



FLORIDA DEPARTMENT OF Environmental Protection

Southwest District Office
13051 North Telecom Parkway #101
Temple Terrace, Florida 33637-0926

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

October 18, 2018

Universal Environmental Solutions, LLC
Attn: Mr. Ed Kinley, President
1650 Hemlock Street
Tampa, FL 33605
ekinley@uestampa.com

Re: Proposed Consent Order OGC File No. 18-1323
Universal Environmental Solutions, LLC
Facility ID No. FLR000199802
Hillsborough County

Dear Mr. Kinley:

Enclosed is the proposed Consent Order, OGC File No. 18-1323, regarding the above-referenced facility. Please review, sign, and return the Consent Order within **30 days** of receipt of this letter, if in agreement. If not in agreement, please contact the Department immediately. Upon return of the signed Consent Order, I shall execute it and a copy will be sent to you.

The executed Consent Order constitutes final agency action of the Department, which shall be enforceable pursuant to Sections 120.69 and 403.121, Florida Statutes. By countersigning the Consent Order, the Department waives its right to seek judicial imposition of damages, costs and expenses, or civil penalties for the alleged violations. By signing the Consent Order, you, as the Respondent, acknowledges and waives its right to a hearing and appeal of the terms of the Consent Order.

If the signed original Consent Order is not received by the Department within **30 days**, the Department will assume that you are not interested in the settlement on the above terms, and the matter may be referred to the Office of General Counsel for formal enforcement action. None of your rights or substantial interests are determined by the Consent Order until it is signed and filed with the Department.

Universal Environmental Solutions, LLC
Facility ID No. FLR000199802
Proposed Consent Order, OGC File No. 18-1323
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Should you have any questions, please contact Elizabeth Knauss at (813) 470-5902 or via e-mail at Elizabeth.Knauss@FloridaDEP.gov. Thank you for your cooperation.

Sincerely yours,

Kelley M. Bootwright for:

Mary E. Yeargan, P.G.
Southwest District Director
Florida Department of Environmental Protection

MEY/kmb/sk/ebk

Enclosure: Proposed Consent Order with Exhibits

ec: Shannon Kennedy, FDEP; Shannon.Kennedy@FloridaDEP.gov
Elizabeth Knauss, FDEP, Elizabeth.Knauss@FloridaDEP.gov

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)
OF ENVIRONMENTAL PROTECTION)
)
v.)
)
UNIVERSAL ENVIRONMENTAL)
SOLUTIONS, LLC)
_____)

IN THE OFFICE OF THE
SOUTHWEST DISTRICT

OGC FILE NO. 18-1323
EPA ID NO. FLR000199802

CONSENT ORDER

This Consent Order (Order) is entered into between the State of Florida Department of Environmental Protection (Department) and Universal Environmental Solutions, LLC (Respondent) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

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 promulgated in Chapter 62-710, 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 Florida corporation which leases real property located at 1650 Hemlock Street, Tampa, Hillsborough County, to operate a used oil processing facility (Facility).

4. Respondent is the operator of the Facility as defined in Rules 62-701.200(82) and 62-710.201 Fla. Admin. Code. Respondent is also a used oil transporter as defined in Rule 62-710.201(5), Fla. Admin. Code.

5. Respondent operates the Facility under Permit 330300-HO-001 (Permit), which expires April 7, 2020.

6. The Department inspected the Facility on March 16, 2018 and found that the following violations occurred:

- a) Respondent was storing used oil in a 20,000-gallon capacity container (frac tank) which was not provided with secondary containment, as required by Rule 62-710.401(6),

Fla. Admin. Code. This container was not authorized to store used oil under the Facility's Permit.

b) Respondent was storing used oil in a 20,000-gallon container and several small containers that were not labeled with the words "Used Oil," as required by Rule 62-710.401(6), Fla. Admin. Code.

c) Respondent substantially modified Facility operations by adding new storage capacity of over 25,000 gallons, a new containment area and processing equipment without submitting an application to modify the Facility Permit, as required by Rule 62-710.800(3), Fla. Admin. Code.

d) Respondent did not amend the Facility contingency plan to show changes in used oil storage locations and Facility operation as required by Title 40, Code of Federal Regulations (C.F.R.) 279.52(b)(4), which is adopted by reference in Rule 62-710.210(2), Fla. Admin. Code.

e) Respondent did not consistently record the results of testing conducted to confirm that accepted used oil did not contain more than 1,000 ppm of halogens, as required by Rule 62-710.510(1)(g), Fla. Admin. Code.

f) Respondent failed to conduct and document annual used oil training, as required by Rules 62-710.600(2)(b) and (c), Fla. Admin. Code.

g) Respondent stored used oil in an above ground mobile frac tank that was not emptied and moved at least once every 180 days without registering the tank, as required by Specific Condition I.16.b of the Permit and Rule 62-710.800(2), Fla. Admin. Code.

7. The Department acknowledges that Respondent has corrected the violations alleged in Subparagraphs 6(a), (b), (d),(e), and (f), above.

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

ORDERED:

8. Respondent shall correct and redress the violations alleged in Subparagraphs 6(c) and (g), above, within the time periods stated below:

- a) Effective immediately, Respondent shall comply with all Department rules regarding used oil management and shall comply with all applicable rules in Chapter 62-710, Fla. Admin. Code and Title 40, C.F.R. Parts 260 and 279.
- b) Within 30 days of the effective date of this Order, Respondent shall submit an application for a substantial modification to the Facility's used oil processing permit. The application shall accurately reflect current Facility operations. Respondent shall cease accepting, storing, and processing used oil if a revised used oil processing permit is not issued by the Department within 180 days of the effective date of this Consent Order.
- c) Respondent has already submitted an application for an alternate procedure to the Department to allow a mobile 20,000-gallon frac tank to be used as an above ground petroleum storage tank. If the alternate procedure is not granted, Respondent shall empty the frac tank and remove it from the Facility's secondary containment system.
Respondent shall not use any mobile containers to store petroleum products at the facility for more than 180 days.

9. Within 20 days of the effective date of this Order, Respondent shall pay the Department \$14,586.00 in settlement of the matters addressed in this Order. This amount includes \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

10. 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 8 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 11, 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 9 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.

11. 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.fldepportal.com/go/pay/>. It will take a number of days after this order becomes final and effective filed with the Clerk of the Department before ability to make online payment is available.

12. In lieu of making cash payment of \$14,086.00 in civil penalties as set forth in paragraph 9 above, Respondent may elect to off-set this amount by implementing an in-kind penalty project, which must be approved by the Department. An in-kind project must be either an environmental enhancement, environmental restoration, or a capital/facility improvement project. The Department may also consider the donation of environmentally sensitive land as an in-kind project. The value of the in-kind penalty project shall be one and a half times the civil penalty off-set amount, which in this case is the equivalent of at least \$21,129.00. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election either electronically or by certified mail within 15 days of the effective date of this Consent Order. **Notwithstanding the election to implement an in-kind project, payment of the remaining \$500.00 in costs must be paid within 30 days of the effective date of the Consent Order.**

13. If Respondent elects to implement an in-kind project as provided in paragraph 12, above, then Respondent shall comply with all of the requirements and time frames in Exhibit I, titled In-Kind Projects.

14. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Florida Department of Environmental Protection, Southwest District, ATTN: Kelley Boatwright, Assistant Director, 13051 North Telecom Parkway, Suite 101, Temple Terrace, Florida 33637.

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 attorneys' 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. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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, Fla. Stat. Failure to comply with the terms of this Order shall constitute a violation of Section 403.161(1)(b), Fla. Stat.

25. 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.

26. 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 9, 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.

27. Rules referenced in this Order are available at
<https://softlive.dep.state.fl.us/ogc/ogc/content/rules>.

FOR THE RESPONDENT:

Edward L. Kinley, President DATE
Universal Environmental Solutions, LLC

DONE AND ORDERED this ____ day of _____, 2018, in Hillsborough County,
Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Mary E. Yeargan, P.E.
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

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35

EXHIBIT I
In-Kind Projects

I. Introduction

An in-kind project

a. Within 60 days of the effective date of this Consent Order, Respondent shall submit, electronically or by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

b. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, Respondent shall submit, electronically or by certified mail, all requested additional information, clarification, and modifications within 15 days of receipts of written notice.

c. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all of the matters at issue and submit, electronically or by certified mail, a new proposal within 30 days of receipt of written notice. In the event that the revised proposal is not approved by the Department, Respondent shall make cash payment of the civil penalties as set forth in paragraph 9 of the Order, within 30 days of Department notice.

d. Within 120 days of the effective date of this Consent Order, Respondent shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within 120 days of the effective date of this Consent Order, then Respondent shall make cash payment of the civil penalties as set forth in paragraph 9 of the Order, within 30 days of Department notice.

e. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to subparagraph a, above, Respondent shall complete the entire in-kind project.

f. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

g. In the event, Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited and the entire amount of civil penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$14,068.00 penalty, no additional penalties shall be assessed under paragraph 10 for failure to complete the requirement of this paragraph.

h. Within 15 days of completing the in-kind project, Respondent shall notify the Department, electronically or by certified mail, of the project completion and request a verification letter from the Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

i. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all of the matters at issue and submit, electronically or by certified mail, a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited and the entire amount of civil penalty shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$14,086.00, no additional penalties shall be assessed under paragraph 10 for failure to complete the requirements of this paragraph.

PENALTY COMPUTATION WORKSHEET (non RCRA penalties)Violator's Name: Universal Environmental Solutions Identify Violator's Facility: FLR000199802Name of Department Staff Responsible for the Penalty Computations: Elizabeth KnaussWarning Letter #: OGC Case 18-1323 Date: 09/24/2018

Violation Type		Manual Guide	Potential for Harm	Extent of Deviation	Matrix Range	Matrix Amount	Adjustment Econ Ben.	Total
1.	279.54(c) – no secondary containment	UW 101	Moderate	Major	\$4,599-\$3,200	\$3,200	\$3,530	\$6,730
2.	279.54(f)(1) – labels	UO 146	Moderate Minor	Major	\$1,199-\$500	\$1,999		\$1,199
3.	62-710.800(3) – no permit modification	UO 88	Moderate	Major	\$4,599-\$3,200	\$3,500	\$360	\$3,860
4.	279.52(b)(4)(iii) – outdated contingency plan	UO 113	Minor	Moderate	\$500	\$500		\$500
5.	279.57(a)(2)(i)- incomplete halogen check records	UO 161	Minor	Minor	\$500	\$500		\$500
6.	62-710.600(2)(b) - training	UO 61	Minor	Moderate	\$500	\$500	\$297	\$797
7.	62-762.401 – tank registration	TK matrix	Minor	Minor	\$500	\$500		\$500
SUB-TOTALS							\$4,187	\$14,086
DEPARTMENT COSTS								\$500

Total Penalties Including Department Costs:\$14,586.00

Mary E. Yeargan, P.G., Southwest District Director

10/16/2018

Date

Peer Reviewed by Division: Yes (X) No ()



Mike Halpin., Assistant Deputy Secretary

10/17/18

Date

WORKSHEET **RANKING SYSTEM FOR HARM DETERMINATION**

Violator's Name: Universal Environmental Solutions Identify Violator's Facility: FLR000199802

	Violation	Description	Nature of Waste	Amount of Waste	Release	Exposure	Threats	Total
1	279.54(c)	No Secondary containment	3	8	0	1	2	14
2.	279.54(f)	Frac tank labeling	3	8	0	1		12
3.	62-710.800(3)	Permit modification	3	8	0	2		13

Harm Ranking Tool	
Nature of Waste	Score
High Hazard (acutely toxic or reactive)	6
Other HW/Universal Waste	4
Used Oil	3
Used Oil Filters	2
Waste Volume	
> 5,000 kg (25 drums) of waste	8
1,000 to 5,000 kg (5 to 25 drums) of waste or > 2.2 lb. of acute HW	5
>100 to 1,000 kg (5 drums) of waste or < 2.2 lb. acute HW	2
< 100 kg/ <25 gal of waste	1
Discharge	
Discharge to Surface Water or Off Site Discharge	12
Discharge to Ground Water	10
Discharge to Soil	8
Discharge to air or impervious surface / containment	6
Discharge - De Minimus / Cleanup per 62-780 completed	2
No Discharge	0
Potential Exposures	
>1,000 people	4
101 - 1,000 people	3
10 - 100 people	2
<10 people	1
Additional Threat Factors (select all that apply - use if no discharge observed)	
1. Fire or Explosion Risk (use a sliding scale depending on severity)	0-4
2. Incompatible Waste Storage	0-4
3. Risk of Employee Exposure above PELs	0-4
4. Container Integrity	0-4
5. Inadequate Provisions for Detecting and Preventing Releases	0-4
Harm Rankings	
SUBSTANTIAL (Major)	Above 20
SIGNIFICANT (Moderate)	13-20
MINIMAL (Minor)	Under 13

REVISED ECONOMIC BENEFIT WORKSHEET

FACILITY NAME: Universal Environmental Solutions Date: 09/24/2018

EPA ID No.: FLR000199802 Case #: 18-1323

1 Violation: 279.54(c) Storage of used oil in a frac tank without secondary containment

Avoided Costs = installation of an engineered 20,000 gallon capacity secondary containment structure, with epoxy sealant - Estimated \$15,000

Delayed Costs = n/a at this time. If Universal decides to expand capacity, avoided costs may become delayed.

$$EB = \text{Avoided Costs (1-C)} + \text{Delayed Costs (T)} = \$15,000 \times .66 = ~~\$9,900.00~~ \text{ } \$3,530$$

The "Avoided Costs" would apply in a manner unrelated to the construction of secondary containment for the Frac Tank. The tank was 95% full with 8,000 gallons of recoverable oil and 11,000 gallons of water. Our standard commercial charge for an Oil & Water Mixture is \$.15 per gallon delivered (F.O.B.) to the facility. The "Avoided Cost" at a retail level would = \$2,850.00 (\$.15 X 19,000 Gallons of Oily Water). A vacuum truck & an operator was used to empty the tank and that retail cost would = \$680.00 (\$85.00 / hour X 8 hours). We acknowledge that the tank was not in containment. However, the Avoided Cost would be (at a retail level) \$3,530.00. For several reasons, the Frac Tank was not emptied promptly. We regret this situation but cannot justify the additional expense of more concrete containment. Our Avoided Costs related to the tank pump out and the processing of its contents not to the construction of containment.

2. Violation: 62-710.800(3) FAC Failure to apply to modify the facility permit for additional capacity and installation of containment for four frac tanks.

Avoided Costs = none at this time

Delayed Costs = Application fee, permit application with engineering calculations and drawings

\$2,000 plus Estimated Engineering costs of \$10,000 = \$12,000.00

$$EB = AC + \$12,000 \times .03 = \$360.00$$

3. Violation: 62-710.600(2)(b) F.A.C. - Used Oil training was incomplete in 2017

Avoided Costs = training conducted in-house, estimated staff time 2 hours for 15 employees at estimated \$15.00/hr

Delayed Costs = none

$$EB = \$450 \times .66 = \$297.00$$

4. Violation: 62-762.401 – Tank Registration

Economic Benefit is not applicable, as the violation resulted from failure to relocate mobile tanks every 180 days.

C = Current Corporate Tax Rate = .34 (2017 values)

T = IRS Interest Rate = 3% per year