

Department of Environmental Protection

Jeb Bush
Governor

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Colleen Castille
Secretary

November 15, 2004

ELECTRONIC MAIL
cwaechter@perma-fix.com

Chris Waechter
Perma-Fix of Orlando
10100 Rocket Boulevard
Orlando, FL 32824

OCD-HW-C-04-0391

Orange County – HW
Short Form Consent Order Letter

Dear Mr. Waechter:

A hazardous waste compliance inspection was conducted at your facility on May 19, 2004. This inspection was conducted under the authority of Section 403.091, Florida Statutes, and Chapter 403, Part IV, Florida Statutes. The inspection is designed to ascertain the compliance status of your facility with 40 CFR 260-268, adopted in Florida Administrative Code Chapter 62-730.

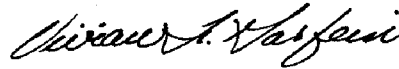
The Department has reviewed the corrective actions by Perma-Fix concerning the violations and corrective actions and has the following comments:

- a) F.S. 403.727 Permit Conditions-Storage Volume: The Department maintains that Perma-Fix violated this regulation but agrees to drop the penalty to a Minor/Minor violation, which reduces the multi-day penalty as well.
- b) Ten day Transfer Facility Accumulation Time: The Department maintains that Perma-Fix violated this regulation.
- c) Prohibitions of Storage: The Department maintains that Perma-Fix violated this regulation.
- d) Waste Determination: Perma-Fix has provided the Department with adequate documentation to remove this penalty from the calculations.
- e) Waste Analysis Plan: Perma-Fix has provided the Department with adequate documentation to remove this penalty from the calculations.
- f) Training: During the informal enforcement meeting, Perma-Fix explained that Anne Meador had received on the job training but it was not documented. Additionally, Miles Keller had not received training but was not working for Perma-Fix at the time he was due for training. The Department has changed this penalty to a Minor/Minor violation.
- g) General Inspections: The Department maintains that Perma-Fix violated this regulation but did not include the violation in the penalty calculations.
- h) Failure to Report Non-compliance with Permit: The Department maintains that Perma-Fix violated this regulation.

- i-n) Above Ground Storage Tank Regulations: The Department maintains that Perma-Fix violated these regulations.
- o) Used Oil Training: The Department maintains that Perma-Fix violated this regulation.
- p) Rebuttable Presumption: The Department maintains that Perma-Fix violated this regulation.
- q) Used Oil Filter Management: The Department maintains that Perma-Fix violated this regulation.
- r) Used Oil Container Labeling: The Department maintains that Perma-Fix violated this regulation.
- s) Unauthorized Storage: The Department maintains that Perma-Fix violated this regulation.
- t) Unapproved Permit Modification: The Department maintains that Perma-Fix violated this regulation

Enclosed is a copy of the revised penalty calculations and the Short Form Consent Order for your review. If you have questions concerning this matter, please e-mail Janine Kraemer at Janine.Kraemer@floridadep.net or call her at (407) 893-3323. Your response to this request for information should be mailed to Janine Kraemer at the letterhead address above.

Sincerely,



Vivian F. Garfein
Director, Central District

VFG/jk

Enclosures: Short Form Consent Order



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OCD-HW-C-04-0391

SUBJECT: Proposed Settlement by Short Form Consent Order in Case of Perma-Fix of Orlando,
OGC File No.: 04-1771

Dear Mr. Waechter:

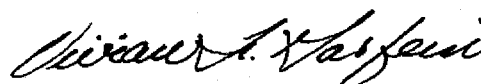
The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter, OWL-HW-C/E-04-025, dated August 12, 2004, a copy of which is attached. The corrective actions required to bring your facility into compliance have been performed. The Department finds that you are in violation of the rules and statutes cited in the attached letter. In order to resolve the matters identified in the attached letter, you are assessed civil penalties in the amount of \$51,345.00, along with \$200.00 to reimburse the Department costs, for a total of \$51,545.00.

The Department acknowledges that the payment of these civil penalties by you does not constitute an admission of liability. This payment must be made payable to the Department of Environmental Protection by cashier's check or money order and shall include the OGC File Number assigned above and the notation "Ecosystems Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803, within 30 days of your signing this letter.

Your signing this letter constitutes your acceptance of the Department's offer to resolve this matter on these terms. If you elect to sign this letter, please return it to the Department at the address indicated above. The Department will then countersign the letter and file it with the Clerk of the Department. When the signed letter is filed with the Clerk, the letter shall constitute final agency action of the Department that shall be enforceable pursuant to Section 120.69 and 403.121, Florida Statutes.

If you do not sign and return this letter to the Department at the District address within 20 days of receipt of this letter, the Department will assume that you are not interested in settling this matter on the above described terms, and will proceed accordingly. None of your rights or substantial interests are determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,



Vivian F. Garfein
Director, Central District

November 16, 2004

Date

VFG/jk

Enclosures: Warning Letter
Penalty Calculation Worksheet

FOR THE RESPONDENTS:

I, _____ on behalf of _____, **HEREBY ACCEPT THE
TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: _____

Date: _____

.....
FOR DEPARTMENT USE ONLY

DONE AND ENTERED this _____ day of _____, 2004.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Vivian F. Garfein
Director, Central District

FILING AND ACKNOWLEDGMENT FILED,
on this date, pursuant to §120.52, Florida Statutes,
With the designated Department Clerk,
receipt of which is hereby
Acknowledged.

Clerk

Date

cc: Mike Redig, FDEP, Tallahassee, michael.redig@floridadep.net
Laurie Digaetano, EPA Region 4, digaetano.laurie@epa.gov

NOTICE OF RIGHTS

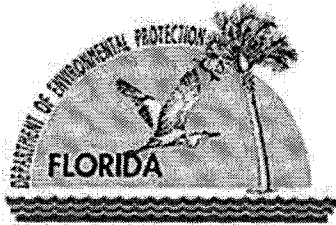
Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.



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Chris Waechter
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OWL-HW-C/E-04-025

Dear Mr. Waechter:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. Hazardous and Solid waste compliance inspections were conducted at your facility on May 19, May 21, and June 8, 2004. These inspections were conducted under the authority of Section 403.091, Florida Statutes, and Chapter 403, Part IV, Florida Statutes in order to determine the compliance status of your facility with 40 Code of Federal Regulations (CFR) Parts 260-268, and Part 279 adopted in the Florida Administrative Code and other Florida laws relating to solid and hazardous waste, storage tanks, and used oil.

The inspections were also conducted under the authority of Section 403.161 (1)(b), Florida Statutes and Chapters 62-4 and 62-701, Florida Administrative Code, which provides that a permittee shall comply with any rule regulation or permit issued by the Department.

During the inspections, Department personnel observed possible violations of Florida Statutes and Rules and permit conditions regarding solid and hazardous waste, storage tanks, and used oil. These violations are set forth in "Potential Noncompliance Items and Corrective Actions" of the attached inspection report.

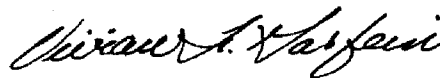
The activities observed during the Department's field inspections and any activity at your facilities that may be contributing to violations of the above described statutes and rules should be ceased immediately.

The Department has calculated penalties for the violations addressed above. The penalty work sheet is enclosed. The penalty amount was calculated in accordance with Section 403.121, Florida Statutes. the U.S. EPA RCRA Civil Penalty Policy, dated June 2003, and the Department's Guidelines for Characterizing RCRA Violations. A copy of the documents is available upon request.

Please contact Janine Kraemer, Hazardous Waste Section, by telephone at (407) 893-3323 or by e-mail at janine.kraemer@floridadep.net within 10 days of receipt of this letter to schedule an informal conference concerning resolution of this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred and whether any penalties are appropriate. You may bring anyone with you to the meeting that you feel could help resolve this matter.

This Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. The Department looks forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,



Vivian F. Garfein
Director, Central District

August 12, 2004
Date

VFG/jk

Enclosures:
Inspection Report
Penalty Calculation Worksheet

cc: Mike Redig, FDEP, Tallahassee, michael.redig@floridadep.net
Laurie DiGaetano, EPA Region 4, digaetano.laurie@epa.gov
Debby Valin, Tallahassee, debby.valin@floridadep.net
Gloria-Jean DePradine, gloria.depradine@floridadep.net

PENALTY COMPUTATION WORKSHEET

Violator's Name: Perma-Fix

Identify Violator's Facility: 10100 Rocket Blvd. and 10225 General Dr., Orlando Florida 32824

Name of Staff Responsible for the Penalty Computations: Janine Kraemer Revised Date: 10/21/04

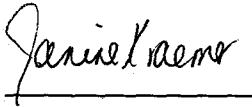
Violation Type		Manual Guide	Potential for Harm	Extent of Deviation	Matrix Range	Multi-Day	History 10%	Total
a.	403.727 F.S. Permit Conditions	HW 15.3	Minor	Minor	\$549 - \$110	138 x \$110 = \$15,180	\$54	\$15,783
b.	263.12 10-day Transfer Waste	HW 6.1	Minor	Minor	\$549- \$110		\$54	\$603
c.	264.1(h)/268.50 (b) Prohibitions on Storage	HW 16.5	Minor	Major	\$3,299- \$1,650	25 x \$385 = \$9,625	\$329	\$13,253
f.	265.16(a)(1) Training	HW 9.1	Minor	Minor	\$549 - \$110		\$54	\$603
h.	62-4.160(17)(b) F.A.C. Failure to Report	HW 15.1	Minor	Minor	\$549- \$110		\$54	\$603
i.	62-761.400(1) F.A.C. Tank Registration	ELRA 403.121 (5)	NA	NA	\$500			\$500
j.	62-761.400(3)(c)1. F.A.C. Financial Responsibility	ELRA 403.121 (4)	NA	NA	\$5,000			\$5,000
k.	62-761.500(1)(e)1. & 2. F.A.C. AST Requirements	ELRA 403.121 (3)(g)	NA	NA	\$1,000			\$1,000
l.	62-761.850(2)(a), F.A.C. Storage Tank Equipment	ELRA 403.121 (3)(g)	NA	NA	\$2,000			\$2,000
m.	62-761.500(3)(d)4. F.A.C. Overfill Equipment	ELRA 403.121 (3)(g)	NA	NA	\$2,000			\$2,000
n.	62-761.400(3) F.A.C. Monthly Inspections	ELRA 403.121 (3)(g)	NA	NA	\$2,000			\$2,000
o.	62-710.600(2)(b) F.A.C. Used Oil Training	ELRA 403.121 (4)(e)	NA	NA	\$1,000			\$1,000
p.	279.44 Rebuttable Presumption for Used Oil	ELRA 403.121 (d)(4)	NA	NA	\$2,000			\$2,000
q.	62-710.850(6) F.A.C. Used Oil filter labeling	ELRA 403.121 (5)	NA	NA	\$500			\$500

r.	279.22(c)(1) Used oil container labeling	ELRA 403.121 (5)	NA	NA	\$500			\$500
s.	62-701.300(1) F.A.C. Unauthorized Storage	ELRA 403.121 (3)(e)	NA	NA	\$3,000			\$3,000
t.	62-701.320(1) F.A.C. Permit Modification	ELRA 403.121 (4)(e)	NA	NA	\$1,000			\$1,000

TOTAL PENALTY AMOUNT FOR ALL VIOLATIONS:

\$51,345.00

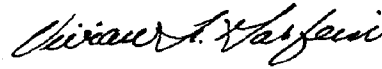
Prepared by:



Janine Kraemer
Environmental Specialist

November 16, 2004

Date



Vivian F. Garfein
Director, Central District

November 16, 2004

Date

WORKSHEET RANKING SYSTEM FOR POTENTIAL FOR HARM

FACILITY NAME: Perma-Fix Date: 5/19/04

	Violation	Description	Nature of Waste	Amount of Waste	Release	People	Total Points
c.	264.1(h)/268.50(b)	Storage Time	4	2	1	1	8

SCORING SYSTEM

NATURE OF WASTE	AMOUNT OF WASTE	RECEPTORS	
		Releases	Affected Population
8 - High hazard wastes	8 - > 5,000 kg (25 drums)	4 - Release	4 - > 1,000
	5 - 1, 000 to 5,000 kg	4 - High potential for release	3 - 100 - 1,000
4 - typical hazardous waste	2 - < 1,000 kg (5 drums)		2 - 10 - 100
		1 - No release	1 - <10

MAJOR POTENTIAL FOR HARM: 19-24
MODERATE POTENTIAL FOR HARM: 13-18
MINOR POTENTIAL FOR HARM: 8-12