sewage overflows. The consent order required Largo to bring its bromo-dichloromethane levels to compliance levels by June 30, 2006. In the interim, the FDEP authorized interim limits, i.e., higher levels, of 30 µg/L, to be discharged. Further, the FDEP ordered Largo to submit a plan within 180 days to reduce SSOs. Finally, a civil penalty of \$19,000.00 was assessed against Largo to address the permit violations. Paragraph 25 of the consent order also set stipulated penalties to be paid for each SSO, the amount of the penalty being dependent upon the number of gallons illegally discharged.

Thus far, the consent order has been amended **7** times, the latest amendment coming on September 3, 2020. The 7 amendments addressed multiple violations in an effort to bring the facility into compliance:

Amendment Number	Execution Date	Violations or Issues Addressed	Remedies
<b>1</b>	August 4, 2009	Facility inability to meet bromo-dichloromethane reduction	<p>Extends deadline from June 30, 2006, to July 31, 2012</p> <p>Effluent limit for bromo-dichloromethane continued at 30 µg/L</p> <p>Largo required to complete all construction improvements before August 4, 2019</p>
<b>2</b>	9/14/2012	Facility inability to meet bromo-dichloromethane reduction	<p>Extends deadline from July 31, 2012, to May 1, 2016</p> <p>Effluent limit for bromo-dichloromethane continued at 30 µg/L</p> <p>Largo now required to complete all construction improvements before September 14, 2022</p>
<b>3</b>	4/19/2016	Facility inability to meet bromo-dichloromethane reduction	<p>Extends deadline from May 1, 2016, to January 31, 2018</p> <p>Effluent limit for bromo-dichloromethane continued at 30 µg/L</p> <p>Largo now required to complete all construction</p>

			improvements before January 31, 2018
4	1/19/2018	<p>Facility inability to meet bromo-dichloromethane reduction</p> <p>And</p> <p>Multiple permit violations of dissolved oxygen levels.</p>	<p>Extends bromo-dichloromethane deadline from January 31, 2018, to January 31, 2019</p> <p>Effluent limit for bromo-dichloromethane <b>increased</b> to 42.7 µg/L</p> <p>Minimum level of dissolved oxygen in effluent lowered to 3.5 mg/L</p> <p>Largo now required to complete all construction improvements before January 31, 2019</p>
5	11/21/2018	<p>Facility inability to meet bromo-dichloromethane reduction</p> <p>DMRs showed violations of BOD, Carbonaceous 5 day, and Total Phosphorus</p>	<p>Extends bromo-dichloromethane deadline from January 31, 2019, to October 25, 2022</p> <p>Effluent limit for bromo-dichloromethane <b>increased again</b> to 57 µg/L</p> <p>FDEP signals willingness to entertain a permit revision for bromo-dichloromethane limits.</p> <p>Minimum level of dissolved oxygen in</p>

			<p>effluent continued at 3.5 mg/L</p> <p>Effluent limit for CBOD5 raised to 24.0 mg/L</p> <p>Effluent limit for total phosphorus raised to 2.5 mg/L</p> <p>Effluent limit for total nitrogen raised to not more than 30 tons/year. The five-year average set at 22 tons/year.</p> <p>Largo now required to complete all construction improvements before October 25, 2022</p>
6	5/14/2019	DMRs showed violations of fecal coliform, interim total nitrogen, and total residual chlorine	<p>The five-year average for discharge of total nitrogen <b>increased</b> from 22 tons/year to 26.5 tons/year.</p> <p>Other effluent violations not addressed.</p>
7	9/03/2020	DMRs showed violations of interim total nitrogen limits	<p>No changes to interim limits identified above.</p> <p>Stipulated penalties set at \$1,000/month for violations of DO, TP, and TN, and \$2,500/month for violations of interim bromo-dichloromethane limits. Stipulated penalties also set for</p>

			SSOs, dependent on volume of illegal discharge.
			Facility still required to meet all permit limits by October 25, 2022.

The FDEP’s approach to confronting the continual violations committed by Largo has been twofold. First, it has increased the levels of harmful contaminants that can be discharged into Florida’s surface waters. The result is to expose the public, as well as plants and wildlife to greater levels of contamination. Second, the original consent order set a deadline for Largo to complete necessary construction so that it could operate in compliance with its permit, i.e., properly treat and reduce the levels of contaminants that it discharges into the environment. But this deadline, which would have expired on August 4, 2019, has been extended by over three years to October 25, 2022.

The original 2006 consent order may have anticipated that Largo would act promptly, and that the facility would move towards becoming a modern, compliant wastewater discharger. The problem is that Largo continued to discharge wastewater that violated the permit and the consent order. Those violations could have prompted the FDEP to assess stipulated penalties under paragraph 24 (for effluent/operational violations at a rate of \$250/day for each violation) or paragraph 25 (for sewage overflows from the collection system at a rate dependent upon the amount of each overflow) But the FDEP chose another route. Instead of charging stipulated penalties, the agency waited until 2018 to begin assessing stipulated penalties. This approach was facilitated by amending the consent order every time that new violations were found.

What this meant for Largo was that all the violations that were identified in the above referenced inspections in 2013, 2014, and 2016, were essentially forgiven.

It wasn’t until 2018 that stipulated penalties were charged. But even then, the penalty assessments were limited to sewage overflows, while effluent violations were forgiven. This included waiver of penalties for bromodichloromethane violations, which were the main driver that necessitated the original consent order. In fact, it wasn’t until January 2020, that stipulated penalties were assessed for effluent violations, and even then, the assessments left out some of the violations, e.g., total phosphorus, total nitrogen, and bromodichloromethane.

The 7<sup>th</sup> amended consent order began the assessment of specific stipulated penalties for certain effluent violations (even though the original consent order imposed stipulated penalties for “permit-imposed effluent limitations”). Those penalties were necessitated because of Largo’s continued noncompliance with the previous iterations of the consent order, even as the FDEP

had raised the effluent limits for the main contaminants that Largo was already discharging in violation of its permit.

On October 5, 2020, the FDEP continued the assessment of stipulated penalties. This time, the assessment was in the amount of \$1,750.00 due to 7 effluent violations committed by Largo. On November 7, 2020, the FDEP issued another demand for stipulated penalties, this time in the amount of \$6,500.00. The \$6,500.00 assessment was the result of 3 effluent violations and 2 SSOs that occurred between July 1 and September 30, 2020.

### ***Conclusion***

The 4 wastewater facilities serving the Clearwater area have long histories of violating their wastewater permits and discharging contaminated wastewater into surface waters that eventually connect to the Gulf of Mexico. The permittees' continual violations of their wastewater permits cannot be continually excused while they no doubt position themselves to the public as conscientious stewards of Florida's environment. At the same time, however, the permittees' attitude towards permit compliance has been fostered by the FDEP's abdication of its regulatory duties to protect the public's health, safety, and welfare. At almost every turn the agency has chosen to kick the can down the road by securing promises from each permittee that it will comply in the future, only to have the same violations repeated time and again.

The pattern of repeated violations at these facilities will continue unless and until the FDEP elects to take aggressive enforcement actions when the violations are observed. This means the elimination of CAOs, the use of swift, meaningful enforcement when violations are identified, and the use of stipulated penalties when the same are allowed under existing consent orders.