



Florida Department of Environmental Protection

Southwest District
13051 North Telecom Parkway
Temple Terrace, Florida 33637-0926
Telephone: 813-632-7600

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr.
Secretary

September 20, 2011

Mr. Bob Mulholland
EQ Florida, Inc.
7202 East 8th Ave.
Tampa, FL 33619

SUBJECT: Department of Environmental Protection v. EQ Florida, Inc.
OGC File No.: 11-0334
EPA ID FLD 981 932 494

Mr. Bob Mulholland:

The State of Florida Department of Environmental Protection ("Department") finds that EQ Florida, Inc. ("Respondent") owned and operated a permitted Treatment, Storage and Disposal Facility, in violation of the rules and statutes cited in the attached warning letters. Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violations. These actions have since been completed. However, due to the nature of the violations, the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

The Department's Offer

Based on the violations described above, the Department is seeking \$46,070.00 in civil penalties and \$1,000.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$47,070.00. The civil penalty in this matter includes six violations of \$2,000.00 or more.

Respondent's Acceptance

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Department at Southwest District Office by September 30, 2011. The Department will then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

By accepting this offer you, Bob Mulholland:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;

- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final; and
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.; and
- (4) acknowledge that payment of the above amount does not constitute a waiver of the Department's right, if any, to recover emergency response related costs and expenses for this matter.

The Department acknowledges that the Respondent's acceptance of this offer does not constitute an admission of liability for the violations referenced above.

Respondent's Performance

After signing and returning this document to the Department,

- (1) Respondent must pay \$47,070.00 in full by October 21, 2011.
- (2) The payment must: (a) be in the form of a cashier's check or money order; (b) be payable to the "Department of Environmental Protection"; (c) include the OGC Number assigned above and the notation "Ecosystem Management and Restoration Trust Fund"; and (d) be sent to Florida Department of Environmental Protection Southwest District Office, 13051 N Telecom Parkway, Temple Terrace, FL 33637.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, F.S.

Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondent, whose interests will be substantially affected.

Please be aware that if the Respondent declines to respond to the Department's offer, the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

If you have any questions, please contact Shannon Camp at (813)632-7600 ext 473 or at Shannon.D.Camp@dep.state.fl.us.

Sincerely,



Gary S. Colecchio
Southwest District Director
Florida Department of Environmental Protection

FOR THE RESPONDENT:

I, Bob Mulholland, on behalf of EQ Florida, Inc., **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: _____ Date: _____
[Signature]

Title: _____
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this ___ day of _____, 2011, in Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Gary S. Colecchio
Southwest District Director
Florida Department of Environmental Protection

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk

Date

Attachments: Notice of Rights
Warning Letters, Inspection Reports.

Final clerked copy furnished to:
Lea Crandall, Agency Clerk (lea.crandall@dep.state.fl.us)

NOTICE OF RIGHTS

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 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. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.

PENALTY COMPUTATION WORKSHEET

Violator's Name: EQ Florida, Inc.

Identify Violator's Facility: 7202 East 8th Ave., Tampa, FL 33619 FLD981932494

Name of Department Staff Responsible for the Penalty Computations: J. Dregne

Warning Letter #: WL10-0061HW29SWD Date: 8/26/2011

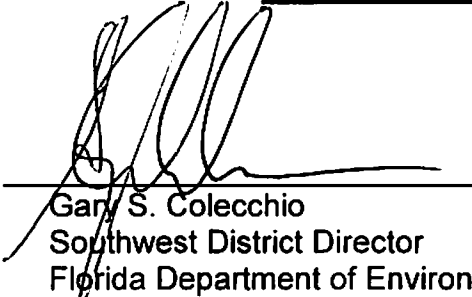
| Violation Type | | Manual Guide | Potential for Harm | Extent of Deviation | Matrix Range | Other Adjustments | Total |
|----------------|--|--------------------|--------------------|---------------------|---------------------|-------------------|-----------------------------|
| 1.* | 262.33 – unlabeled outbound HW containers(1) | HW 22 | Moderate | Moderate | \$11,330 - \$7,090 | | Combined with Violation #9 |
| 2. | 263.10 – failure of HW transporter to fill out manifest properly(2) | HW 70 | Minor | Minor | \$710 - 150 | | \$150 |
| 3.* | 264.15(b)(i) - (permit violation also) failure to insp. Emergency/safety equipment daily(1) 264.15(d) – failure to note date and nature of corrective actions on inspection logs(2) | HW 166 HW 129 | Minor | Minor | \$710 - 150 | | \$710 |
| 4.* | 264.31 – waste observed on HW storage containers(3) | HW 201 | Minor | Major | \$4,250 - \$2,130 | | \$4,250 |
| 5.* | 264.173(a) –open HW storage containers(1) 264.173(a) & (b)- failure to keep HW containers closed/in good condition(2) | HW 166 HW 31/32 | Minor | Major | \$4,250 – 2,130 | | \$4,250 |
| 6. | 264.176 – storing ignitable HW w/in 50 ft of property line (also permit violation)(1) | HW 5 | Moderate | Major | \$15,580 - \$11,330 | | Combined with Violation #12 |
| 7. | 264.177(c) – failure to segregate unknown wastes(2) | HW 36 | Minor | Major | \$4,250 – 2,130 | | Combined with Violation #12 |
| 8. | 264.1080 – failure to maintain filter/using non-exempt/noncompliant carbon absorption device(2) | HW 165 | Minor | Minor | \$710 - 150 | | \$150 |
| 9. | 268.50(a)(2)(i) failure to mark HW storage containers with acceptance date(1) 268.50(a)(2)(ii) – failure to mark containers with received date/label as HW(2) | HW 164 | Moderate | Moderate | \$11,330 - \$7,090 | | \$11,330 |

| | | | | | | | |
|------------------|---|--------------------|----------|----------|---------------------|--|----------------------------|
| 10. | 273.14(a) – failure to properly label multiple UW Batteries drums(2) | UW 7 | Minor | Minor | \$710 - 150 | | \$150 |
| 11. | 279.22(c)(1)- failure to label 1 UO dolly & 1 UO DM with words "Used Oil"(2) | UO 146 | Minor | Minor | 500 | | \$500 |
| 12.* | 403.727(1)(c) – (permit violation) staging HW in dedicated HW storage areas(3) | HW 5 | Moderate | Major | \$15,580 - \$11,330 | | \$15,580 |
| 13.* | 403.727(1)(c) – (permit violation) failure to ensure all containers are marked w/all applicable EPA waste codes(3) | HW 164 | Moderate | Minor | \$7,090 - \$4,250 | | \$4,250 |
| 14. | 403.727(1)(c) – failure to accurately document inventory(2) | | Moderate | Moderate | \$11,330- \$7,090 | | Combined with Violation #9 |
| 15. | 62-710.401(6) – unlabeled UO containers/UO stored w/in sec. cont. pallet(1) | UO 101 | Minor | Major | \$1,199 - \$500 | | \$500 |
| 16.* | 62-737.400(5)(a) – failure to store UW lamps in structurally sound containers(3) 62-737.400(7) – failure to store UW lamps indoors or within closed truck(2) | UW 37 UW 42 | Minor | Major | \$4,250 - \$2,130 | | \$4,250 |
| SUB-TOTAL | | | | | | | \$46,070.00 |
| DEPARTMENT COSTS | | | | | | | \$1,000.00 |

LEGEND

- Repeat Violation
- (1) Violation cited on August 25, 2010 inspection.
- (2) Violation cited on April 19, 2011 inspection.
- (3) Violation cited on August 25, 2010 and April 19, 2011 inspections.

Total Penalties Including Department Costs: \$47,070.00


 Gary S. Colecchio
 Southwest District Director
 Florida Department of Environmental Protection

20 SEPT. 2011
 Date

Memorandum

Environmental Protection

SOUTHWEST DISTRICT ENFORCEMENT COVER MEMO

TO: C Gary S. Colecchio, SW District Director

THROUGH: WAP William Kutash, Waste Program Administrator

JD James Dregne, Hazardous Waste Program Manager 9/16

EK Elizabeth Knauss, HW Enforcement Coordinator

FROM: SC Shannon Camp, Environmental Specialist II

DATE: September 6, 2011

FILE NAME: EQ Florida

COUNTY: Hills

PROGRAM: Hazardous Waste

WL # WL11-0019HW29SWD

TYPE OF DOCUMENT: Draft SFCO, Penalty Computation Wkst.

REQUESTED ACTION: Review / Signature

DESCRIPTION OF VIOLATIONS: storing HW outside the permitted HW storage building, open HW containers, undated HW containers, improper storage of UW lamps; waste on tops of HW storage containers; storing HW in improper areas; failure to segregate unknown HW containers; failure to label used oil/UOF containers (maintenance); no waste codes on HW storage containers. Inaccurate inventories, noncompliance with 264 subpart cc with release

STATUS OF CORRECTIVE ACTIONS: corrected

STATUS OF PENALTY ASSESSMENT: THE PENALTY was prepared in accordance with United States EPA RCRA Civil Penalty Policy. The penalty was combined for both the 2010 and 2011 enforcement cases.

PENALTY: Not Applicable

Amount: \$ 46,070.00

Costs & Expenses: \$ 1,000.00

Total: \$ 47,070.00

Secretary Approval Not required / Approved on _____

Attachments: