



FLORIDA DEPARTMENT OF Environmental Protection

Northeast District
8800 Baymeadows Way West, Suite 100
Jacksonville, Florida 32256

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Mr. Anthony L. Cunningham
Interim General Manager
Gainesville Regional Utilities
301 Southeast 4th Avenue
Gainesville, Florida 32614-7117
Email: cunninghaal@gru.com

IN RE:

**Adoption of Nutrient Water Quality Based
Effluent Limitations for Discharges
to Sweetwater Branch, Which Constitute
Site Specific Numeric Interpretations of the Narrative
Nutrient Criterion Pursuant to Paragraph 62-302.531(2)(a), F.A.C.**

OGC Case No. 22-2694

NOTICE OF INTENT TO ISSUE ORDER

The Department of Environmental Protection gives notice of its intent to issue a Final Order (draft Final Order attached) for Water Quality Based Effluent Limitations (WQBELs) for nutrient surface water quality parameters, pursuant to the Level II WQBEL process in Rule 62-650.500, Florida Administrative Code (F.A.C.), for GRU's Main Street Water Reclamation Facility's (MSWRF) and J.R. Kelly Generating Station's (KGS) discharges to Sweetwater Branch.

A WQBEL is an effluent limitation that the Department has determined is necessary to ensure that water quality standards in the receiving body of water will not be violated, pursuant to Rule 62-650.200(14), F.A.C. An effluent limitation includes any restriction established by the Department on quantities, rates, or concentrations of chemical, physical, biological, or other constituents that are discharged from sources into the environment of the state, pursuant to subsection 62-650.200(8), F.A.C. As part of the Level II WQBEL process, site-specific studies are undertaken of the receiving waterbody and the discharges thereto. Paragraph 62-302.531(2)(a), F.A.C., authorizes Level II WQBELs to constitute site-specific numeric nutrient criteria for the receiving water.

On April 26, 2022, the Department published a notice in the Florida Administrative Register (FAR) announcing a public hearing and identifying the Department's intent to establish Level II WQBELs for Total Nitrogen (TN), Total Phosphorus (TP), and Chlorophyll a (Chla) for Sweetwater Branch and the associated MSWRF and KGS discharges. The FAR notice explained that a portion of the WQBEL will become the Hierarchy 1 site-specific interpretation of the narrative nutrient criteria, pursuant to sub-subparagraph 62-302.531(2)(a)1.d., F.A.C., for Sweetwater Branch, that will supersede otherwise applicable numeric nutrient criteria for this particular surface water segment. A public hearing was held on June 21, 2022, and the public was given the opportunity to provide

comments on the draft Level II WQBELs for the facilities and the receiving waterbody, as well as the establishment of the site-specific numeric interpretations of the narrative nutrient criteria.

This Final Order would establish the site-specific numeric interpretations of the narrative nutrient criterion for Sweetwater Branch as 1) an annual load of 215,616 pounds/year (lbs/yr) of TN not to be exceeded, 2) an annual load of 16,038 lbs/yr of TP not to be exceeded, 3) an annual geometric mean TP concentration of 0.3 mg/L, not to be exceeded, and 4) an annual geometric mean Chla concentration of 1.9 µg/L not to be exceeded more than once in a three-year period. These site-specific numeric interpretations of the narrative nutrient criterion for Sweetwater Branch would supersede and replace the otherwise applicable numeric nutrient criteria for this particular surface water segment (WBID 2711). This Final Order would also allocate a portion of the total allowable nutrient loading to the MSWRF as an effluent limitation of 182,646 lbs/yr of TN, 11,644 lbs/yr of TP, and to the KGS as an effluent limitation of 3,060 lbs/yr of TN and 843 lbs/yr of TP. This Final Order would also set an effluent limit of 0.3 mg/L TP as an annual geometric mean for MSWRF. The scientific and technical basis for the TN, TP, and Chla Level II WQBELs identified herein is presented in the Hierarchy I Numeric Nutrient Criteria for Sweetwater Branch (Alachua County): Level II Water Quality Based Effluent Limitations for Gainesville Regional Utilities' Main Street Water Reclamation Facility and Kelly Generating Station Report dated August 2021.

The Department has permitting jurisdiction under Chapter 403, Florida Statutes (F.S.), and applicable rules of the Florida Administrative Code (F.A.C.).

Under Section 403.815, F.S., and Rule 62-110.106, F.A.C., you (the applicant) are required to publish at your own expense the enclosed Notice of Intent to Issue the Order. The notice must be published one time only within 30 days of receipt of this intent to issue in the legal ad section of a newspaper of general circulation in the area affected. For the purpose of this rule, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. Where there is more than one newspaper of general circulation in the county, the newspaper used should be one with significant circulation in the area that may be affected by the permit. If you are uncertain that a newspaper meets these requirements, please contact the Department at the address or telephone number listed below. The applicant must provide proof of publication to the Department's Northeast District Office, 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida 32256-7577 within two weeks of publication. Failure to publish the notice and provide proof of publication within the allotted time may result in the denial of the permit under Rule 62-110.106(11), F.A.C.

NOTICE OF RIGHTS

The Department will issue the Final Order unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at Agency_Clerk@FloridaDEP.gov. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at Agency_Clerk@FloridaDEP.gov, before the deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

Mediation is not available in this proceeding.

EXECUTION AND CLERKING

Executed in Jacksonville, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



 Gregory J. Strong
 District Director, Northeast District

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments were sent on the filing date below to the following listed persons:

Richard H Hutton, P.E., huttonrh@gru.com
Regina G, Embry, P.E., embryrg@gru.com
Jennifer A McElroy, P.E., mcelroyja@gru.com
Alice I Rankeillor, rankeilloai@cityofgainesville.org
EPA Region IV, r4npdespermits@epa.gov
U.S. Fish and Wildlife Service, heath_rauschenberger@fws.gov
U.S. Army Corps of Engineers, corpsjaxreg-nj@usace.army.mil
Paula Presley, P.G., St. Johns River WMD, ppresley@sjrwmd.com
Florida Fish & Wildlife Conservation Commission, fwcconservationplanningservices@myfwc.com
U.S. Fish and Wildlife Service, heath_rauschenberger@fws.gov
Alachua County DEP, pmoran@alachuacounty.us
Alachua County Board of Commissioner, bocc@alachuacounty.us; aprizzia@alachuacounty.us;
malford@alachuacounty.us; kcornell@alachuacounty.us
Nijole Wellendoft, nijole.wellendorf@floridadep.gov
Kaitlyn Sutton, kaitlyn.sutton@dep.state.fl.us
Kenneth Hayman, kenneth.hayman@floridadep.gov
Marc Harris, P.E., FDEP
Abel Agosto, FDEP
Thomas G. Kallemeyn, FDEP *TK*
Katie S. Miller, FDEP
D. Anh Vo, P.E., FDEP

FILING AND ACKNOWLEDGMENT

FILED, on February 16, 2023, pursuant to Section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

February 16, 2023
Date

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF INTENT TO ISSUE ORDER

The Department of Environmental Protection gives notice of its intent to issue a final order for the adoption of nutrient water quality based effluent limitations for discharges to Sweetwater Branch, which constitute site specific numeric interpretations of the narrative nutrient criterion pursuant to paragraph 62-302.531(2)(a), F.A.C.

This final order would establish the site specific numeric interpretations of the narrative nutrient criterion for Sweetwater Branch as 1) an annual load of 215,616 pounds/year (lbs/yr) of TN not to be exceeded, 2) an annual load of 16,038 lbs/yr of TP not to be exceeded, 3) an annual geometric mean TP concentration of 0.3 mg/L, not to be exceeded, and 4) an annual geometric mean concentration of chlorophyll a (Chla) concentration of 1.9 µg/L not to be exceeded more than once in a three-year period. These site-specific numeric interpretations of the narrative nutrient criterion for Sweetwater Branch, supersede and replace the otherwise applicable numeric nutrient criteria for this particular surface water segment (WBID 2711).

This final order would also allocate a portion of the total allowable nutrient loading to the MSWRF as an effluent limitation of 182,646 lbs/yr of TN, 11,644 lbs/yr of TP and an annual geometric mean TP concentration of 0.3 mg/L, and to the KGS as an effluent limitation of 3,060 lbs/yr of TN and 843 lbs/yr of TP. This final order would also set an effluent limit of 0.3 mg/L TP as an annual geometric mean for MSWRF. The scientific and technical basis for the TN, TP, and Chla Level II WQBELs identified herein is presented in the Hierarchy I Numeric Nutrient Criteria for Sweetwater Branch (Alachua County): Level II Water Quality Based Effluent Limitations for Gainesville Regional Utilities' Main Street Water Reclamation Facility and Kelly Generating Station Report dated August 2021 available on the department's [Alternative Surface Water Quality Standards](#) webpage.

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**State of Florida
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Final Order

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The relevant portion of these effluent limits will be included in the next national pollutant discharge elimination system permit renewal or modification for each facility. THEREFORE, IT IS ORDERED that the water quality based effluent limitations, as described herein, are hereby established. Furthermore, the total load of TN and TP from all sources, in addition to the TP and Chla concentrations, are adopted as site-specific interpretations of the narrative nutrient criterion in paragraph 62-302.530 (48)(b), F.A.C., for Sweetwater Branch that supersede and replace the otherwise applicable numeric nutrient criteria for this particular surface water segment.

DONE AND ORDERED this ____ day of _____, 2023, in Jacksonville, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Draft

Gregory J. Strong
District Director, Northeast District

FILED ON THIS DATE PURSUANT TO § 120.52,
FLORIDA STATUTES, WITH THE DESIGNATED
DEPARTMENT CLERK, RECEIPT OF WHICH IS
HEREBY ACKNOWLEDGED.

CLERK

DATE