



Florida Department of Environmental Protection

Northwest District
160 Governmental Center
Pensacola, Florida 32502-5794

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

September 16, 2009

Sent to Dwayne Swindall via e-mail:
aswindall@gwrr.com

Mr. Gerry T. Gates, President
Bay Line Railroad, L.L.C., L.C.
4337 Pablo Oaks Court, Suite 102
Jacksonville, Florida 32224

Dear Mr. Gates:

This is to forward a copy of the executed Short Form Consent Order, OGC 09-3145-03-HW, concerning the Bay Line Railroad, L.L.C., L.C., facility located in Panama City, Florida. Thank you for your response to the Department's proposed resolution of this matter.

The Department has received partial payment for civil penalties and Department costs. The Consent Order has one remaining outstanding condition, completion of the Pollution Prevention Project, RR crossing signal light replacement, for a maximum \$2,000 civil penalty offset.

If you have any questions, please contact Thomas Dillard at 850/872-4375, extension 110 or by e-mail at Thomas.Dillard@dep.state.fl.us.

Sincerely,

A handwritten signature in black ink that reads 'Michael S. Kennedy'.

Michael S. Kennedy, P.G.
Waste Program Administrator

MSK:mwl

Enclosure: Consent Order OGC # 09-3145-03-HW

c: Lea Crandall, FDEP Office of General Counsel, Lea.Crandall@dep.state.fl.us



Florida Department of Environmental Protection

Northwest District
160 Governmental Center
Pensacola, Florida 32502-5794

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

July 14, 2009

Sent to Dewayne Swindall via e-mail:
aswindall@gwrr.com

Mr. Gerry T. Gates, President
Bay Line Railroad, L.L.C., L.C.
4337 Pablo Oaks Court, Suite 102
Jacksonville, Florida 32224

SUBJECT: Short Form Consent Order
Proposed Settlement of The Bay Line Railroad, L.L.C., L.C.
OGC File No.: 09-3145-03-HW

Dear Mr. Gates:

The purpose of this letter is to complete the resolution of the matters previously identified by the Department during a hazardous waste inspection on April 23, 2009, at the Bay Line Railroad, L.L.C., L.C., facility located in Panama City, Florida. Thank you for having your representative met with us on May 27, 2009 to discuss an amicable resolution of the matters which are specifically outlined in the attached Warning Letter and Inspection Report. If you agree to the terms outlined in this letter, please have the appropriate individual sign the last page where it states, "For the Respondent."

The corrective actions required to bring your facility into compliance have been performed. The Department finds that you were in violation of the Rules 62-730.170(3), 62-730.170(2)(e), and 62-730.150(2)(b) Florida Administrative Code (Fla. Admin. Code), cited in the "Summary of Potential Violations" section of the attached Inspection Report. The civil penalties are apportioned as follows: \$644 for violation of Rule 62-730.170(3), Fla. Admin. Code; \$1,933 for violation of Rule 62-730.170(2)(e), Fla. Admin. Code; and \$1,933 for violation of Rule 62-730.150(2)(b) Fla. Admin. Code. In order to resolve the matters identified in the attached Warning Letter, you are assessed civil penalties in the amount of \$4,510, along with \$250 to reimburse the Department costs, for a total of \$4,760.

In lieu of making the monetary payment of the civil penalties, the Department has determined that \$2,000 of the civil penalty may be offset through the implementation of a Pollution Prevention Project. Your purchase of replacement incandescent crossing signal lights with LED lights at a cost of greater than \$2,000 has been accepted for this purpose. Payment of the remaining civil penalties, \$2,510 and the \$250 for Department costs, for a total of \$2,760 shall be made within 30 days of signing this letter.

The Department acknowledges that the payment of these civil penalties by you does not constitute an admission of liability. This 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 above and the notation "Ecosystems Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, District Director, Northwest District, 160 Governmental Center, Pensacola, Florida 32502-5794, within 30 days of your signing this letter.

By signing this letter you are accepting 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 by August 14, 2009, 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,



Michael S. Kennedy, P.G.
Waste Program Administrator

Enclosures(2): Warning Letter dtd 05/15/09
Inspection Report dtd 04/23/09

c: FDEP Office of General Counsel

FOR THE RESPONDENTS:

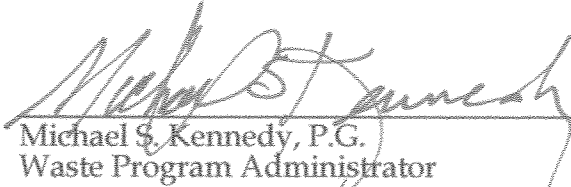
I, Dewayne Swindell on behalf of The Bayline Railroad, HEREBY
ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By: A. Dewayne Swindell Date: 09-03-09

FOR DEPARTMENT USE ONLY

DONE AND ENTERED this 16th day of September, 2009.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


Michael S. Kennedy, P.G.
Waste Program Administrator

FILED, on this date, pursuant to §120.52, Florida Statutes, with the designated
Department Clerk, receipt of which is hereby acknowledged.

Rebecca Hunter
Clerk

9/16/09
Date

Enclosures(2): Warning Letter dtd 05/15/09
Inspection Report dtd 04/23/09

c: FDEP Office of General Counsel

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; and (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.