

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re: Lost Lake RV Park WWTF  
Petition for Variance from

OGC Case No. OGC 19-0205

Rule 62-699.310(2)(a)1., F.A.C.  
Apopka, Lake County

DEP File No.: FLA010831

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FINAL ORDER GRANTING PETITION FOR VARIANCE

On March 13, 2019, Lost Lake RV Park, LLC, (Petitioner), filed a petition with the Florida Department of Environmental Protection (Department) requesting a section 120.542, Florida Statutes, variance from the requirements of Rule 62-699.310(2)(a)1., Florida Administrative Code (F.A.C.), for its wastewater treatment facility located at 3400 South Clarcona Road, Apopka, Florida 32703-9795.

1. Lost Lake RV Park, LLC, operates a domestic wastewater facility with a permitted capacity of 9,000 gallons per day using a rapid-rate land application system that is required to comply with Rule 62-600.550, F.A.C., Wastewater Management Requirements for the Wekiva Study Area. The facility is located in the Primary Protection Zone and must reduce total nitrogen to less than 10.0 mg/L on an annual average basis.
2. Rule 62-699.310(2)(a)1, F.A.C., establishes staffing requirements for wastewater treatment facilities that have nutrient limits. This is a Category I, Type C facility and staffing by a Class C or higher operator for a minimum of 1 hour/day for 5 days/week and one visit each weekend is required by rule.
3. The Petitioner has requested a variance that, if approved, will reduce the staffing requirements to a half hour/day for five days/week by a Class C or higher operator.
4. A revision to the facility's operating permit will be issued to incorporate the staffing reduction approved with this variance.
5. The Petitioner has demonstrated that the application of the rule would create a substantial economic hardship.
6. The purpose of the underlying statutes 403.021, 403.051, 403.061, 403.062, 403.085, 403.086, 403.087, and 403.088, Florida Statutes, is to ensure that treatment at this facility is environmentally acceptable and not a threat to public health and safety. The reduced staffing provides reasonable assurance the facility will meet the all reclaimed water limits prior to land application.

7. The Petitioner has demonstrated the purpose of the underlying statutes will be achieved through other means:

(a) Ground water quality standards will be met by the facility being required to meet their reclaimed water effluent limits.

(b) Public health will not be adversely affected because the facility will be under constant surveillance by trained operators.

(c) The facility will be required to maintain compliance with reclaimed water limits as a condition of the continued approval of this variance.

(d) Public welfare will not be adversely affected. The public will benefit from less costly service that meets all underlying water quality regulations.

8. Notice of Receipt was published in the Florida Administrative Register (FAR) on March 19, 2019; no public comments were received.

9. This variance does not relieve the Petitioner from liability for harm or injury to human health or welfare, animal, or plant life, or property, or from penalties therefore; nor does it allow pollution in contravention of Florida Statutes or Department Rules.

10. Based on the foregoing, Petitioner has demonstrated that it meets the requirements for a variance from Florida Administrative Code Rules 62-610.462(3) and 62-699.310(2)(a)1. The petition for variance is granted subject to the following conditions:

A Class C or higher operator half hour each day Monday through Friday. The staffing reduction is contingent upon proper operation of the facility. This condition will become part of the facility permit upon permit revision, will be revoked if noncompliance associated with the reduced staffing occurs, and will expire with the current permit.

#### PUBLICATION OF NOTICE

You (the petitioner) are required to publish at your own expense the enclosed notice of this variance. The notice is required to be published one time within 30 days, in the legal advertisements 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. The applicant shall provide proof of publication to:

Department of Environmental Protection  
Permitting and Waste Cleanup Program  
Central District  
3319 Maguire, Ste. 232  
Orlando, FL 32803-3767

The proof of publication shall be provided to the above address within seven days of publication. Failure to publish the notice and provide proof of publication within the allotted time shall be grounds for denial of the variance or waiver.

#### NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department 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 request for a variance or waiver.

#### 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 Rule 28-106.201, 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, telephone number, and any e-mail address of the petitioner; the name, address, telephone number, and any e-mail address 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 are or 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. 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 must be filed within 21 days of receipt of this written notice. 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, before the applicable 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.

Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this action is filed with the Clerk of the Department.

DONE AND ORDERED this 2<sup>nd</sup> day of July 2019 in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



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Aaron Watkins  
Director, Central District

Attachments: Variance Petition Exhibit (4 pages)

**CERTIFICATE OF SERVICE**

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

Suzanne Printy, Joint Administrative Procedures Committee  
FDEP: David Smicherko, Dennise Judy, Reggie Phillips, Nathan Hess, Kim Rush, Catherine Murray, Douglas Beason, Lea Crandall, Cottrell, Joy

**FILING AND ACKNOWLEDGMENT**

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



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Clerk

July 2, 2019  
Date

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NOTICE OF FINAL ORDER GRANTING VARIANCE

The Department of Environmental Protection gives notice of its determination pursuant to section 120.542, Florida Statutes, in OGC Case No. 19-0205 to grant a variance to Lost Lake RV Park, LLC, from Rule 62-699.310(2)(a)1., Florida Administrative Code (F.A.C.), in order to reduce the staffing requirements to a half hour/day for five days/week by a Class C or higher operator at 3400 South Clarcona Road, Apopka, Florida, 32703-9795, in Orange County, at Latitude 28°37' 46.1" N/Longitude 81°29' 57.59" W.

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 Rule 28-106.201, 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, and telephone number of the 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; and an explanation of how the petitioner's substantial interests are or 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. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing must be filed within 21 days of publication of this notice or receipt of written notice, whichever occurs first. However, any person who has previously asked the Department for notice of this agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication. 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.

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, before the applicable 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 is not available in this proceeding.

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, this process may result in a modification of the agency action or even a denial of the request for a variance or waiver.

A copy of the Order may be obtained by contacting: Department of Environmental Protection, Central District, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767; email: DEP\_CD@dep.state.fl.us; telephone: 407-897-4100; during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.