



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

June 29, 2023

Timothy Oxley
Aviara Boats, LLC
100 Cherokee Cove Dr.
Conroe, TN 37885
Tim.oxley@mastercraft.com

Re: Aviara Boats
Hazardous Waste Facility ID # FLR000215293
OGC Case No.: 23-0373
Brevard County

Dear Mr. Oxley:

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 Gina Laddick at (407) 897-4309 or via e-mail at Gina.Laddick@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: Executed Short Form Consent Order

cc: Gina Laddick, CD DEP, Gina.Laddick@FloridaDEP.gov
Daniel Hall, CD DEP, Daniel.K.Hall@FloridaDEP.gov
Talia Ayala, CD FDEP, Talia.Ayala@FloridaDEP.gov
Jenny Farrell, CD DEP, Jenny.E.Farrell@dep.state.fl.us
Kandace Williams, Aviara Boats, Kandace.Williams@aviaraboats.com



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June 14, 2023

Timothy Oxley
Aviara Boats, LLC
100 Cherokee Cove Dr.
Conroe, TN 37885
Tim.oxley@mastercraft.com

SUBJECT: Department of Environmental Protection v. Aviara Boats, LLC,
OGC File No.: 23-0373
Aviara Boats - HW Facility ID #FLR000215293 & Stormwater Facility ID #
FLR051569

Mr. Oxley:

The State of Florida Department of Environmental Protection ("Department") finds that Aviara Boats, LLC ("Respondent") failed to: keep several satellite accumulation area containers of hazardous waste closed during the inspection, in violation of 40 CFR 262.15(a)(4); label all satellite accumulation area containers of hazardous waste with the words "hazardous waste", in violation of 40 CFR 262.15(a)(5)(i); label several satellite accumulation area containers of hazardous waste with an indication of the hazards of the contents, in violation of 40 CFR 262.15(a)(5)(ii); failed to comply with the alternative options in 40 CFR 262.15(a)(6)(i-iii) and exceeded the 55-gallon waste stream storage limit in three satellite accumulation areas, in violation of 40 CFR 262.15(a)(6); comply with the 90-day storage limit in order to meet the conditions for exemptions from obtaining a RCRA storage permit, in violation of 40 CFR 262.17(a); keep one container of universal waste lamps closed and failed to containerize one bundle of universal waste lamps, in violation of 40 CFR 273.13(d)(1); label all containers of universal waste lamps with one of the following phrases: "Universal Waste - Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)", in violation of 40 CFR 273.14(e); include the number of hazardous waste containers on weekly inspection records and failed to document inspections during six time periods, in violation of 62-730.160(3), F.A.C.; maintain adequate aisle space in between containers and restricted visibility of drum containers in the central accumulation area, in violation of 62-730.160(4), F.A.C.; include two of the

eight required elements of a quick reference guide in their contingency plan, in violation of 40 CFR 262.262(b); maintain a description of training requirements for positions related to hazardous waste management, in violation of 40 CFR 262.17(a)(7)(iv)(c); and meet the stormwater pollution prevention plan and best management practice standards set forth by the Multi-Sector Generic Permit coverage held by this facility, in violation of Chapter 403, Florida Statutes (F.S.), and Chapter 62-621, 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 \$ 14,070 dollars for the hazardous waste violations and \$ 7,500 for NPDES stormwater violations for a combined \$ 21,570 in civil penalties, \$ 500 for costs and expenses the Department has incurred in investigating this matter, and \$ 33 for economic benefit which amounts to a total of \$ 22,103. The civil penalty in this matter includes 3 violation(s) of \$ 2,000 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 Central District, 3319 Maguire Blvd. Ste 232, Orlando, FL 32803 by June 27, 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, Timothy Oxley:

- (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) Upon signing this letter, you must implement the P2 Project in accordance with the requirements identified in the attached Exhibit. You must begin the P2 Project within 30 days, and fully complete the P2 Project within 180 days of your signing this letter. Your failure to timely start or complete the P2 Project, or timely provide the Department with the Final Report, will cause the P2 Project option to be forfeited and the balance of the civil penalty shall be due within 10 days of notice from the Department.

- (2) Respondent shall pay \$ 500 by July 31, 2023. 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 above 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.

- (3) The payment(s) 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 "Water Quality Assurance Trust Fund"; and (d) be sent to The Central District at 3319 Maguire Blvd, Ste 232, Orlando, Florida 32803.

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.

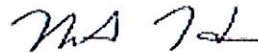
Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing,

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 Gina Laddick at (407) 897-4309 or at Gina.Laddick@FloridaDEP.gov.

Sincerely,



On behalf of:

Aaron Watkins
District Director
Central District

FOR THE RESPONDENT:

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

By: Tim Oxley [Signature] Date: 6/27/23

Title: CFO
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 29 day of June, 2023, in
Orange County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

MA J L 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.

Mandakini Patel

Clerk

Attachments: Notice of Rights

June 29, 2023

Date

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.

[This template is to be used as a Short Form Consent Order Exhibit when the P2 Project(s) is (are) relatively straightforward. This template must be completed to describe P2 Projects that are already evaluated, and that can be approved prior to consent order finalization. The document must be in final form and attached as an exhibit to the consent order before execution. The Summary must contain the following information.]

Exhibit

P2 Project Summary (Summary)

Aviara Boats
 1210 Nautical Way Merritt Island FL 32952
 321-587-9885
 Kandace Williams / Safety Supervisor

A. **Project Description:** We will be changing out our warehouse/Front building lighting. Currently we have sodium vapor lamps in the warehouse/UPH/ Front building and we will be changing over to LED lighting.

B. **Environmental and Economic Benefits:** Changing from the sodium vapor to the LED lighting will help with energy cost as well as disposal costs.

Right now we have Sodium vapor Matalarc BT37 Bulbs 1.000W Installed in the warehouse and we will be going to the Lithonia LED 220 W bulbs for a difference of 780 watts per bulb.

When we convert from the 1,000 Wt. sodium vapor bulb to the LED 220 Wt bulb we will be saving 4,599 for just the cost per KWH

Figures quoted should represent weights or volumes annually, and should be equalized for production rate changes. Associated cost savings should be included. **Describe specifically using the tables provided.**

Warehouse change out Lighting

Annual Resource Consumption Comparison

Item	Quantity Used (gal/lb/kwh-specify)			Purchasing Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Water							
Chemicals							
Materials							
Energy	219,000 Kwh per year	87,600 Kwh Per year	131,400Kwh	7,665	3,066	4,599	40 %

Total Annual Cost Savings = 4,599

Annual Waste Generation Comparison

Item	Quantity Generated (gal/lb/tons-specify)			Disposal Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Hazardous Waste							
Industrial Wastewater							
Solid Waste							
Air Emissions							

Total Annual Cost Savings =

Total Annual Avoided Cost Savings =

Complete the first table for each Project individually. Add or average corresponding figures from each Project table to complete the Summary table, *for multiple Projects.*)

Summary of All P2 Projects

Annual Resource Consumption Comparison

Item	Quantity Used (gal/lb/kwh-specify)			Purchasing Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Water							
Chemicals							
Materials							
Energy	219,000 Kwh per year	87,600 Kwh Per year	131,400Kwh	7,665	3,066	4,599	40

Total Annual Cost Savings = 4,599.00

Annual Waste Generation Comparison

Item	Quantity Generated (gal/lb/tons-specify)			Disposal Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Hazardous Waste	52lb	0	52lb	76.00	0	76.00	100
Industrial Wastewater							
Solid Waste							
Air Emissions							

Total Annual Cost Savings = 76.00

Total Annual Avoided Cost Savings =

C. Project Cost:

Demo & Install lighting (Running cable, terminating wiring & disposal)	20,000.00	
LED lights & mounting kits	16,848.00	
Total	36,848	
Projected Pay back	7 Years	

Provide a grand total cost for all Projects and an averaged projected payback period, *for multiple Projects. Use list or table format for all.*)

D. Project Reporting:

1. Within __ days of completing the P2 Project, the Respondent shall submit to the Department a P2 Project Final Report that includes the following:

a. A confirmation that the information presented in Sections A-C of the Summary is unchanged, or an updated version with the sections changed appropriately. A statement that the Project(s) was/were implemented successfully. An explanation of any problems encountered and corrections applied. *A statement indicating the date the Project was started and also the date completed.*

b. Attached expense reports, receipts, purchasing instruments and other documents itemizing costs expended on preparing and implementing the Project.

2. The Department shall review the Final Report and determine:

a. Whether the project was properly implemented; and

b. Which expenses apply toward pollution prevention credits.

3. A \$1.00 pollution prevention credit for each \$1.00 spent on applicable costs will be applied against the portion of the civil penalty that can be offset.

a. The following costs *are applicable as P2 credits* toward the civil penalty offset amount:

i. Preparation of the P2 Project;

ii. Design of the P2 Project;

iii. Installation of equipment for the P2 Project;

iv. Construction of the P2 Project;

v. Testing of the P2 Project;

vi. Training of staff concerning the implementation of the P2 Project; and

vii. Capital equipment needed for the P2 Project.

b. The following costs *shall not apply as P2 credits* toward the civil penalty offset amount:

i. Costs incurred in conducting a waste audit;

ii. Maintenance and operation costs involved in implementing the P2 Project;

iii. Monitoring and reporting costs;

iv. Salaries of employees who perform their job duties;

v. Costs expended to bring the facility into compliance with current law, rules and regulations;

vi. Costs associated with a P2 Project that is not implemented;

vii. Costs associated with a P2 Project that has not been approved by the Department; and

viii. Legal costs.

c. If any balance remains after the entire P2 credit is applied to the allowable portion of the civil penalty, Respondent shall pay the difference within 30 days of written notification by the Department to the Respondent that the balance is due.

4. The Department may terminate the P2 Project at any time during the development or implementation of it, if the Respondent fails to comply with the requirements in this document, act in good faith in preparing and implementing the project, or develop and implement the P2 Project in a timely manner. The Respondent may terminate the P2 Project at any time during its development or implementation.

5. If the P2 Project is terminated for any reason, Respondent shall pay the full balance of the allowable portion of the civil penalty within 10 days of written demand by the Department.