



Jeb Bush  
Governor

# Department of Environmental Protection

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

RECEIVED  
APR 15 2004  
Central Dist. - DEP

Colleen Castille  
Secretary

## ELECTRONIC MAIL

jkington@aercrecycling.com

Jim Kington  
AERC Recycling Solutions  
4317-J Fortune Place  
West Melbourne, FL 32904

OCD-HW-C/E-04-0112

**SUBJECT:** Proposed Settlement by Short Form Consent Order in Case of DEP vs. AERC  
Recycling Solutions OGC File No.: 03-2153

Dear Mr. Kington:

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-03-027, dated October 23, 2003, a copy of which is 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 \$15,200.00, along with \$100.00 to reimburse the Department costs, for a total of \$15,300.00. The civil penalties assessed in this case include three 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 \$11,000 of the civil penalty may be offset through the implementation of a Supplemental Environmental Project (SEP). 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 \$16,500.00. Payment of the remaining civil penalties, \$4,100 and the \$100 Department costs, for a total of \$4,200, 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 developing a brochure to illustrate the location, proper removal, and disposal of mercury switches in automobiles. Additionally, AERC shall purchase one thousand five hundred 1-gallon containers that are marked or labeled with the words "hazardous waste," the letters of which must be at least 1 inch tall and

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Printed on recycled paper.



Printed on Recycled Paper

distribute the containers with a copy of the brochure to each salvage yard in Florida. The approved SEP has an estimated total cost of \$16,500 (Exhibit C). Within 90 days of signing this letter, Respondent shall provide the Department with a draft of the brochure for Department review. Within 180 days of signing this letter, Respondent shall provide the Department with a final version of the brochure and produce 3,000 color copies. Within 210 days of signing this letter, Respondent shall provide the Department with written notice that the 1-gallon containers have been purchased and distributed and shall return any and all extra containers to DEP, Central District, 3319 Maguire Blvd., Orlando, Florida. Within 240 days of signing this letter, Respondent shall provide the Department with a final report detailing the costs incurred for the SEP and provide the Department copies of all receipts for these costs. If any balance remains after the appropriate SEP costs are applied, or if AERC fails to implement the SEP as approved in a timely manner as required by this Consent Order, the SEP option to be forfeited and any balance of the civil penalty shall be due within 10 days of notification by the Department to AERC 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, which 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 receiving it, 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,



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Vivian F. Garfein  
Director, Central District

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March 29, 2004  
Date



**FOR THE RESPONDENTS:**

I, Robert M. Blanchfield on behalf of AERC Recycling Solutions  
**HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: Robert M. Blanchfield

Date: 4/9/04

**FOR DEPARTMENT USE ONLY**

DONE AND ENTERED this 10th day of April, 2004.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

Vivian F. Garfein  
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.

A. Saloner  
Clerk

4/16/04  
Date



## 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.



PENALTY COMPUTATION WORKSHEET

Violator's Name: AERC Recycling Solutions

Identify Violator's Facility: 4317-J Fortune Place, West Melbourne, FL 32904

Name of Staff Responsible for the Penalty Computations: Janine Kraemer REVISED DATE: 3/22/04

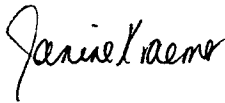
	Violation Type	Manual Guide	Potential for Harm	Extent of Deviation	Matrix Range	Economic Benefit	History 10% per Year	Total
c.	264.35/265.35 Aisle Space	HW 9.2	Minor	Moderate	\$1,649- \$550		\$110	\$1,210
d.	265.16(c) Personnel Training	HW 9.5	Moderate	Moderate	\$8,799- \$5,500			\$5,500
g.	62-737.800(9) Open Container	HW 14.1	Moderate	Major	\$12,099- \$8,800			\$8,800
h.	403.727(1)(c) Violating Permit Conditions							\$5,000

**TOTAL PENALTY AMOUNT FOR ALL VIOLATIONS:**

~~\$20,510.00~~

**For settlement purposes the penalty is reduced to \$15,200**

Prepared by: \_\_\_\_\_



\_\_\_\_\_  
Janine Kraemer  
Environmental Specialist

3/22/04

Date



\_\_\_\_\_  
Vivian Garfein  
Director of District Management

3/29/04

Date



**WORKSHEET**  
**RANKING SYSTEM FOR POTENTIAL FOR HARM**  
**ONLY VIOLATIONS IN WHICH A "POTENTIAL FOR HARM" SCORE IS**  
**REQUIRED ARE LISTED ON THIS PAGE.**

FACILITY NAME: AERC Recycling Solutions Date: 9/4/03

	Violation	Description	Nature of Waste	Amount of Waste	Release	People	Total Points
c.	264.35/265.35	Aisle Space	4	5	1	1	11
g.	62-737.800(9)	Open Container	4	8	4	2	18

**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