

## Honey, Kelly

---

**From:** Honey, Kelly  
**Sent:** Friday, April 08, 2016 10:36 AM  
**To:** Vaughn, Richard  
**Subject:** For review and signature - EQ FLorida, Inc., (FLD981932494) Draft Consent Order

Hi Rick –

I made the changes the Bryand and Alyssa asked for. The revised draft is at the link below. The LCT memo is there, too. I moved some things into a separate folder. It's getting crowded in there.

[EQ Florida](#)

---

**From:** Vaughn, Richard  
**Sent:** Thursday, April 07, 2016 1:35 PM  
**To:** Honey, Kelly <Kelly.Honey@dep.state.fl.us>  
**Subject:** FW: EQ Draft Consent Order  
**Importance:** High

Kelly,

Please see the email chain below. You can proceed with the minor changes to the CO and prepare the LCT. Send it to me once it is ready for review.

Great work!

Rick Vaughn  
Environmental Manager  
Compliance Assurance Program  
Florida Department of Environmental Protection

[Richard.Vaughn@dep.state.fl.us](mailto:Richard.Vaughn@dep.state.fl.us)  
Office: 813-470-5799  
13051 N. Telecom Parkway  
Temple Terrace, FL 33637-0926

---

**From:** Boatwright, Kelley M.  
**Sent:** Thursday, April 07, 2016 12:47 PM  
**To:** Vaughn, Richard <[Richard.Vaughn@dep.state.fl.us](mailto:Richard.Vaughn@dep.state.fl.us)>  
**Subject:** RE: EQ Draft Consent Order

Hi Rick! As we discussed, I am good with the changes Bryan recommends below. Once made, please complete the LCT form, attach it and the other applicable documents and forward to Mary, with a copy to me, for her initialing and forwarding to Larry Morgan at OGC. Thanks for getting this done quickly – it's much appreciated!

---

**From:** Yeargan, Mary  
**Sent:** Thursday, April 07, 2016 11:00 AM

**To:** Bahr, Tim <[Tim.Bahr@dep.state.fl.us](mailto:Tim.Bahr@dep.state.fl.us)>; Boatwright, Kelley M. <[Kelley.M.Boatwright@dep.state.fl.us](mailto:Kelley.M.Boatwright@dep.state.fl.us)>  
**Cc:** Vaughn, Richard <[Richard.Vaughn@dep.state.fl.us](mailto:Richard.Vaughn@dep.state.fl.us)>  
**Subject:** RE: EQ Draft Consent Order

Thank you Tim.  
Rick, If this is not in OGC yet, please forward. Thanks.

---

**From:** Bahr, Tim  
**Sent:** Thursday, April 07, 2016 10:51 AM  
**To:** Yeargan, Mary <[Mary.Yeargan@dep.state.fl.us](mailto:Mary.Yeargan@dep.state.fl.us)>; Boatwright, Kelley M. <[Kelley.M.Boatwright@dep.state.fl.us](mailto:Kelley.M.Boatwright@dep.state.fl.us)>  
**Subject:** FW: EQ Draft Consent Order

FYI, see response below from Bryan. Let me know if you want to discuss.

Thanks,

Tim J. Bahr, P.G., Program Administrator  
Permitting and Compliance Assistance Program  
850-245-8790

---

**From:** Baker, Bryan  
**Sent:** Thursday, April 07, 2016 10:45 AM  
**To:** Honey, Kelly <[Kelly.Honey@dep.state.fl.us](mailto:Kelly.Honey@dep.state.fl.us)>; Vaughn, Richard <[Richard.Vaughn@dep.state.fl.us](mailto:Richard.Vaughn@dep.state.fl.us)>  
**Cc:** Bahr, Tim <[Tim.Bahr@dep.state.fl.us](mailto:Tim.Bahr@dep.state.fl.us)>; Kruchell, Carrie L. <[Carrie.L.Kruchell@dep.state.fl.us](mailto:Carrie.L.Kruchell@dep.state.fl.us)>; Perrigan, Glen <[Glen.Perrigan@dep.state.fl.us](mailto:Glen.Perrigan@dep.state.fl.us)>  
**Subject:** EQ Draft Consent Order

Rick/Kelly,

I have conferred with Tim; we're fine with the substantive content of the draft CO. If EQ wants to negotiate interim operating conditions, we can leave that to them. I'll repeat here the editorial comments that I shared verbally with you yesterday.

1. Recommended: #1 lists the Department's authority in 403 and 62-730, but starting in 8a) the violations are all federal listings. Either in #1, or somewhere before the violations are listed, a link between 62-730 and the federal regulations should be established.
2. Suggested: #3 – yes, the parcel IDs are important but I believe the physical address of the facility ought to be listed as well.
3. Suggested: #1 and #3 – Florida Administrative Code is mentioned in #1, and again in #3. It's in #3 that the abbreviation Fla.Admin.Code R is first mentioned – it should occur in #1 and #3 should be changed to reflect that.

**Bryan Baker, P.G.**  
**Environmental Administrator**  
**Hazardous Waste Program & Permitting**  
**2600 Blair Stone Rd MS 4560**  
**Florida Department of Environmental Protection**  
**Tallahassee, FL 32399**  
**850-245-8787**  
[bryan.baker@dep.state.fl.us](mailto:bryan.baker@dep.state.fl.us)

Please note: Florida has a broad public records law. Most written communications to or from state employees are public records and may be made available to the public or media upon request. This email communication, and future emails to my attention may therefore be subject to public disclosure.

TO: Larry Morgan, OGC Enforcement Section

\* This form is accompanied by:

- Draft Consent Order
- Draft NOV w/ supporting documentation
- Draft Admin. Complaint for License or Permit Revocation
- Draft Final Order
- Draft Site Access Order
- Case Report
- Other

\* FROM:

\* DATE:

\* Has this matter ever been assigned an OGC#?  No  Yes \* If yes, OGC#  
 (If an OGC# was assigned for any reason, please include it here.)

**The following information is necessary for entry in the Legal Case Tracking System (LCTS):**

- \* Case Name:  
(The case name should mirror the caption in the enforcement action, e.g. DEP v. \_\_\_\_\_.)
- \* Case Alias:  
(If you refer to the respondent, defendant, site, or matter in another way, include that here, e.g. Facility Name, etc.)
- \* Responsible Office: \_\_\_\_\_ \* County: \_\_\_\_\_
- \* District Contact: \_\_\_\_\_
- \* Program Area: \_\_\_\_\_ 2nd Program Area: \_\_\_\_\_
- \* Date Compliance/Enforcement Case Opened by District: \_\_\_\_\_

**If available, please include the following information:**

Facility/Site ID No.

EPA ID No.

▼ Project No.

SWIFT/FIRST ▼  
Enforcement Tracking Activity No.

\* **Link to supporting documentation for NOV:** (Only include those documents that are necessary to support the violations in the NOV.)

**Comments:**

-----FOR OGC USE ONLY-----

**Instructions for using this model (delete these from the final document):**

1. Click on blue/underlined fields to insert appropriate information or to access a drop-down menu, hyperlinked document, or website that offers additional options.
2. Optional language is flagged with the markers ">>>OPTIONAL<<<" and ">>>END OPTIONAL<<<." If you include the optional language in the final document, be sure to remove these flags. All other language is **REQUIRED**. Consult with OGC before removing required language.
3. This document uses comment "balloons" to provide additional information and guidance. DELETE ALL COMMENT BALLOON prior to printing or converting to a .pdf.
4. If you have **multiple respondents**, be sure to do a search/find for all instances of "Respondent"/"Respondent's" and replace with "Respondents"/"Respondents'."
5. This document **does not use auto-numbering** – before printing, be sure that all paragraphs are numbered correctly.
6. Be sure to include **page numbers** in the upper left-hand corner of every page.

For additional tips, see the [Enforcement Style Guide](#).

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION )

IN THE OFFICE OF THE  
SOUTHWEST DISTRICT )

v. )

OGC FILE NO. [Insert OGC #](#)  
EPA ID NO. [FLD981932494](#) )

EQ FLORIDA, INC. )  
D/B/A/ US ECOLOGY )

**Commented [OGC1]: NAMING THE RIGHT RESPONDENT IS CRITICAL.**  
For businesses, insert entire name as listed in corporate information records, which is available at [SUNBIZ](#). For businesses not listed there, contact OGC for advice on naming the proper parties.  
  
If there are multiple property owners listed on the property appraiser's website, be sure to include them all.

**CONSENT ORDER**

This Consent Order ("Order") is entered into between the State of Florida Department of Environmental Protection ("Department") and EQ Florida, Inc., d/b/a US Ecology, ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

**Commented [HK2]: FYI -** The citation guidelines Alyssa sent indicate that we're not supposed to use the quote marks within the parentheses, but I don't feel comfortable changing the boilerplate like that. I can do a find and replace later if OGC really wants the quotes gone.

The Department finds and Respondent **admits** the following:

**Commented [OGC3]:** Contact OGC if Respondent seeks to change this.

1. The Department is the administrative agency of the State of Florida having the power and duty to administer and enforce the provisions of the Florida Resource Recovery and Management Act, Sections 403.702, et seq., Florida Statutes ("Fla. Stat."), and the rules

**Commented [HK4]:** The Florida Style Manual that is part of the citation guidelines says the year of the statute is supposed to go in parentheses at the end of the cite, but I don't know if that's what they want, and it's so different from the boilerplate that I left it off.

promulgated in Chapter 62-730 of the Florida Administrative Code (“Fla. Admin. Code”). The Department has jurisdiction over the matters addressed in this Order.

2. Respondent is a “person” within the meaning of sections 403.031(5) and 403.703(22), Fla. Stat.

3. Respondent is a for-profit business, incorporated under the laws of the State of Michigan, that is registered and authorized to transact business in the State of Florida. Respondent operates a permitted hazardous waste treatment, storage and disposal facility (“TSDF”), a hazardous waste transfer facility, and a solid waste materials processing facility on real property located at 2002 North Orient Road and 7202 East 8th Avenue/Parcel ID number in Tampa, Florida (“Facility”). Respondent is the “owner” and “operator” of the Facility as defined in Fla. Admin. Code Rule 62-730.020.

4. Respondent currently holds record title to the contiguous parcels of real property described in Paragraph 3, above (“Property”).

5. The Department issued Hazardous Waste Permit Number 34875-HO-011 and Solid Waste Permit Number 34757-010/SO/30 as a single document (“Permit”) to Respondent on April 1, 2014. The Permit expires on April 1, 2019.

6. The Department issued a letter dated May 29, 2015, with conditional approval of some alternate operating procedures specifically related to hazardous waste treated at the Facility (“Conditional Approval Letter”). Respondent did not apply for a formal permit modification at that time, and no permit modification has been issued by the Department. The Conditional Approval Letter is attached and incorporated into this Order as Exhibit I.

7. Respondent’s operations at the Facility are described in Exhibit II, which is attached and incorporated in this Order.

8. The Department finds that the following violations occurred:

- a) Respondent failed to keep all containers holding hazardous waste generated on site closed unless adding or removing waste, as required by Fla. Admin. Code Rule 62-730.160(1), which adopts Rule 40 Code of Federal Regulations (“C.F.R.”) 262.34(a)(1)(i).

**Commented [HK5]:** The Style guidelines say to use the format “Fla. Admin. Code R.” which is why I didn’t define an abbreviation for the FAC until paragraph three so I could define it with the word “Rule” also. Now it seems weird to define an abbreviation for Rule so I’ll just use the word throughout. I can change it if Alyssa doesn’t like the format.

**Commented [OGC6]:** Use this paragraph if a Respondent owns the property.

- b) Respondent failed to mark all hazardous waste storage containers with the date upon which the waste first began accumulating, as required by Fla. Admin Code Rule 62-730.160(1), which adopts Rule 40 C.F.R. 262.34(a)(2).
- c) Respondent failed to clearly label all hazardous waste storage containers with the words "Hazardous Waste," as required by Fla. Admin Code Rule 62-730.160(1), which adopts Rule 40 C.F.R. 262.34(a)(3).
- d) Respondent failed to ensure all employees received a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with applicable federal requirements, as required by Fla. Admin Code Rule 62-730.180(1), which adopts Rule 40 C.F.R. 264.16(a)(1).
- e) Respondent failed to provide adequate secondary containment for all containers of hazardous waste containing free liquid at the Facility, as required by Fla. Admin Code Rule 62-730.180(1), which adopts Rule 40 C.F.R. 264.175(a).
- f) Respondent failed at least once to record significant discrepancies on hazardous waste manifests returned to generators, as required by Fla. Admin Code Rule 62-730.180(1), which adopts Rule 40 C.F.R. 264.71(a)(2)(ii).
- g) Respondent failed to comply with the Permit and the Conditional Approval Letter by not providing adequate secondary containment for roll-offs of treated waste stored in the hazardous waste transfer facility, or adequate emergency liquid containment for all vehicle trucks, roll-offs and tractor trailers on the Property, as required by Permit Condition II.B.14, Section 8.2 of the Permit Application, Section 2.A.a of the Conditional Approval Letter, and §§ 403.727(1)(a) and (c), Fla. Stat.
- h) Respondent failed to comply with the Permit by not using the inspection form submitted as part of the permit application and approved by the Department, as required by Permit Condition II.B.5, Section 5.4 of the Permit Application, and §§ 403.727(1)(a) and (c), Fla. Stat.

- i) Respondent failed to comply with the Conditional Approval Letter by not labeling roll-off containers of treated hazardous waste as required by Section 2.A.c and f of the Conditional Approval Letter, and §§ 403.727(1)(a) and (c), Fla. Stat.
- j) Respondent failed to comply with the Permit by not unloading bulk containers of hazardous waste within five days of arrival at the Facility, as required by Permit Condition II.B.15., Section 11.2 of the Permit Application, and §§ 403.727(1)(a) and (c), Fla. Stat.
- k) Respondent failed to comply with the Permit by not ensuring the amount of waste in the hazardous waste transfer facility was 20,000-gallons or less, as required by the Appendix A of the Permit, the Closure Plan in the Permit Application, and §§ 403.727(1)(a) and (c), Fla. Stat.
- l) Respondent failed to properly characterize waste from the sump in the north side of the treatment building before treating it in the hazardous waste treatment tank, as required by Fla. Admin Code Rule 62-730.180(1), which adopts Rule 40 C.F.R. 264.13(a)(1), Permit Condition II.A.5, Section 4 - Waste Analysis Plan of the Permit Application, and §§ 403.727(1)(a) and (c), Fla. Stat.
- m) Respondent failed to comply with the Permit by removing treated hazardous waste from the treatment tank before analyses showed the treated waste met universal treatment standards set forth in Title 40, C.F.R. 268, as required by Permit Conditions II.A.5 and II.B.15, Section 4 - Waste Analysis Plan of the Permit Application, and §§ 403.727(1)(a) and (c), Fla. Stat.
- n) Respondent failed to comply with the Conditional Approval Letter by not immediately returning hazardous waste to the treatment building upon notification that it was still hazardous or did not meet universal treatment standards, as required by Section 2.A.e of the Conditional Approval Letter, and §§ 403.727(1)(a) and (c), Fla. Stat.

- o) Respondent failed to correctly complete all hazardous waste manifests by not assigning and recording correct Management Method Codes for hazardous waste received at the Facility, as required by Fla. Admin Code Rule 62-730.180(1), which adopts Rule 40 C.F.R. 264.71.
- p) Respondent failed to comply with the Permit by storing solid waste outside of the authorized areas at the Facility, as required by Permit Condition V.B.10.a.(2), Section 6.1.5 of the Engineering Report in the Permit Application, Fla. Admin. Code R. 62-701.320(1), and § 403.161(1)(b), Fla. Stat.
- q) Respondent failed to comply with the Permit by using only one piece of heavy equipment in the treatment building instead of two dedicated pieces of equipment, as required by Permit Condition V.B.10.b.(1), Attachment E of the Permit, Section 5.6.2 and Figure 9A of the Engineering Report in the Permit Application, Fla. Admin. Code R. 62-701.320(1), and § 403.161, Fla. Stat.
- r) Respondent failed to comply with the Permit by not immediately providing the Department with a description of the noncompliance, the period of noncompliance, and any steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance, as required by Permit Condition I.12.a. and §§ 403.727(1)(a) and (c), Fla. Stat.

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

**ORDERED:**

9. Effective immediately, Respondent shall comply with all Department rules regarding hazardous waste management. Respondent shall correct and redress all violations within the time periods stated below and shall comply with all applicable sections in Chapter 62-730, Fla. Admin. Code and Title 40, C.F.R. Parts 260 through 266 and Part 268. All time periods shall run from the effective date of this Order.

- a) Effective immediately, the Department's Conditional Approval Letter dated May 29, 2015, is rescinded. Respondent shall comply with the Permit

referenced in Paragraph 5 above until it expires or a modification to the Permit is issued by the Department.

- b) Effective immediately, Respondent shall keep all containers holding hazardous waste closed, except when it is necessary to add or remove waste.
- c) Effective immediately, Respondent shall mark all containers in which hazardous waste is placed with the day waste was first accumulated in the container.
- d) Effective immediately, Respondent shall mark all storage containers of hazardous waste with the words "Hazardous Waste."
- e) Within 30 days, Respondent shall ensure that Facility personnel have successfully completed a program of hazardous waste training. The classroom instruction or the on-the-job training shall be structured so as to teach personnel to perform their duties in a way that ensures that the Facility will be in compliance with the requirements of hazardous waste regulations and the Permit.
- f) Effective immediately, Respondent shall provide appropriate secondary containment for all containers, including bulk containers, storing hazardous waste at the Facility. This includes all inbound and outbound hazardous waste containers at all times while the waste is physically located anywhere on the Property.
- g) Effective immediately, Respondent shall begin recording all significant discrepancies on hazardous waste manifests before returning them to generators.
- h) Effective immediately Respondent shall ensure that all service vehicle trucks, roll-offs and tractor trailers are situated over a manmade surface having emergency liquid containment or at one of the unloading areas in front of the container storage building when the vehicle, truck, roll-off or tractor trailer contains hazardous waste. Respondent shall additionally ensure that secondary

containment is provided for any vehicle, truck, roll-off or tractor trailer parked for more than 24-hours in the transfer facility.

- i) Effective immediately, Respondent shall use all forms specified in the Permit. If a revised version of any form has been submitted and approved by the Department, Respondent shall use the most recently approved version.
- j) Effective immediately, Respondent shall operate the hazardous waste transfer facility in accordance with the authorization in the Permit. Respondent shall not use the transfer facility for any waste where Respondent is the designated TSD on the manifest or that originated at the Facility with Respondent listed as the generator.
- k) Effective immediately, Respondent shall unload inbound bulk hazardous waste shipments manifested to Respondent within five consecutive calendar days (excluding holidays) of arrival at the Facility.
- l) Effective immediately, Respondent shall not use the hazardous waste transfer facility to store hazardous waste treated on site.
- m) Effective immediately, Respondent shall ensure that the volume of all waste in the hazardous waste transfer facility never exceeds 20,000-gallons.
- n) Effective immediately, Respondent shall ensure that the volume of hazardous waste at the Facility never exceeds 50,000-gallons. This includes all outbound hazardous waste, at all times, while the waste is physically located anywhere on the Property. All hazardous waste bulk inbound shipment load quantities shall be counted towards the total Facility capacity until the bulk inbound shipment has departed from the Facility.
- o) Effective immediately, Respondent shall properly characterize all hazardous waste treated in the hazardous waste treatment tank, including wastes generated at the Facility. Respondent shall not treat characteristically hazardous metal bearing and corrosive wastes that contain organic underlying hazardous constituents listed in Rule 40 C.F.R. 268.48. Respondent shall not treat

hazardous wastes that were received accompanied by land disposal restriction certifications for lab packs under 40 C.F.R. 268.7(a)(9) without determining that underlying hazardous constituents are not present in the waste.

p) Effective immediately, Respondent shall not remove treated hazardous waste from the hazardous waste treatment tank until the waste is no longer characteristically hazardous and meets universal treatment standards, as determined by obtaining a representative sample of the treated waste and analyzing it using EPA Test Method 1311 and in accordance with Title 40, C.F.R., Part 268.

q) Effective immediately, Respondent shall ensure that the correct Management Method Codes for all hazardous waste received at the Facility are recorded on the associated hazardous waste manifests.

r) Effective immediately, Respondent shall store solid waste only in areas that are authorized by the Permit.

s) Effective immediately, Respondent shall obtain and use two dedicated pieces of heavy equipment, one for solid waste processing, and one for hazardous waste processing, or Respondent shall maintain a log that clearly documents decontamination each time the single piece of equipment switches from one treatment tank to the other treatment tank. Respondent shall also perform and document decontamination of the equipment when moving from one characteristically hazardous category or group (e.g., metals) to another (e.g., corrosives).

t) Immediately upon discovery of noncompliance with any condition or limitation specified in the Permit, Respondent shall notify the Department and provide a description of the noncompliance, the period of noncompliance, and any steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

Commented [OGC7]: [Model hazardous waste corrective actions](#) are provided in a separate document in the Enforcement Manual Appendices.

You must obtain OGC review before you may issue a Consent Order containing corrective actions not listed there.

10. Within 60 days of the effective date of this Order, Respondent shall submit a written estimate of the total cost of the corrective actions required by this Order to the Department. The written estimate shall identify the information the Respondent relied upon to provide the estimate.

11. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$91,029.00 in settlement of the matters addressed in this Order. This amount includes \$1,000.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The civil penalty in this case includes 13 violations that each warrant a penalty of \$2,000.00 or more.

12. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of Paragraph 9 of this Order. A separate stipulated penalty shall be assessed for each violation of this Order, and the Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment, and shall do so as further described in Paragraph 13, below. Nothing in this Paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any stipulated penalties assessed under this Paragraph shall be in addition to the civil penalties agreed to in Paragraph 11 of this Order. If the Department is required to file a lawsuit to recover stipulated penalties under this Paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Order in an amount greater than the stipulated penalties due under this Paragraph.

13. Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldeportal.com/go/pay/>. It will take a number of days after this order

**Commented [HK8]:** This not yet approved.

**Commented [OGC9]:** You MUST distinguish between the penalty amount and costs/expenses in the CO.

**Commented [HK10]:** I swapped this language out from the SW CO Model. I really didn't want to list out every violation.

**Commented [OGC11]:** Please consider whether or not a per day penalty is the most appropriate. For example, if any of the corrective actions are for quarterly monitoring, a \$100 a per day penalty would only result in a \$100 penalty. In such instances, consider adding the following, which would have a single penalty for each monitoring event:

Respondent agrees to pay the Department stipulated penalties in the amount of \$ # for each and every missed monitoring event required by Paragraph(s) # of this Consent Order.

**Commented [OGC12]:** Do NOT list the penalty paragraph here – do not collect stipulated penalties for failure to meet the penalty payment deadline.

becomes final and effective filed with the Clerk of the Department before ability to make online payment is available.

14. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Mr. Richard Vaughn, Environmental Manager, Department of Environmental Protection, Southwest District, Compliance Assurance Program, 13051 North Telecom Parkway, Temple Terrace, FL, 33637-0926.

15. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

16. Respondent shall use all reasonable efforts to obtain any necessary access to implement the terms of this Order. If necessary access cannot be obtained, or if obtained, is revoked by owners or entities controlling access to the properties to which access is necessary, Respondent shall notify the Department within five business days of such refusal or revocation. The Department may at any time seek to obtain access as is necessary to implement the terms of this Order. Respondent shall reimburse the Department for any damages, costs, or expenses, including expert and attorney's fees, that the Department is ordered to pay, or that the Department incurs in connection with its efforts to obtain access that is necessary to implement the terms of this Order. Respondent shall pay these sums to the Department or arrange a payment schedule with the Department within 30 days of written demand by the Department.

17. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

Commented [HK13]: Do we want to tie the payment to a person? I think it should just say send it to SWD...

18. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines (unless the cause of the contractor's late performance was also beyond the contractor's control) shall be considered circumstances beyond the control of Respondent. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must describe the provision or provisions extended, the new compliance date or dates, and the additional measures respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this Paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

19. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for alleged violations up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

20. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or the rules administered by the Department that are not specifically resolved by this Order. Nothing herein shall be construed to limit the Department's authority to take any action against Respondent in response to or to recover the costs of responding to conditions at or from the Facility that require Department action to abate an imminent hazard to the public health, welfare, or the environment.

21. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

22. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation, and criminal penalties.

23. Respondent acknowledges and waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, Fla. Stat., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to Section 120.68, Fla. Stat.

24. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order shall be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

25. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Order shall constitute a violation of Section 403.161(1)(b), Fla. Stat.

26. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Fla. Stat., and it is final and effective on the date filed with the Clerk of the

Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Fla. Stat. Upon the timely filing of a petition, this Order will not be effective until further order of the Department.

27. Respondent shall publish the following notice in a newspaper of daily circulation in Hillsborough County, Florida. The notice shall be published one time only within 14 days of the effective date of the Order.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NOTICE OF CONSENT ORDER

The Department of Environmental Protection gives notice of agency action of entering into a Consent Order with EQ FLORIDA, INC., d/b/a US Ecology, pursuant to Section 120.57(4), Florida Statutes. The Consent Order addresses the hazardous and solid waste operations at 2002 North Orient Road and 7202 East 8th Avenue, Tampa, Florida, 33619. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Southwest District, 13051 North Telecom Parkway, Temple Terrace, Florida, 33637-9026.

Persons who are not parties to this Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Order;
- b) The name, address, and telephone number of each 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;
- c) An explanation of how the petitioner's substantial interests will be affected by the Order;
- d) A statement of when and how the petitioner received notice of the Order;

- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Order.

The petition 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 at the address indicated in Paragraph 11, above. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. Before the deadline for filing a petition, a person whose substantial interests are affected by this Order may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in Section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

28. Rules referenced in this Order are available at <http://www.dep.state.fl.us/legal/Rules/rulelist.htm>.

**Commented [OGC14]:** All of this language must be included in all COs, regardless of whether publication is required.  
DO NOT BREAK THIS LANGUAGE INTO MULTIPLE PARAGRAPHS.

FOR THE RESPONDENT:

---

Insert Name DATE  
Insert Title (If Respondent is a Business)

**Commented [OGC15]:** For businesses/corporations only.  
Make sure that the person signing for the corporation is an **OFFICER** of that corporation. See the [sample signatory language and certifications guidance](#).  
A REGISTERED AGENT may not sign the CO on behalf of the corporation.

DONE AND ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2016, in Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION  
\_\_\_\_\_  
Mary E. Yeargan, P.G.  
District Director  
Southwest District

Filed, on this date, pursuant to Section 120.52, Fla. Stat., with the designated Department Clerk, receipt of which is hereby acknowledged.

\_\_\_\_\_  
Clerk Date \_\_\_\_\_

**Commented [OGC16]:** DONE/ORDERED, Director's Signature, and CLERK signature must be on the same page.

Copies furnished to:  
Lea Crandall, Agency Clerk  
Mail Station 35

**Commented [OGC17]:** It is only necessary to copy Lea Crandall – she distributes to others in OGC as needed.