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September 05, 2018

Ms. Elizabeth Knauss
F.D.E.P.
13051 N. Telecom Parkway Suite #101
Temple Terrace, FL. 33637

Re: Universal Environmental Solutions, LLC (Proposed Penalty)

Dear Ms. Knauss,

Universal Environmental Solutions, LLC (UES) is in receipt of the Department's proposed penalties from our meeting (08/09/2018). We take exception to your calculations associated with these fines for the following reasons:

- Violation #1 (279.54 (c)) No secondary containment. We accept that a 20,000 Gallon Frac Tank was not within certified containment. We admit that the tank was in this area for greater than 35 days. We agree that the "Nature of the Waste" was Used Oil and we acknowledge "Amount of Waste" ranking. We do not, however, accept that the "Exposure" would "potentially" cause harm to 10 – 100 people.

The subject tank was positioned outside of the fenced in containment area of the UES Pre-treatment facility / plant. There are three full time employees and up to two part time employees at the plant. The Department's assumption that the potential failure of this tank causing all its contents to spill would impact 10 – 100 people is invalid. There simply are not that many employees in the area. Furthermore, there are alternate points of egress which would allow any UES employee, vendor, or visitor to pass well around the potential spill area. UES asserts that the "Exposure" would affect less than 10 people and, therefore, should receive a Score of 1. The Total Score should be a 12 and be considered a MINIMAL HARM.

We also disagree with your Economic Benefit assertion related to the storage of the Frac Tank without containment. 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.

- Violation # 2 (279.54 (f)) Frac Tank labeling. We agree that the "Nature of the Waste" was Used Oil and we acknowledge "Amount of Waste" ranking. We do not, however, accept that the "Exposure" would "potentially" cause harm to 10 – 100 people.

The subject tank was positioned outside of the fenced in containment area of the UES Pre-treatment facility / plant. There are three full time employees and up to two part time employees at the plant. The Department's assumption that the potential failure of this tank causing all its contents to spill would impact 10 – 100 people is invalid. There simply are not that many employees in the area. Furthermore, there are alternate points of egress which would allow any UES employee, vendor, or visitor to pass well around the potential spill area. UES asserts that the "Exposure" would affect less than 10 people and, therefore, should receive a Score of 1. The Total Score should be a 12 and be considered a MINIMAL HARM. The contents of the tank were known. In fact, a laboratory characterization confirmed that the contents were non - hazardous. UES will accept a Minor Infraction of **\$500.00**

- Violation # 3 (62 – 710.800 (3)) Permit modification. UES agrees with the Department's assertion that the Permit was deficient in detail as to current operations. The entire original submittal is being updated to include a request for an Alternate Procedure for storing Used Oil in a Frac Tank. UES asserts that its Closure Fee Estimate includes the Frac Tank Storage / Receiving Area. UES further asserts that this equipment is accounted for on its various insurance policies. UES accepts the **\$3,860.00** penalty amount.
- Violation # 4 (279.52 (b)(4)(iii)) Outdated Contingency Plan. UES accepts the **\$500.00** penalty amount.
- Violation # 5 (279.57 (a)(2)(i)) Incomplete halogen check records. UES accepts the **\$500.00** penalty amount.
- Violation # 6 (62-710.600 (2)(b)) Training. UES accepts the **\$897.00** penalty amount.
- Violation # 7 (62-762.401) Tank Registration. UES accepts the **\$500.00** penalty amount.

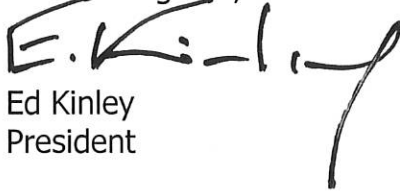
UES PROPOSED TOTAL PENALTY = \$10,287.00

UES requests to be considered for the EPA's Supplemental Environmental Project alternative settlement. We understand that the value will be increased by 1.5 times for an approved project with an amount equal to **\$15,430.50**. UES is available to assist with any environmental restoration project in the Tampa Bay area. We are a licensed General Contractor (CGC # 1505480) and would be amenable to any type of restoration effort that

our equipment and HAZWOPER trained operators could complete. Please refer to our website and "Photo Gallery" for more ideas.

We are committed to compliance and regret this situation. We hope to resolve this situation amicably and expeditiously with the Department.

Kindest Regards,

A handwritten signature in black ink, appearing to read "E. Kinley". The signature is stylized with a large "E" and a long, sweeping underline that extends to the right.

Ed Kinley
President