

Department of Environmental Protection

Jeb Bush
Governor

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

Colleen Castille
Secretary

ELECTRONIC MAIL
cwaechter@perma-fix.com

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

OCD-HW-C-05-0077

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, attached as Exhibit A. 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 \$500.00 to reimburse the Department costs, for a total of \$51,845.00. The civil penalties assessed in this case include eight violations of \$2,000 or more. Additional information on penalties is contained in the Penalty Calculation Worksheet, attached as Exhibit B.

In lieu of making cash payment of the civil penalties, the Department has determined that up to \$41,076.00 of the civil penalty may be offset through the implementation of a Supplemental Environmental Project (SEP) described in the attached Exhibit C. The value of the SEP shall be one and a half times the civil penalty off-set amount, which in this case is the equivalent of at least \$61,614.00. Payment of the remaining civil penalties, \$10,296.00 and the \$500 Department costs, for a total of \$10,769.00, shall be made within 30 days of signing this letter. The 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 03-2153 and the notation "Ecosystems Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, 3319 Maguire, Suite 232, Orlando, FL 32803.

Upon signing this letter, Respondent shall implement the approved SEP, which includes the construction of a Consolidation and Bulking Building. The approved SEP has an estimated total cost of \$75,000.00 (Exhibit C). On June 1, 2005, Respondent shall provide the Department with a copy of the building permit and signed contract from the construction contractor. Respondent shall provide the Department with a monthly update, due the first of each month, describing the progress of the construction. Respondent shall notify the Department within 24 hours of any delays in completing the construction. Respondent shall provide the Department a copy of the final invoice upon completion of the construction. If any balance remains after the appropriate SEP costs are applied, or if Perma-Fix fails to implement the SEP as approved in a timely manner as required by this Consent Order, the SEP option shall be forfeited and any balance of the civil penalty due within 10 days of notification by the Department to Perma-Fix that the balance is due and owing.

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

March 31, 2005

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 _____, 2005.

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.



Department of Environmental Protection

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Collen Castille
Secretary

ELECTRONIC MAIL
cwaechter@perma-fix.com

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

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.

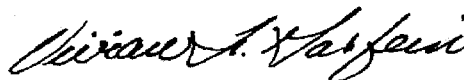
The activities observed during the Department's field inspections and any activity at your facilities that may be contributing to violations of the above described statutes and rules should be ceased immediately.

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

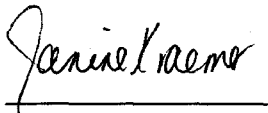
	Violation Type	Manual Guide	Potential for Harm	Extent of Deviation	Matrix Range	Multi-Day	History 10%	Total
a.	403.727 F.S. Permit Conditions	HW 15.3	Minor	Minor	\$549 - \$110	138 x \$110 = \$15,180	\$54	\$15,783
b.	263.12 10-day Transfer Waste	HW 6.1	Minor	Minor	\$549- \$110		\$54	\$603
c.	264.1(h)/268.50 (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

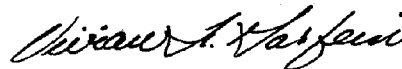
Prepared y:



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



SUPPLEMENTAL ENVIRONMENTAL PROJECT PLAN

PERMA-FIX OF ORLANDO

Section I

A. Facility Information

1) Facility Address

Perma-Fix of Orlando
10100 Rocket Boulevard
Orlando, Florida 32824

2) Number of Employees

53

3) Facility Description

The Perma-Fix Orlando (PFO) facility is presently engaged in the storage and consolidation of hazardous waste. PFO is also a transporter of hazardous waste and operates a transfer facility at the site. The storage and consolidation operations are authorized by a Hazardous Waste Facility Construction and Operating Permit issued on November 6, 1998. This permit allows the facility to store up to 824 55-gallon containers in the container storage unit, and to consolidate waste with other compatible wastes. The consolidation operations take place inside an "L"-shaped building located at the north end of the site, identified in this description as the north building. The facility may use the container storage unit to hold waste regulated under the transfer facility provisions for short periods of time. The transfer facility provisions allow a hazardous waste transporter to hold waste at the transfer facility for ten days or less while in transportation to another facility.

B. Personnel involved

Chris Waechter, Facility Manager, 10100 Rocket Boulevard, Orlando, Florida 32824
James Kreger, Compliance Manager, 10100 Rocket Boulevard, Orlando, Florida 32824

C. Identification and Description of the Process or Operations

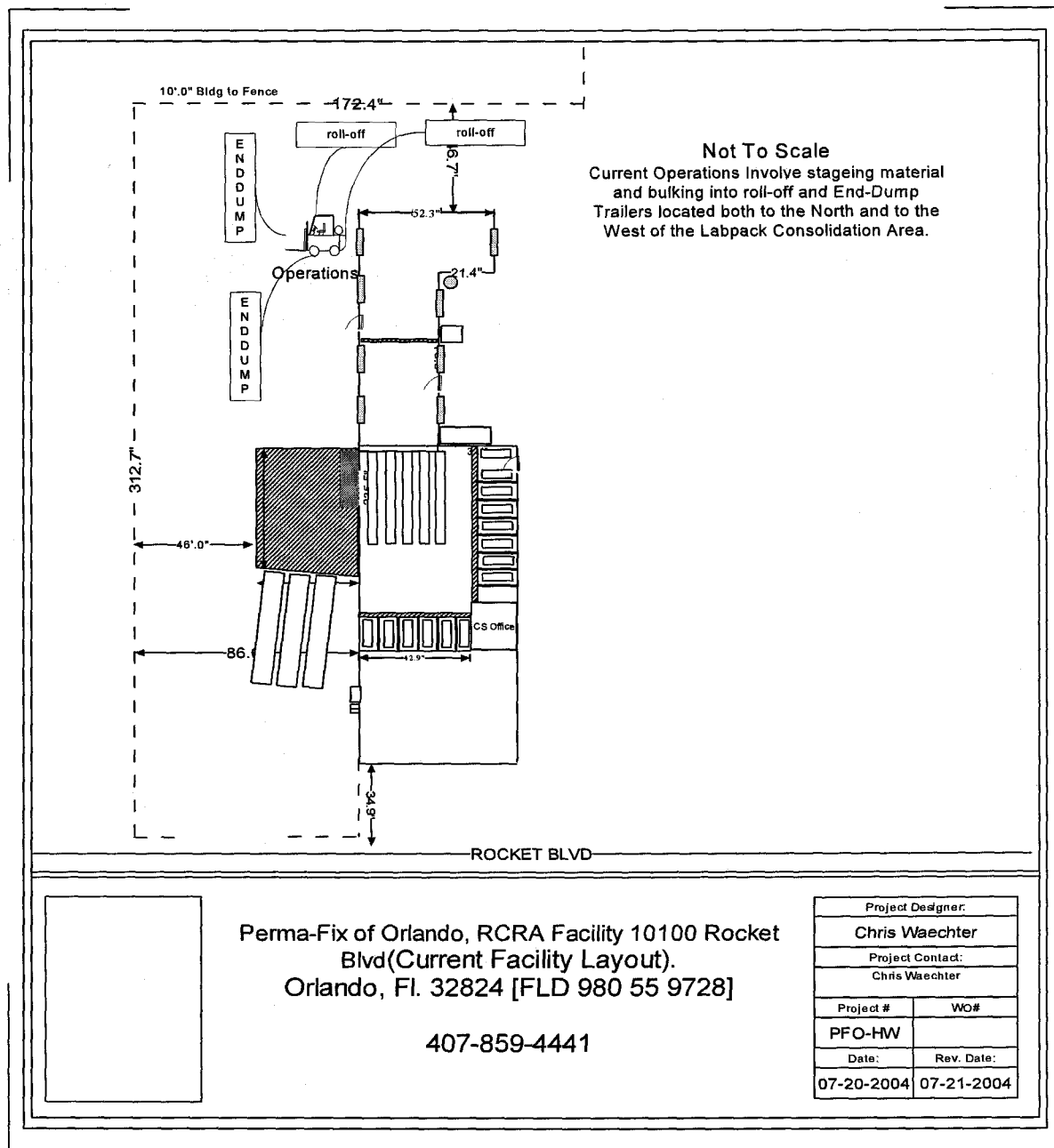
As part of its operations PFO takes smaller containers, (e.g., vials, jars, 1 gallon containers, 5 gallon pails, 15, 30 and 55 gallon drums) and consolidates and bulks into larger containers such as totes, cubic yard boxes and roll-off containers. In the past, part of the operation has been conducted out of doors.

D. Diagrams

1) Current Process Diagram

Current Bulk Consolidation

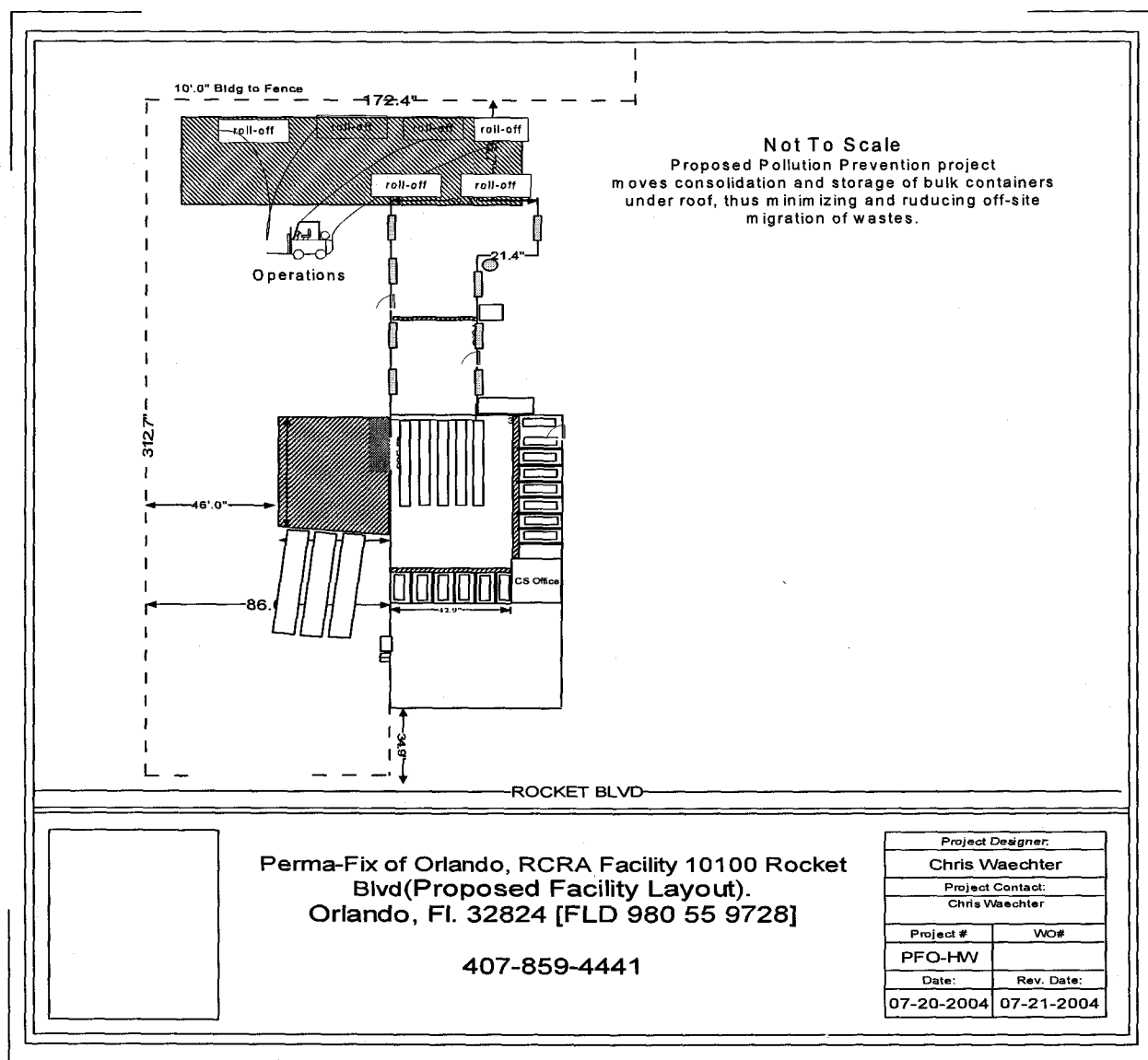
02/22/2005



2) Proposed Process Diagram

Proposed Bulk Consolidation P-2 Project

02/22/2005



Section II

A. Process Change

1) The largest aspect of project involves the elimination of processing solid and hazardous waste in non-contained, open, gravel areas. With the establishment of a "Bulk Consolidation Area" adjacent to the current consolidation area this process will be eliminated. The proposed plan will help PFO to control potential off-site migration of waste materials.

2) Additionally, the current practice of storing roll-off containers of Hazardous Waste outside will be changed and the roll-off containers will be stored in the new building.

B. Waste Segregation

1) Waste materials will continue to be stored in the RCRA permitted storage areas until processing/consolidation operations commence. During the shift in which materials are to be consolidated operations personnel will stage the materials in the proposed "Bulk Consolidation Area", bulking operations and segregation for this bulking operation will occur only in the new and enclosed area.

2) Roll-off containers will only be placed or stored in the enclosed "Bulk Consolidation area". No outside storage will occur.

C. Improved Maintenance and Housekeeping

The planned design of the "Bulk Consolidation Area," will include better controls in regard to dust control and/or waste migration off-site. The enclosed design will block prevailing winds and the roof will prevent the incursion of rainwater. As part of Perma-Fix of Orlando's normal procedures, working areas are kept clean and free of clutter. Operations will continue to include thorough cleanup at periods throughout the shift and at the end of the shifts.

D. Improved Operational Procedures and/or Scheduling

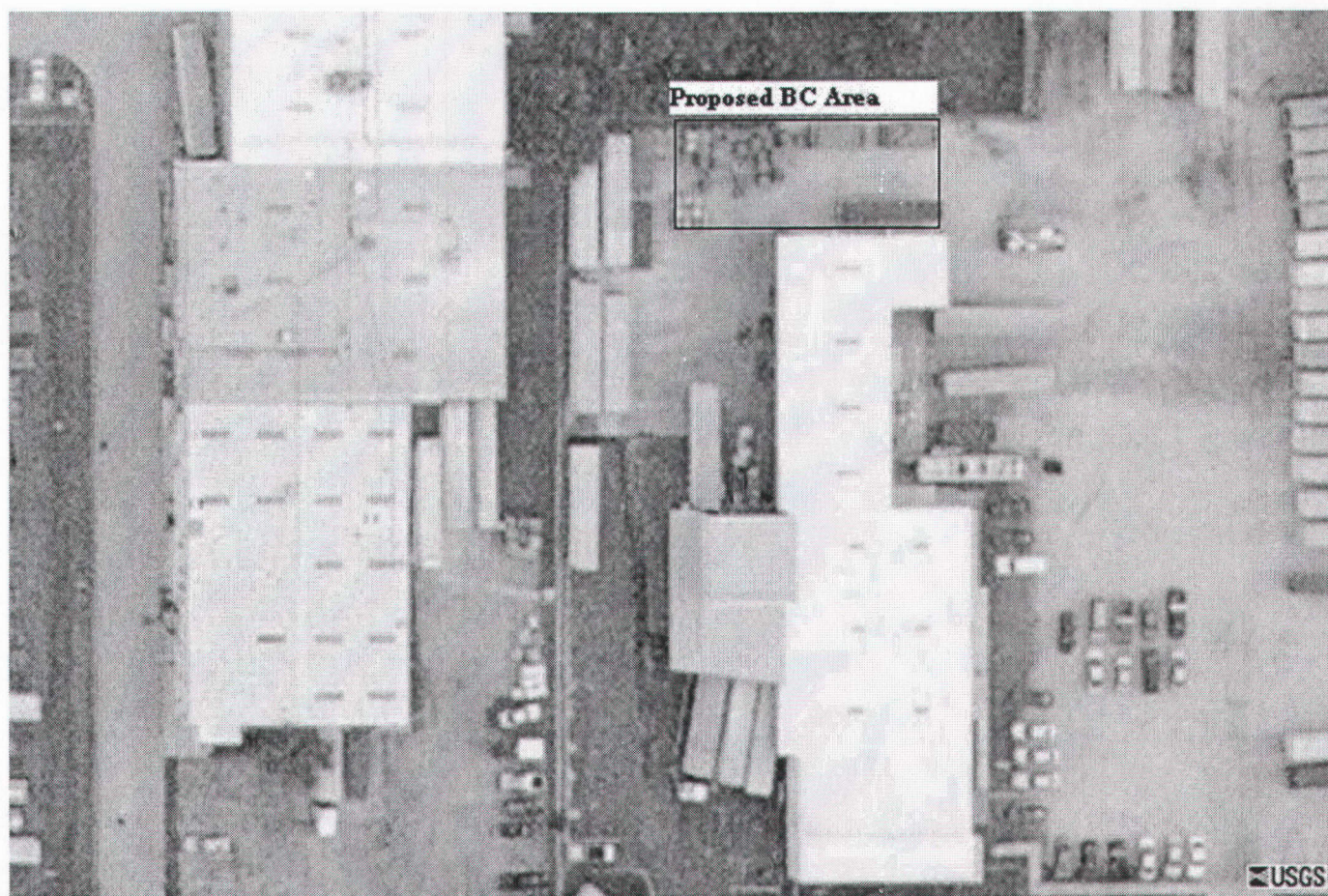
1) The proposed "Bulk Consolidation Area," will be used solely for the consolidation and Storage of Solid and Hazardous wastes in "Bulk Containers." This area will be limited by its capacity thus schedules will be modified to Bulk and Go operations, as part of the current operations PFO bulks into one to two roll-off or dump trailer containers at a given time. Considerations will have to be given to allow ample time to process/bulk materials and ship off-site prior to scheduling additional bulk loads or containers. As part of current operations PFO also receives materials in bulk containers, these containers are usually roll-off containers or dump trailers from 20 yards to 50 yards in total volume. These roll-offs or dump trailers are repackaged and consolidated into larger roll-offs and compacted to save on outbound

transportation costs. It is estimated that upon completion the "Bulk Consolidation Area" will hold a total of no more than four 50-yard Dump Trailers or eight 25-yard roll-offs. The aggregate total volume of the proposed area will not exceed 200 yards.

2) Current Operating Costs are not impacted by the means or manner in which bulking operations are completed. However, it is quite possible that through the completion of the proposed Supplemental Environmental Project Perma-Fix of Orlando will greatly reduce the potential costs associated with remedial corrective actions associated with off-site contamination. Currently Perma-Fix of Orlando receives and consolidates thousands of drums of hazardous waste per year. In 2004, PFO processed/repackaged appropriately 2,380,000 pounds of characteristic metals bearing waste. The majority of this waste was received in non-bulk packaging (Drums, Pails, Boxes) and bulked into the larger roll-off or end dump containers. Much of this waste was handled in the area directly adjacent to the current labpack consolidation area. Based upon the 2004 numbers the total waste to be handled in the proposed "Bulk Consolidation Area" will be equal to 100 55-gallon drums per month (500 lb. Average).

3) Supporting Documentation is attached. Attachment # 1 contains copies of the outbound manifests of Listed and/or characteristic wastes sent to Chemical Waste Management (Emelle).

Color Facility Layout





SECTION III

A. Supplemental Environmental Project Description

1) Description of Process Modification

It is Perma-Fix of Orlando's goal to modify current operations and practices of consolidation of Hazardous Wastes in the open-air environment. The change in process will require Perma-Fix to construct a fixed structure adjacent to current operational areas for the consolidation and or bulking of these Hazardous Wastes.

It is our goal to reduce the potential for any off-site migration of Hazardous Waste, be it particulate air borne materials or contaminated rainwater. Current operations and the on-site storage of Bulk Containers (Roll-offs, Dump Trailers) will take place only in the proposed "Bulk Consolidation Area" of the facility. The design of the "Bulk Consolidation Area" will be as such to protect human health and the environment.

Another component of the proposed plan involves the actual storage or location of bulk containers of Hazardous Waste. Future operations, handling, transfer and storage of bulk containers (Roll-Offs, Dump Trailers) will occur only in a roofed area of the facility. Not outside storage or transfer operations will occur.

2) Itemized Costs of the Project

The total estimated cost for the "Bulk Consolidation Area" is estimated to cost \$ 75,000.00. This includes the installation of a steel I-beam structure with full walls. The estimate also includes the cost of two 14 x 16 overhead doors. Additional costs that have not been included in this estimate will include county permitting and impact fees.

3) Other Costs

See Attached

4) Supporting Documentation

Actual Costs will be supplied. Costs and quoting is currently being negotiated with Contractors.

SECTION IV

A. Schedule for Implementation

1) Milestones (Goals)

FDEP approval of Plan.	(2-4 Weeks)
County Building Permit Approval	(June 1, 2005)
Construction Start	(June 14, 2005)
Use of Area	(September 1, 2005)

2) Anticipated Problems and Options

Due to the recent and unprecedented number of hurricanes to hit Florida in 2004, it will be difficult to secure the services of a construction company to do this type of work in a timely manner. If Perma-Fix encounters problems meeting the goals as outlined in #1, the Department will be notified in writing of the new dates for the goals

3) Projected Completion Date

Completion date can only be estimated due to the difficulty in obtaining quotes from area contractors. Our GOAL is to have the area operational by July 1, 2005.

Estimated Project Cost:

Building Pricing Summary: Save

PURCHASE ORDER / CONTRACT

QuoteID: **E100603991** Date: **2/14/2005**

[Printable Version](#)

Account/Billing Information:

CHRIS WAECHTER

Email: cwaechter@perma-fix.com

Shipping Information:

State: **FL** County: **Orange**

Engineering Design Info:

Width: **45** Length: **100** Height: **18** Slope: **1:12** Bay Config: **4 Bays at 25 ft**

Code: **FBC 2001** Roof Snow: **0** Live Load: **20 (w/ Tributary Reduction)**

Ground Snow: **0** Collateral Load: **1/2**

Wind: **100** Exposure: **C** Seismic Coefficient: **0.18** Is: **1.0** Ct: **1.0** Ce: **1.0**

Building Colors:

Wall: **Light Stone (PBR)**

Roof: **Galvalume Plus (PBR)**

Trim: **Polar White**

Downspout: **N/A**

Corner Trim: **Light Stone**

Jamb Flashing: **N/A**

Doors & Factory Located Framed Opening Summary:

Size: **14X14** Wall: **Front Sidewall** Bay: **1** Align: **7 ft from left column**

Door Manufacturer	Class	Model	Color	Price
DBC	Windloaded Certified	5100	White	\$866.05
Operator: Chainhoist				\$0.00
Lock Option: Inside				\$0.00
Option: Top Seal				\$31.19

Size: **14X14** Wall: **Right Endwall** Bay: **E** Align: **4 ft from left column**

Door Manufacturer	Class	Model	Color	Price
DBC	Windloaded Certified	5100	White	\$866.05
Operator: Chainhoist				\$0.00
Lock Option: Inside				\$0.00

Size: **8X14** Wall: **Right Endwall** Bay: **F** Align: **Center**

Door Manufacturer	Class	Model	Color	Price
DBC	Windloaded Certified	5100	White	\$649.98
Operator: Chainhoist				\$0.00
Lock Option: Inside				\$0.00
Option: Top Seal				\$13.72

Building Accessories:

Description	Selected	Price
Gutters and Downspouts	No	\$0.00
Framed Opening Jamb Flashing	No	\$0.00
Standard Base Angle		\$0.00

Roof Extensions:

Roof Extension Description:	Price
Soffit Panel: PBR 26ga. Soffit Color: Light Stone	
1 ft Canopy located on Back Sidewall starting at Bay 1 ending at Bay 4.	
6 ft Purlin Extension located on Left Endwall.	
6 ft Purlin Extension located on Right Endwall.	
Total Roof Extension Price:	\$3,647.17

Liner Panel:

----No Liner Panel Selected----

Other Accessories:

----No Other Accessories Selected----				
Insulation:				
<u>Description</u>	<u>Thickness</u>	<u>Location</u>	<u>Sq Feet</u>	<u>Price</u>
White Polypropylene (WMP-VR)	2"	Walls	5449	\$1,784.49
White Polypropylene (WMP-VR)	2"	Roof	4763	\$1,564.11
Includes double sided tape and 2 roll(s) of patch tape.				
Solar Guard Foil Interior R-11	1/4"	Walls and Roof	10620	\$3,163.07
Includes double sided tape and 1 roll(s) of Aluminum patch tape.				
Total Price Summary:				
Base Building Price:				\$26,173.06
Special Discount:				- \$1,832.11
Instant Door Rebate:				- \$600.00
Framed Opening Add:				\$565.13
Total Door Price:				\$2,426.98
Total Door Freight:				\$258.00
Total Accessories Price (including roof ext, building accessories):				\$3,647.17
Insulation Price:				\$6,511.67
Insulation Freight:				---FREE---
Stamped with Design Calculations				\$300.00
Total Price (Delivered to your job site):				\$37,449.90
Permitting Engineering/Site Work (30%)				\$ 8,987.98
Installation (Building Erection) \$5.50 per SQ Ft (4,500 SF)				\$ 24,750.00
Total Estimated Project Cost				\$ 74,186.98