



City of Clearwater

Public Utilities Department, Post Office Box 4748, Clearwater, Florida 33758-4748
1650 North Arcturas Avenue, Building C, Clearwater, Florida 33765-1945
Telephone (727) 562-4960, Fax (727) 562-4961

September 5, 2025

Ms. Kelley M. Boatwright, Director
Southwest District: Florida Department of Environmental Protection
13051 North Telecom Parkway, Suite 101
Temple Terrace, FL 33637-0926
Kelley.M.Boatwright@FloridaDEP.gov

Re: Response to Proposed Consent Order OGC File No. 25-1120
City of Clearwater Marshall Street WRF, City of Clearwater East WRF, and City
of Clearwater Northeast WRF
Facility ID No(s). FL0128937, FL0021865, FL0021857
Pinellas County

Dear Director Boatwright,

The City of Clearwater submits this response to the Proposed Consent Order OGC File No. 25-1120 issued on August 1, 2025. While the City remains committed to compliance with applicable environmental regulations and values the opportunity to resolve these matters, we respectfully request revisions to certain elements of the Order, as detailed below.

We appreciate the ongoing collaborative relationship with the Department and remain dedicated to protecting the health and safety of our community and environment. Should you have any questions or require further information, please feel free to contact me directly at 727-224-7043 or Richard.Gardner@MyClearwater.com.

Sincerely,

Michael Flanigan, Public Utilities Assistant Director, on behalf of:

Mr. Richard Gardner, P.E.
Public Utilities Director
City of Clearwater

Cc: Richard Gardner, Public Utilities Director
Travis Teuber, Wastewater Treatment Assistant Manager
Emily Davis, Compliance Coordinator
Pamala Vazquez, FDEP-SWD, Pamala.Vazquez@FloridaDEP.gov
Erica Peck, FDEP-SWD, Erica.Peck@FloridaDEP.gov
Emily Larson, FDEP-SWD, Emily.Larson@FloridaDEP.gov
Emmalise Hunter, FDEP-SWD, Emmalise.C.Hunter@FloridaDEP.gov
Anthony DiSipio, FDEP-SWD, Anthony.DiSipio@FloridaDEP.gov
FDEP Water Compliance Assurance Program, WCAPHQ@dep.state.fl.us

Request Change in Violation Classification

- **Violation Description: Improper release or disposal of sewage, raw materials, process materials, or inadequately treated wastewater (2.6MG SWO2024-6427)**

The City requests that the identified potential for harm associated with this violation be reclassified from *major* to *moderate*, based on the actual circumstances of the incident and applicable regulatory guidelines.

During Tropical Storm Debby, the East WRF experienced unprecedented inflow and infiltration into its sewer basin. The facility was inundated, and various process tanks began to spill partially treated wastewater into the stormwater system intermittently. It was estimated that an excessive inflow of between 12-16 MGD entered the facility, exceeding its capacity of 10 MGD.

According to the Department's *Guidelines for Characterizing Wastewater Violations*, discharges involving partially treated wastewater fall under the 'moderate' matrix factor. Given the nature of the overflow, the City believes that a 'moderate' classification is more appropriate and aligns with the intent of the guidelines, as the discharge did not involve raw wastewater.

- **Violation Description: Improper release or disposal of sewage, raw materials, process materials, or inadequately treated wastewater (4.2MG SWO2024-9036)**

The City requests that the identified potential for harm associated with this violation be reclassified from *major* to *moderate*, based on the actual circumstances of the incident and applicable regulatory guidelines.

An excessive flow event at the East WRF due to Hurricane Milton resulted in a hydraulic overflow of partially treated wastewater in multiple treatment basins. The overflowed water reached the surrounding ground and subsequently entered the stormwater system, compounded by substantial rainfall at the time. While the total reported volume was 4.2 MG, it remains unknown how much reached Old Tampa Bay (class II surface water).

According to the Department's *Guidelines for Characterizing Wastewater Violations*, discharges involving partially treated wastewater fall under the 'moderate' matrix factor. Given the nature of the overflow, the City believes that a 'moderate' classification is more appropriate and aligns with the intent of the guidelines, as the discharge did not involve raw wastewater.

- **Violation Description: Improper release or disposal of sewage, raw materials, process materials, or inadequately treated wastewater (1.45MG SWO2024-8397)**

The City requests that the identified potential for harm associated with this violation be reclassified from *major* to *moderate*, based on the actual circumstances of the incident and applicable regulatory guidelines.

During Hurricane Helene, the East WRF was evacuated due to a storm surge from Old Tampa Bay. Storm surge from Old Tampa Bay inundated the plant with seawater through the outfall at the stormwater pond and over and around the seawall. Seawater entered the facility through manhole holes and additional drains. Some of the incoming seawater was handled by a small lift station that ran at full capacity until one of its two pumps failed. This additional water caused several process tanks to overflow into the surrounding floodwater. When staff returned, they found standing water across the site, with the south end of the anoxic basins, parts of the oxidation tank, and both clarifiers overflowing. Old Tampa Bay had surged from south to north across the facility and Highway 60, reaching depths of 4 to 5 feet in some areas. A diaphragm pump was later set up to recover water from the stormwater pond near the clarifiers.

According to the Department's *Guidelines for Characterizing Wastewater Violations*, discharges involving partially treated wastewater fall under the 'moderate' matrix factor. Given the nature of the overflow, the City believes that a 'moderate' classification is more appropriate and aligns with the intent of the guidelines, as the discharge did not involve raw wastewater.

- **Violation Description: Improper release or disposal of sewage, raw materials, process materials, or inadequately treated wastewater (885,547gal SWO2025-2695)**

The City requests that the identified extent of deviation associated with this violation be reclassified from *major* to *moderate*, based on the actual circumstances of the incident and applicable regulatory guidelines.

The East WRF experienced an upset during maintenance of one of its secondary clarifiers, which led to secondary sludge overflowing into the sand filters. The filters became clogged, causing a bypass into the chlorine contact chamber and resulting in high turbidity (NTU) in the final effluent.

To respond quickly, operators took several corrective steps:

1. Redirected Effluent – Discharge to the reclaimed system was stopped, and all effluent was sent to the surface water outfall (Old Tampa Bay).
2. Reduced Flow – Operators decreased influent pump speeds to reduce plant loading.
3. Adjusted Clarifier Operations – They increased the return rate of activated sludge from the online clarifier to stabilize the process.
4. Tried Sand Filter Recovery – Additional backwash cycles were run to clean the clogged filters.
5. Brought Equipment Back Online – When these steps didn't resolve the issue, the offline secondary clarifier was placed back in service, which eventually restored normal operations.

According to the *Department's Guidelines for Characterizing Wastewater Violations*, discharges that are deliberate, or result from improper operation or maintenance, or fail to immediately implement adequate corrective measures are classified as major. Given the nature of the overflow, the City believes a classification of 'moderate' is more appropriate and consistent with the intent of the guidelines. The facility immediately implemented adequate corrective measures as listed above, and the release of this wastewater was not deliberate.

Request Change in Adjustments

- **Economic Benefit**

The City respectfully asserts that no economic benefit, either passive or active, was gained as a result of the wastewater violations in question. These sanitary sewer overflow events were directly caused by three severe storms, not by any failure to comply with the Department rules, nor by any attempt to delay or avoid compliance expenditures. The City derived no profit, cost savings, or deferred costs from these events, and in fact incurred significant unanticipated costs in response. As such, the economic benefit component of the proposed penalties totaling \$116,176.64 should be excluded in accordance with the Department's own guidelines and the statutory framework.

- **History of Non-Compliance**

The Department's guidance allows for increased penalties based on a "history of non-compliance" when that history reflects recurring regulatory violations, particularly those involving major harm or deviation. However, the events in question occurred during extraordinary storm events, which were beyond the control of the City. These incidents are not indicative of disregard for environmental requirements, but rather the unfortunate impact of extreme weather.

The regulatory framework around penalties and adjustments is designed to promote immediate and continued compliance, not to penalize facilities for natural disasters beyond their control. Holding storm-related incidents against a facility in the same manner as willful non-compliance undermines the purpose of the rule. These are involuntary incidents triggered by force majeure, not recurring regulatory non-compliance. The City requests a significant adjustment or removal of the history of non-compliance adjustment totaling \$253,315.

Please note that the City does acknowledge that there were exceedances reported in the Discharge Monitoring Reports (DMRs) for all three facilities that were not related to storm events. The City is not contesting those exceedances and accepts responsibility for them as part of this enforcement action.

Request to Modify or Minimize Ordered Actions

The City respectfully requests a revision to the scope of the ordered actions outlined on page 7 of the Consent Order (Item 5).

- **I&I Analysis Plan (Item 5j)**

As ordered in Item 5j, the Respondent is directed to perform and submit to the Department for approval an updated analysis of their collection system infrastructures, including a detailed evaluation of inflow and infiltration (“I&I Analysis Plan”) to identify improvements with a priority as to the importance of need and time to completion. The City conducted an I&I analysis ending in 2023 with a consultant. While the City acknowledges the importance of this order, the City believes that conducting a new study after the 2023 analysis would offer limited additional value, either financially or operationally. Furthermore, the City has already initiated improvements such as the lining of sewers and manholes based on the findings of the 2023 analysis and continues to invest in upgrading the system to address I&I concerns.

Given the completion of a detailed I&I analysis in 2023 and the City’s commitment to implementing improvements identified in that study, the City respectfully requests the removal of Item 5j from the Consent Order. The City is willing to submit the 2023 study to the Department and provide a summary of upcoming projects that will address the identified priorities.

- **CMOM (Item 5i)**

As ordered in Item 5i, the Respondent shall review EPA’s Capacity, Management, Operations, and Maintenance (“CMOM”) template and submit an updated CMOM Analysis to the Department. The City proposes substituting this requirement with the submission of a Collection System Action Plan, as required under Rule 62-600.705(2), F.A.C. The City believes the CMOM analysis is duplicative of the Collection System Action Plan, whose primary goal is to prevent sanitary sewer overflows that may endanger public health and the environment.

The City requests that the submission of the Collection System Action Plan be accepted in place of the CMOM Analysis and completed early as part of this Consent Order. This submission will also fulfill the requirement during the next permit renewal cycle. The City will apply for renewal of the affected permits at least 180 days prior to their expiration dates, as required. These renewal timelines are as follows:

- East WRF (FL0021865): Expires July 2027→Renewal due is January 2027
- Marshall St. WRF (FL0021857): Expires February 2027→Renewal due August 2026
- Northeast WRF (FL0128937): Expires November 2027→Renewal due May 2027