

COVER LETTER

Florida Department of Environmental Protection

Office of Inspector General — Environmental Complaint

Date: __, 2026

Via Certified Mail and Electronic Submission

Inspector General
Florida Department of Environmental Protection
3900 Commonwealth Boulevard, M.S. 40
Tallahassee, Florida 32399-3000

Re: Formal Complaint — Systematic MS4 Permit Violations, Potentially Unpermitted Infrastructure, Federal Jurisdiction Violations, and Protected Species Harm by the City of Jacksonville; Hogpen Creek, Duval County, Florida (MS4 Permit No. FLS000081; SJRWMD Permit #4-031-17631-6)

Dear Inspector General:

On behalf of approximately **111 residential property owners** along Hogpen Creek in Jacksonville, Florida, I am submitting this formal environmental complaint regarding the City of Jacksonville's chronic and systematic violations of its Municipal Separate Storm Sewer System (MS4) permit and state water quality standards. We respectfully request that the Office of Inspector General investigate these violations and initiate appropriate enforcement action **through issuance of a Consent Order with mandatory infrastructure remediation, creek restoration, and stipulated penalties as detailed below.**

RELIEF REQUESTED

I. LEGAL AUTHORITY FOR ENFORCEMENT

The Florida Department of Environmental Protection is authorized under **Florida Statute § 403.121** to issue Consent Orders in response to environmental violations. This statute explicitly authorizes FDEP to:

- Compel compliance with environmental permits and water quality standards through administrative orders;
- Require construction of corrective infrastructure and remedial measures;
- Impose civil penalties reflecting the economic benefit of noncompliance;
- Assess stipulated penalties for failure to meet specified compliance milestones;
- Establish binding compliance timelines and performance requirements;
- Require long-term monitoring and institutional oversight.

Additionally, **Florida Statute § 403.161** authorizes injunctive relief and restoration of degraded water resources, and **Florida Statute § 403.087** establishes the City's mandatory MS4 permit compliance obligations.

II. MANDATORY INFRASTRUCTURE REMEDIATION

The City of Jacksonville **is required to achieve compliance** through the following mandatory infrastructure remediation measures:

A. CONSTRUCT THE MISSING FOURTH WEIR

Requirement: Construct the easternmost (fourth) canal weir in the Sandalwood Canal system as required under SJRWMD Permit #4-031-17631-6 but never completed by the City.

Specifications:

- Location: East of W. Osprey Point Drive, in the Sandalwood Canal segment approaching Hogpen Creek discharge
- Functional Design: Raised canal weir designed to control flow velocities, reduce downstream erosion, and maintain sediment retention capacity
- Structural Standards: In accordance with SJRWMD permit specifications and current Florida engineering standards
- Estimated Cost: \$500,000-\$750,000

Compliance Timeline:

- Engineering plans and permit applications: **90 days from Consent Order issuance**
- Construction commencement: **180 days from Consent Order issuance**
- Completion and operational certification: **12 months from construction commencement**

B. RESTORE AND REHABILITATE THE SILT RETENTION POND

Requirement: Restore the Sandalwood Canal silt retention pond to full design capacity and effectiveness as a sediment control BMP.

Specifications:

- Sediment removal: Excavate and remove all accumulated sediment to restore original design depth and volume
- Design capacity: Restore pond to minimum **150,000 cubic yards** sediment storage capacity
- Outlet structures: Inspect, repair, and certify all outlet pipes, spillways, and sediment control structures
- Bank stabilization: Stabilize and vegetate all exposed banks to prevent erosion into the pond
- Design overflow: Ensure outlet structures are configured to maintain sediment retention while managing design flood events

Maintenance Protocol:

- Quarterly inspections: The City **is required to conduct quarterly inspections** of the pond and maintain detailed logs documenting sediment levels, vegetation condition, outlet functionality, and any maintenance needs identified
- Annual sediment surveys: Conduct annual bathymetric or equivalent surveys to track sediment accumulation and determine removal requirements
- Maintenance dredging: Remove accumulated sediment annually or more frequently as surveys indicate, to maintain design capacity

- Documentation: Maintain all inspection logs, survey data, and maintenance records available for FDEP review for the duration of the Consent Order and 5 years beyond

Compliance Timeline:

- Engineering assessment: **30 days from Consent Order issuance**
- Rehabilitation design and permitting: **90 days from order issuance**
- Construction commencement: **180 days from order issuance**
- Completion and certification: **12 months from construction commencement**
- Ongoing maintenance: **Commencing upon completion and continuing for minimum 5 years**

C. IMPLEMENT DOCUMENTED MAINTENANCE PROTOCOLS

Requirement: The City **is required to establish and maintain** comprehensive, documented maintenance protocols for all stormwater best management practices (BMPs) serving the Hogpen Creek watershed.

Specific Requirements:

- **Quarterly BMP inspections:** Conduct formal inspections of all BMPs serving the Hogpen Creek watershed—including detention basins, retention ponds, erosion control structures, inlet structures, and outfall stabilization—at minimum quarterly (4 times per year)
- **Detailed inspection logs:** Document findings in standardized inspection reports including photographs, measurements, observations of sediment accumulation, vegetation condition, structural integrity, and any maintenance needs identified
- **Remedial actions:** Implement identified maintenance needs within 30 days of inspection or sooner if conditions pose risk of pollutant discharge
- **Budget allocation:** The City **is required to maintain** dedicated annual budget allocation of minimum **\$250,000** for stormwater BMP maintenance, inspection, and sediment removal in the Hogpen Creek watershed
- **Program staffing:** Assign qualified personnel responsible for BMP maintenance with documented training in sediment control and stormwater management

Compliance Timeline:

- Program implementation: **Commencing immediately upon Consent Order issuance and continuing for minimum 5 years following creek restoration completion**

D. INSTALL WATER QUALITY MONITORING SYSTEM

Requirement: Install automated, real-time water quality monitoring system in Hogpen Creek to track compliance with water quality standards and detect future violations.

Specifications:

- **Monitoring location:** Primary site at the Sandalwood Canal discharge point into Hogpen Creek; secondary site at a representative mid-creek location
- **Measured parameters:** Dissolved oxygen (DO), temperature, specific conductivity, turbidity, pH, chlorophyll-a, and water level
- **Monitoring frequency:** Continuous automated monitoring with data transmitted in real-time to FDEP
- **Equipment specifications:** Industry-standard multiparameter sondes with automated data logging and telemetry
- **Maintenance:** Regular calibration, sensor cleaning, and equipment maintenance as required by equipment manufacturer
- **Data access:** All data **shall be made available** to FDEP, SJRWMD, and complainants in real-time

via internet-accessible dashboard

- **Estimated cost:** \$80,000–\$120,000 (installation and equipment)

Compliance Timeline:

- Equipment procurement and installation: **90 days from Consent Order issuance**
- Operational certification: **120 days from order issuance**
- Ongoing operation: **Commencing upon operational certification and continuing minimum 5 years beyond creek restoration**

III. MANDATORY CREEK RESTORATION

The City of Jacksonville **is required to restore** Hogpen Creek to lawful navigable condition through the following mandatory creek restoration measures:

A. COMPREHENSIVE DREDGING AND SEDIMENT REMOVAL

Requirement: Execute comprehensive dredging of Hogpen Creek to remove accumulated sediment and restore navigable depth and water quality.

Specifications:

- **Dredging volume:** Remove approximately **50,000–75,000 cubic yards** of accumulated sediment from the creek, with specific volume to be determined through baseline bathymetric survey
- **Target depth:** Restore creek bottom to a minimum depth of **4–6 feet below mean low water** in the primary navigation channel and sediment-impacted segments
- **Dredging methodology:** Mechanical dredging using standard hydraulic or clamshell equipment; disposal of sediment at an upland disposal facility approved for creek sediments or beneficially reused if testing determines appropriate reuse opportunities exist
- **Environmental protections:** Implement turbidity controls, sedimentation barriers, and environmental monitoring throughout dredging operations; conduct dredging during optimal seasonal windows to minimize impacts to aquatic life; obtain all required environmental permits including U.S. Army Corps of Engineers Section 404 permit and FDEP dredge and fill authorization
- **Post-dredging restoration:** Restore and stabilize dredged areas to prevent rapid re-sedimentation; restore submerged aquatic vegetation (SAV) beds and native plantings where appropriate

Estimated Cost: \$5,000,000–\$7,000,000 (depending on sediment volume and disposal logistics)

Compliance Timeline:

- Baseline bathymetric survey and design: **90 days from Consent Order issuance**
- Dredging permit applications: **120 days from order issuance**
- Dredging commencement: **240 days from order issuance**
- Dredging completion: **18 months from construction commencement** (approximately 27 months from Consent Order issuance)

B. HABITAT RESTORATION

Requirement: Restore degraded aquatic habitat damaged by sedimentation, including manatee navigation channels and native species habitat.

Specifications:

- **Manatee channel maintenance:** Maintain primary navigation channels to minimum **4–5 feet** depth to permit year-round manatee transit and foraging
- **SAV restoration:** Identify areas where submerged aquatic vegetation has been eliminated or degraded by sedimentation; implement SAV restoration plantings and nursery stock transplantation of

native seagrasses (widgeon grass, Vallisneria, or other appropriate species) in suitable locations

- **Benthic community restoration:** In areas of severe muck accumulation, remove excess organic material and restore bottom composition to support native benthic fauna
- **Shoreline stabilization:** Stabilize eroded banks with native vegetation plantings and erosion control structures to prevent ongoing erosion and sediment mobilization

Compliance Timeline:

- Habitat restoration design: **120 days from Consent Order issuance**
- Restoration implementation: **Concurrent with dredging operations and 6 months following dredging completion**
- Establishment period: **Minimum 5-year monitoring period to assess restoration success**

C. POST-DREDGING WATER QUALITY AND SEDIMENT MONITORING

Requirement: Conduct comprehensive water quality and sediment monitoring for a minimum **5-year period** following dredging completion to verify maintenance of restored conditions and prevent future sedimentation.

Specifications:

- **Sediment depth surveys:** Annual bathymetric surveys to measure sediment reaccumulation; if surveys indicate sediment accumulation exceeding 12 inches in any annual period, the City **is required to conduct maintenance dredging** within the following quarter
- **Water quality monitoring:** Continue automated real-time monitoring as specified in Section II.D above; maintain dissolved oxygen, turbidity, and other parameters within Florida water quality standards
- **Habitat monitoring:** Annual surveys to document SAV coverage, benthic fauna diversity, fish community composition, and manatee utilization
- **Adaptive management:** If monitoring indicates degradation or inadequacy of BMP performance, the City **is required to implement corrective measures** within 60 days of determination

IV. ECONOMIC BENEFIT RECAPTURE AND CIVIL PENALTIES

A. ECONOMIC BENEFIT OF NONCOMPLIANCE

The City of Jacksonville derived substantial economic benefit through its decision to defer maintenance and infrastructure investment. Itemized economic benefit includes:

Benefit Category	Amount
Deferred maintenance costs (pond inspections, sediment removal) 2005-2026	\$400,000
Deferred fourth weir construction	\$750,000
Deferred BMP upgrades and infrastructure investment	\$800,000
Avoided stormwater treatment upgrades (San Pablo Road project, unpermitted)	\$300,000
Avoided cost of watershed-wide stormwater treatment and compliance	\$1,750,000
Subtotal: Avoided direct costs	\$4,000,000-\$5,000,000

Note: Updated economic benefit analysis incorporates comprehensive watershed-scale assessment of the 11-square-mile (7,000-acre) drainage area generating 33 million gallons of untreated stormwater discharge per 0.5-inch rain event, reflecting the true scale of infrastructure investment the City avoided. The San Pablo Road project, conducted without required SJRWMD permit (Permit 118023-1 withdrawn), added stormwater volume to the already-failed system without upgrading treatment capacity — a recent example demonstrating the pattern of noncompliance continues to the present day.

B. RECOMMENDED PENALTY STRUCTURE

Based on statutory authority under Florida Statute § 403.141, the complainants recommend civil penalties as follows:

Penalty Component	Amount	Basis
Economic benefit recapture	\$4,000,000-\$5,000,000	Direct economic advantage of noncompliance (updated analysis)
Base civil penalties (knowing violation, 20+ years)	\$500,000	Severity, duration, willful nature of violations
Environmental harm component	\$500,000	Documented harm to property values, ecosystem, protected species
Total Recommended Civil Penalty	\$5,000,000	Complete deterrence and restoration funding

C. STIPULATED PENALTIES FOR MISSED MILESTONES

The City of Jacksonville **is required to pay stipulated penalties** for failure to meet Consent Order compliance milestones, as follows:

Milestone	Deadline	Stipulated Penalty for Missed Deadline
Engineering plans for fourth weir and pond restoration	90 days	\$10,000/day of delay
Construction commencement for infrastructure remediation	180 days	\$10,000/day of delay
Fourth weir construction completion	12 months from commencement	\$10,000/day of delay
Silt pond restoration completion	12 months from commencement	\$10,000/day of delay
Dredging design and baseline surveys	90 days	\$10,000/day of delay
Dredging permit applications submitted	120 days	\$10,000/day of delay
Dredging commencement	240 days	\$10,000/day of delay
Dredging completion	18 months from commencement	\$10,000/day of delay
Water quality monitoring system installation	90 days	\$10,000/day of delay
Quarterly BMP inspection program implementation	Immediate	\$5,000/day of non-compliance
Annual sediment surveys	Beginning year 1 of monitoring	\$5,000/day of delay
Maintenance response to identified deficiencies	30 days of inspection	\$5,000/day of delay

Provision: Stipulated penalties **shall accrue daily** for any milestone delay and are in addition to, not in lieu of, any civil penalties assessed for the underlying violations.

V. ONGOING OVERSIGHT AND COMPLIANCE REQUIREMENTS

A. COMPLIANCE REPORTING

Requirement: The City **is required to provide detailed compliance reports** to FDEP according to the following schedule:

- **During construction phase:** Monthly progress reports documenting construction status, milestones achieved, challenges encountered, and schedule adherence for the fourth weir, silt pond restoration, and dredging operations
- **Post-construction, year 1:** Quarterly reports documenting water quality monitoring results, inspection findings, maintenance activities, and BMP performance
- **Post-construction, years 2-5:** Annual comprehensive reports documenting sediment surveys, water quality trends, habitat restoration progress, and long-term BMP effectiveness

Report Contents: All reports shall include:

- Detailed narrative progress description
- Photographic documentation of completed work
- All monitoring data and survey results
- Certification by a licensed professional engineer of work completion and BMP functionality
- Identification of any non-compliance or problems requiring corrective action

B. VERIFICATION AND INDEPENDENT OVERSIGHT

Requirement: The City **shall be subject to ongoing FDEP inspection and verification** of compliance throughout the Consent Order term.

Specific Requirements:

- **FDEP right to inspect:** FDEP retains the right to conduct unannounced site inspections at any time during construction and ongoing operations
- **Third-party engineering certification:** All major work (fourth weir construction, silt pond restoration, dredging) shall be certified by an independent licensed professional engineer retained by the City and approved by FDEP
- **Dispute resolution:** In the event the City disputes FDEP's determination of non-compliance or inadequacy, disputes shall be resolved through binding technical review by a mutually agreed independent engineering expert, with costs borne by the non-prevailing party

C. LONG-TERM MAINTENANCE ASSURANCE

Requirement: The City **is required to provide binding assurance** that the infrastructure and restoration work will be maintained for the long term and will not be abandoned or defunded as occurred following the 2003–2005 dredging project.

Specific Requirements:

- **Bonded maintenance fund:** The City shall establish an escrow account or surety bond in the amount of **\$500,000** to ensure funding of BMP maintenance and sediment removal for a minimum **10-year period** following Consent Order issuance
- **Budget allocation guarantee:** The City shall enact a binding City Council ordinance guaranteeing annual budget allocation of minimum **\$250,000** for stormwater BMP maintenance in the Hogpen Creek watershed, removing such allocation from discretionary budget processes that could lead to future defunding
- **Non-abandonment covenant:** The City **shall covenant that it will not reduce, defer, or eliminate** the stormwater maintenance program or BMP inspection program for the Hogpen Creek watershed for a minimum 10-year period, subject to enforcement through contempt proceedings if violated

- **Successor obligation:** These requirements shall be binding upon the City and all successor administrations and shall not be subject to modification without FDEP approval

VI. WHY ENFORCEMENT ACTION IS ESSENTIAL

A. Pattern Demonstrates Voluntary Compliance Will Not Occur

The City of Jacksonville has had **more than two decades** of opportunity to address the Sandalwood Canal's sedimentation impacts on Hogpen Creek:

- **2003:** City acknowledged responsibility and funded remediation
- **2005:** Dredging project completed
- **2007-2008:** City undertook "improvements" that made conditions worse
- **2010-2014:** Ellis property owner obtained independent engineering report documenting City's infrastructure failures
- **2014-2026:** City received notice of failures through Ellis litigation and continued inaction for an additional 12 years
- **Recent (San Pablo Road project):** City had opportunity during this recent road expansion project to upgrade stormwater infrastructure, construct the missing fourth weir, and restore the silt pond capacity — **the City chose not to;** instead, the project proceeded **without required SJRWMD permit** (Permit 118023-1 withdrawn), added stormwater volume to the already-failed system, and made the problem worse

This 20+ year pattern, extending to recent unpermitted construction, demonstrates conclusively that voluntary compliance will not occur. The City has acknowledged problems, been sued, received expert engineering reports documenting causation, and chosen to do nothing. Even when recent construction projects provided natural opportunities to fix longstanding infrastructure deficiencies, the City proceeded without permits and without upgrades. Only enforcement with binding compliance obligations and stipulated penalties will compel action.

B. Economic Incentives Have Driven Non-Compliance

The City saved millions of dollars by deferring maintenance and necessary infrastructure investment. As long as the City faces no enforcement consequences and can avoid the expense of proper BMP maintenance, the City's financial incentives will drive continued non-compliance. **Enforcement with economic penalties restores proper incentives and requires the City to internalize the true cost of environmental compliance.**

C. Precedent: Selective Enforcement Against Private Parties

The City routinely issues Notices of Violation and Consent Orders to private developers for sediment and stormwater violations. The City's own infrastructure violates identical standards on a vastly larger scale. **FDEP enforcement against the City establishes the rule of law, demonstrates that environmental standards apply equally to municipal and private parties, and prevents the appearance of institutional favoritism.**

D. Recent Unpermitted Construction Shows Pattern Continues

The San Pablo Road expansion project is particularly damning evidence because it is **recent** — demonstrating that the pattern of permit violations and infrastructure neglect is not merely historical but **ongoing and current**. The City had every opportunity during this modern construction project to:

- Obtain proper SJRWMD permits (Permit 118023-1 was applied for, then withdrawn)
- Upgrade the Sandalwood Canal system to handle increased stormwater volume

- Finally construct the missing fourth weir as part of the road project
- Restore the silt pond to handle the additional load

Instead, the City proceeded unpermitted, added stormwater volume without treatment, and made an already-failed system worse. This recent behavior proves the violations are not merely a legacy problem but an ongoing institutional pattern that continues to the present day.

SUPPORTING EVIDENCE

This enforcement request is supported by comprehensive documentation including:

- **City Admission of Responsibility (2010):** The City of Jacksonville not only acknowledged but formally admitted responsibility for Hogpen Creek sedimentation by paying a cost-share for dredging — proving admission of fault, not merely awareness, as early as 2010
- **Professional Hydrographic Survey (January 4, 2024):** Scientific causation proof — professional survey documented less than 0.5 feet depth at mean low water (MLW) at the canal outfall discharge point versus 6.2 feet MLW in the adjacent Atlantic Intracoastal Waterway (AICW), establishing an objective depth gradient that proves the Sandalwood Canal discharge is the source of sedimentation
- **Ellis Property Precedent (2014):** Independent engineering report from a licensed consulting firm documenting “downstream transfer” of erosion caused by City infrastructure
- **City Permit Admissions (2007–2008):** City’s own SJRWMD permit application stating design objectives included “reduction in sediment transport and deposition to the downstream Hogpen Creek”
- **Recent Unpermitted Construction (San Pablo Road):** SJRWMD Permit 118023-1 application withdrawn; City proceeded with construction crossing Sandalwood Canal without permit; increased stormwater volume to already-failed infrastructure; demonstrates pattern of permit violations continues to present day
- **Bathymetric and Sediment Survey Data:** Documented evidence of 2–4 feet of sediment accumulation in affected creek segments
- **Property Value Impact Documentation:** Duval County Property Appraiser reclassifications from “Deep Water” to “Tidal Access” reflecting loss of navigability
- **Federal Jurisdiction Confirmation:** U.S. Army Corps of Engineers determination of jurisdiction over Hogpen Creek under Section 10 and Section 404, establishing parallel federal enforcement authority
- **Photographic and Visual Evidence:** Extensive documentation of sedimentation, failed BMPs, muck accumulation, and loss of navigability
- **Research Findings (2026):** Discovery of potentially unpermitted Sandalwood Canal operation, deliberately defunded maintenance program, selective enforcement patterns, and ongoing permit violations through recent unpermitted construction

CONCLUSION

This complaint presents a clear, documented, and compelling case for enforcement action. The City of Jacksonville has violated its MS4 permit for more than two decades, causing measurable harm to private property owners, municipal revenues, and the aquatic environment. **The pattern continues**

to the present day, as demonstrated by the recent unpermitted San Pablo Road construction that added stormwater volume to the failed system while the City chose not to fix longstanding deficiencies. The requested enforcement action—through issuance of a Consent Order with mandatory infrastructure remediation, creek restoration, penalties, and ongoing oversight—is authorized by statute, proportionate to the violations, and necessary to protect the public interest.

We respectfully request that FDEP investigate this matter with urgency, determine the violations documented herein, and issue a Consent Order requiring the specific corrective actions outlined above. The complainants are prepared to cooperate with FDEP investigators, provide additional information, and facilitate resolution of this matter in accordance with applicable law.

Respectfully submitted,

Ryan Adams

On behalf of the Hogpen Creek Property Owners
Hogpen Creek Frontage Owner
13834 Seven Pines Drive
Jacksonville, FL 32224
(203) 770-4876
Ryan.paul.michael.adams@gmail.com

Enclosures:

- FDEP Complaint Narrative (v3.4) — Detailed Statement of Facts and Legal Basis
- Supporting documentation packages as referenced in narrative

cc:

FDEP Northeast District Office
U.S. Environmental Protection Agency, Region 4
U.S. Army Corps of Engineers, Jacksonville District
U.S. Fish and Wildlife Service, North Florida Ecological Services Office
City of Jacksonville, Office of the Mayor
City of Jacksonville, Office of General Counsel
District 13 City Council Representative

This cover letter and accompanying complaint package are submitted pursuant to the Florida Department of Environmental Protection's complaint procedures and in support of potential citizen enforcement under Florida Statute § 403.412.