



FLORIDA DEPARTMENT OF Environmental Protection

Central District Office
3319 Maguire Blvd., Suite 232
Orlando, Florida 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

March 27, 2023

Boston Whaler, Inc.
Kristopher Neff, President
100 Whaler Way
4121 U.S. Highway 1
Edgewater, Florida 32141
David.Selig@Brunswick.com

Re: Boston Whaler
HW Facility ID# FLD982120024
OGC Case #23-0057

Dear Mr. Neff:

Enclosed is the executed Consent Order to resolve the above referenced case. This copy is for your records.

Should you have any questions or comments, please contact Daniel Hall at 407-897-4167 or via e-mail at Daniel.K.Hall@FloridaDEP.gov.

Your cooperation in this matter will be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "AW", is written over a light blue horizontal line.

On behalf of:

Aaron Watkins
Director, Central District

Enclosure

cc: Lea Crandall, OGC
Lauri Roughton, OGC
Daun Festa, Central District



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February 21, 2023

Boston Whaler, Inc.
Kristopher Neff, President
100 Whaler Way
4121 U.S. Highway 1
Edgewater, Florida 32141
David.Selig@Brunswick.com

SUBJECT: Department of Environmental Protection v. Boston Whaler, Inc.,
OGC File No.: 23-0057
HW Facility ID# FLD982120024

Mr. Neff:

The State of Florida Department of Environmental Protection ("Department") finds that Boston Whaler, Inc. ("Respondent") failed to: maintain closed satellite accumulation containers, in violation of 40 CFR 262.15(a)(4); label a satellite accumulation container with an indication of the hazards of the contents, in violation of 40 CFR 262.15(a)(5)(ii); mark a full satellite accumulation container with the accumulation start date, in violation of 40 CFR 262.15(a)(6)(ii); conduct weekly inspections of the central accumulation area, in violation of 40 CFR 262.17(a)(1)(v); label containers in the central accumulation area with an indication of the hazards of the contents, in violation of 40 CFR 262.17(a)(5)(i)(B); label a container in the central accumulation area with an accumulation start date, in violation of 40 CFR 262.17(a)(5)(i)(C); make an accurate waste determination, in violation of 40 CFR 262.11; maintain equipment to minimize the possibility of a release of hazardous waste, in violation of 40 CFR 262.251; provide a complete map of the facility in the contingency plan, in violation of 40 CFR 262.262(b); and store universal waste lamps in closed and properly labeled containers, in violation of 40 CFR 273.13(d)(1) and 40 CFR 273.14(e). 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 \$ 9,860.00 in civil penalties and \$ 500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$ 10,360.00. The civil penalty in this matter includes 1 violation 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 3319 Maguire Blvd., Suite 232, Orlando, Florida 32803 by March 3, 2023. 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, Kristopher Neff:

- (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;
- (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 \$ 10,360.00 in full by March 10, 2023.
- (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 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.

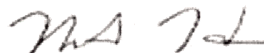
Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order 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 Daniel Hall at 407-897-4167 or at Daniel.K.Hall@FloridaDEP.gov.

Sincerely,



On behalf of:

Aaron Watkins
District Director
Central District

FOR THE RESPONDENT:

I, KRISTOPHER NEFF [Type or Print Name], HEREBY ACCEPT
THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By: 
[Signature]

Date: 3/5/23

Title: PRESIDENT
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 27 day of March, 2023, in
Orange County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

 on behalf of

Aaron Watkins
District Director
Central District

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

Barbara Browning

March 27, 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-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.