



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 W. Government Street, Suite 308
Pensacola, FL 32502

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

March 24, 2023

Rick Antes, EHS Manager
Eastern Shipbuilding Group
13300 Allanton Road
Panama City, FL 32404
rantes@easternshipbuilding.com

SUBJECT: Department of Environmental Protection v. Eastern Shipbuilding Group
OGC File No.: 23-0375
EPA ID: FLD982171050

Dear Mr. Antes:

Enclosed is the executed Consent Order (OGC File No. 23-0375) to resolve hazardous waste issues relating to Eastern Shipbuilding facility FLD982171050 in Bay County.

Please note the requirements of the Consent Order for which you are responsible and fulfill all pertinent actions accordingly. All Consent Order time requirements begin the date that it is clerked in our Department unless otherwise noted.

Your cooperation in resolving this matter is greatly appreciated. If you have any questions, please contact Cliff Richardson at (850) 595-0655 or by email at Cliff.J.Richardson@FloridaDEP.gov.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth Mullins Orr".

on behalf of

Elizabeth Mullins Orr
Director
Northwest District

EMO/cr



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 W. Government Street, Suite 308
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Ron DeSantis
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March 22, 2023

Rick Antes, EHS Manager
Eastern Shipbuilding Group
13300 Allanton Road
Panama City, FL 32404
rantes@easternshipbuilding.com

Signed
CPT

SUBJECT: Department of Environmental Protection v. Eastern Shipbuilding Group
OGC File No.: 23-0375
EPA ID: FLD982171050

Mr. Antes:

The State of Florida Department of Environmental Protection ("Department") finds that Eastern Shipbuilding Group ("Respondent") failed to ensure containers containing hazardous waste were kept closed, properly label hazardous waste and used oil containers/tanks, properly document weekly container inspections, provide personnel training documentation, provide arrangements with local emergency response authorities, provide complete records of hazardous waste generation and disposal, illustrate compliance with maximum accumulation of hazardous waste for a Small Quantity Generator ("SQG") based on the incompletely provided records at the time of the inspection, and meet exception reporting requirements in violation of Title 40 Code of Federal Regulations ("CFR") Parts 262, 261, & 279 and of Chapters 62-730 & 62-710 Florida Administrative Code ("F.A.C."). Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violation(s). These actions have since been completed. However, due to the nature of the violation(s), 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 \$37,340.00 in civil penalties and \$3,000.00 for costs and expenses the Department has incurred in

investigating this matter, which amounts to a total of \$40,340.00. The civil penalties are apportioned as follows: \$1,420.00 for violation of 40 CFR 262.11(f); \$9,210.00 for violation of 40 CFR 262.15(a)(4); \$9,210.00 for violation of 40 CFR 262.16(b)(6)(i)(A); \$9,210.00 for violation of 40 CFR 262.16(b)(8)(i); \$430.00 for violation of 40 CFR 262.16(b)(8)(vi)(A); \$430.00 for violation of 40 CFR 262.16(b)(9)(ii); \$4,000.00 for violation of 40 CFR 279.22(C)(1); \$1,000.00 for violation of 62-710.401(6), F.A.C.; \$1,000.00 for violation of 62-710.401(6), F.A.C.; \$1,000.00 for violation of 62-710.850(5)(a), F.A.C.; and \$430.00 for violation of 62-730.160(3), F.A.C.

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 Attn: Mr. Cliff Richardson, Florida Department of Environmental Protection, Northwest District, 160 W Government St Suite 308, Pensacola, Florida 32502 within 15 days from the date of this letter. 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), Florida Statutes ("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, Rick Antes:

- (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.

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

Respondent's Performance

After signing and returning this document to the Department,

- (1) Respondent must pay \$40,340.00 in full within 30 days of this order being clerked.

- (2) 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 (23-0375) 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 is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

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.

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 will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

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 Cliff Richardson at 850-595-0655 or at Cliff.J.Richardson@FloridaDEP.gov.


Sincerely,



Elizabeth Mullins Orr
Director
Northwest District

FOR THE RESPONDENT:

I, Rick Ante, **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: 
[Signature]

Date: 3/23/23

Title: EHS Mgr
EHS Manager

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this # day of Month, Year, in County County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



on behalf of _____

Elizabeth Mullins Orr
Director
Northwest District

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



March 24, 2023

Clerk

Date

Attachments: Notice of Rights

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 name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, 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-

**PENALTY COMPUTATION WORKSHEET
SUBJECT TO FINAL APPROVAL**

Violator's Name: Eastern Shipbuilding Group Inc.




Address: 2200 Nelson Avenue

Name of Department Staff Responsible for the Penalty Computations:
Corinna Clanton

Date: 8/11/2022

PART I - PENALTY DETERMINATIONS

Violation Type and description	RCRA Guideline	ELRA Schedule	ENVIRONMENTAL Harm	Extent of Dev.	Matrix Amount	Adjustments	Total
1 40 CFR 261.4(a)(26)(i)	HW OGC Page # 1, 2 & 8		Moderate(21)	Moderate	\$9,210	Made 3/21/23 -\$9,210.00	\$0.00
2 40 CFR 261.4(a)(26)(ii)	HW OGC Page # 1, 2 & 8		Moderate (15)	Moderate	\$9,210	-\$9,210.00	\$0.00
3 40 CFR 262.11(f)	HW 183		Minor (8)	Moderate	\$1,420	\$0.00	\$1,420.00
4 40 CFR 262.15(a)(4)	HW 29		Moderate (15)	Moderate	\$9,210	\$0.00	\$9,210.00
5 40 CFR 262.16(b)	HW 271		Moderate (15)	Moderate	\$9,210	-\$9,210.00	\$0.00
6 40 CFR 262.16(b)(1)	HW 270		Moderate (15)	Major	\$13,455	-\$13,455.00	\$0.00
7 40 CFR 262.16(b)(2)(iii)(A)	HW 19		Moderate (15)	Moderate	\$9,210	-\$9,210.00	\$0.00
8 40 CFR 262.16(b)(6)(i)(A)	HW 15		Moderate (15)	Moderate	\$9,210	\$0.00	\$9,210.00
9 40 CFR 262.16(b)(6)(i)(C)	HW 14		Moderate (15)	Moderate	\$9,210	-\$9,210.00	\$0.00
10 40 CFR 262.16(b)(8)(i)	HW 82		Moderate (15)	Moderate	\$9,210	\$0.00	\$9,210.00
11 40 CFR 262.16(b)(8)(vi)(A)	HW 88		Minor	Minor	\$430	\$0.00	\$430.00
12 40 CFR 262.16(b)(9)(i)	HW 84		Minor	Minor	\$430	-\$430.00	\$0.00

13	40 CFR 262.16(b)(9)(ii)	HW 85		Minor	Minor	\$430	\$0.00	\$430.00
14	40 CFR 262.16(b)(9)(iii)	HW 92		Moderate	Minor	\$5,670	\$-5670.00	\$0.00
15	40 CFR 279.22(C)(1)	UO OGC Page # 6 & 7		Moderate (14)	Minor	\$4,000	\$0.00	\$4,000.00
16	40 CFR 279.24	Used Oil 70		Moderate (14)	Major	\$8,000	\$-8000.00	\$0.00
17	403.727(1)(b), F.S.; 62-730.240(1), F.A.C.	HW 144		Major	Major	\$32,915	\$-32,915.00	\$0.00
18	62-710.401(6), F.A.C.	UO OGC Page # 6 & 7		Minor (8)	Minor	\$1,000	\$0.00	\$1,000.00
19	62-710.401(6), F.A.C.	UO OGC Page # 6 & 7		Minor (8)	Minor	\$1,000	\$0.00	\$1,000.00
20	62-710.850(5)(a), F.A.C.	UO OGC Page # 7		Minor (10)	Minor	\$1,000	\$0.00	\$1,000.00
21	62-730.160(3), F.A.C.	HW 175		Minor	Minor	\$430	\$0.00	\$430.00
\$0				Subtotals:		\$143,860	\$-106,520.00	\$37,340.00
				Total Penalties for all violations:		\$37,340.00		
				Department Costs:		\$3,000		
						11/1/2022		
Elizabeth Mullins Orr, District Director						Date		
						11/2/2022		
John J. Truitt, Deputy Secretary of Regulatory Programs						Date		
				Digitally signed by Shawn Hamilton Date: 2022.12.08 10:39:50 -05'00'		12/08/2022		
Shawn Hamilton, Secretary						Date		
Peer Reviewed by Division: Yes (✓) No ()								

PART II - MULTI-DAY PENALTIES AND ADJUSTMENTS

<u>Adjustments</u>	<u>Amount</u>
Good faith prior to discovery: Justification: _____	\$0
Good faith after discovery: Justification: _____	\$0
History of non-compliance: Justification: _____	\$0
Economic benefit of non-compliance: _____ Refer to descriptions and calculations below.	\$1,483.00
Justification: _____ District does not intend to pursue economic benefit (see below)	
Ability to pay: Justification: _____	\$0
Total Adjustments:	\$1,483.00

ECONOMIC BENEFIT CALCULATIONS

EB = AC(1-T) + DC(I) =

AC = Avoided Costs – expenditures that will never be incurred for violator's noncompliance.

DC = Delayed Costs – expenditures deferred by violator's failure to comply.

T = Corporate Tax Rate = 21% (in 2020)

I = Interest rate charged by IRS for delinquent accounts = 4% (in 2020)

Avoided Costs (AC) and/or Delayed Costs (DC) for each Violation:

40 CFR 262.16(b) = EB = $700(1-21\%) + 15,750(4\%) = \$553 + \$630 = \1183

40 CFR 262.16(b)(1) = EB = $0(1-21\%) + 7500(4\%) = \300

403.727(1)(b), F.S.; 62-730.240(1), F.A.C. = EB = $0 + 0(4\%) = \$0$

District does not intend to pursue economic benefit \$1483 per page 2 of the Economic Benefit Guidance

MULTI-DAY PENALTIES

Number of days adjustment factor(s) to be applied:

Justification: _____ \$ -

Or

Number of days matrix amount is to be multiplied:

Justification: _____ \$ -

Comments:

Number of days out of compliance could not be confirmed on cited violations.

PART III - OTHER ADJUSTMENTS MADE AFTER MEETING WITH THE RESPONSIBLE PARTY

ADJUSTMENT

Dollar Amount

Relative merits of the case:

\$-106,520.00

Resource Considerations:

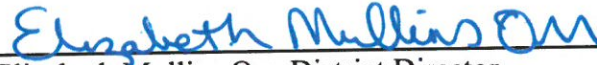
Other Justification:

Penalties # 1, 2,5,6,7,9,12,14,16,17 were addressed between issuance of the warning letter and development of original penalty calculation. On Feb 14, 2023 Eastern Ship Building was able to provide the Department with all of the documents required to resolve alleged violations noted in their inspection. It was determined that the facility did have records and or documentation to show compliance with these items however were not able to produce them at the time of the on-site inspection. After discussions with the facility the documents were produced to the District's satisfaction. Due to the good faith efforts from the facility in working with the District to quickly return to compliance these violations were resolved and we are in agreement that they should not be penalized.

Total Penalties plus Department Costs: \$40,340.00

03/22/2023

Date



Elizabeth Mullins Orr, District Director