



FLORIDA DEPARTMENT OF Environmental Protection

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

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

October 5, 2020

Mr. Robert Jones, President
Bay County Boat Yard, Inc.
101 Church Avenue
Panama City, FL 32401
bcboatyard@gmail.com

Re: Executed Short Form Consent Order
DEP vs. Bay County Boat Yard
Facility ID FLR05I231
OGC File No. 19-1369
Bay County

Dear Mr. Jones:

Enclosed is the executed Short Form Consent Order (the "Order") addressing the penalties associated with NPDES Stormwater, Solid Waste, and Hazardous Waste violations at the Bay County Boat Yard. As stated in the enclosed Order, this shall constitute final agency action regarding this matter and will supersede the previous consent order executed on September 27, 2019. Please note the deadlines for completing the scheduled civil penalty payments are calculated from the effective date which is the date this Order was filed with the Department Clerk as noted on the signature page. If you desire, you may accelerate the monthly payments or pay the penalty in a lump sum payment.

Your cooperation in resolving this matter is greatly appreciated. If you have any questions, please contact Michael Fuller at 850-767-0040 or michael.fuller@floridadep.gov.

Sincerely,

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

Elizabeth M. Orr
Interim Director

EMO/jmf

Enclosure



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
106 Government Street, Suite 308
Pensacola, Florida 32502

Ron DeSantis
Governor

Jeanette Nuñez
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Noah Valenstein
Secretary

August 28, 2020

Mr. Robert Jones, President
Bay County Boat Yard, Inc.
101 N. Church Street
Panama City, FL 32401
bcboatyard@gmail.com

SUBJECT: Department of Environmental Protection v. Bay County Boat Yard, Inc.
OGC File No. 19-1369
101 N. Church Street, Panama City, Florida (Facility ID No. FLR051231)
Bay County

Mr. Jones:

The State of Florida Department of Environmental Protection ("Department") finds that Bay County Boat Yard, Inc. ("Respondent") conducted activities resulting in the following violations:

- (a) On July 20, 2018, November 16, 2018, December 10, 2018, December 28, 2018 and May 28, 2019, Department staff observed that the Respondent's Best Management Practices ("BMPs") in use at the facility were not being maintained properly and were inadequate, which resulted in polluted stormwater from the facility discharging into Watson Bayou, Class III Marine Estuary Waters. Specifically, Department staff observed the following: salvaging, repairing and storing of vessels was occurring on sandy soils without any method of collection before receiving water; trash bins and a dumpster were exposed without lids, there was evidence of paint discharge around the boat lift area, and drums of oil were being stored onsite, not under cover. This failure to maintain adequate BMPs to prevent the discharge of polluted runoff is in violation of Sector Q of the MSGP and section 403.161(1)(b), F.S.
- (b) As of July 20, 2018, Respondent failed to develop or maintain its Stormwater Pollution Prevention Plan ("SWPPP") within 7 days of noticing a discharge and the SWPPP contents failed to meet the minimum requirements, in violation of Sector Q of the MSGP and section 403.161(1)(b), F.S.
- (c) On November 16, 2018 and May 28, 2019, Department staff observed the processing of vessels at the facility without authorization from the Department, in violation of 62-701.300(1)(a), F.A.C.
- (d) On November 16, 2018, Respondent allowed oil and fuels to discharge to the ground during the processing of the vessels, and these materials were running off towards the

adjacent surface waters in violation of rules 62-621.300(5)(a), 62-710.401(2), F.A.C., sections 376.09(1), 376.041, F.S., and 40 C.F.R. § 279.22(d)(3).

- (e) On November 16, 2018, Respondent allowed engines and fuel tanks that had been removed from vessels to be stored uncovered, on pervious surfaces in violation of Sector Q of the MSGP and section 403.161(1)(b), F.S.
- (f) On November 16, 2018 and May 28, 2019, Respondent allowed uncovered, non-labeled containers to remain onsite in violation of rule 62-710.401(6), F.A.C. and 40 C.F.R. § 279.22(c)(1).
- (g) On March 2, 2020, Respondent had not made a hazardous waste determination on spent sand blast media in violation of 40 C.F.R. § 262.11

Before sending this letter, the Department entered into Consent Order OGC File No. 19-1369 dated September 27, 2019 with the Respondent requiring 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.

Acceptance of this offer shall supersede all terms and conditions of Consent Order OGC File No. 19-1369 dated September 27, 2019. This offer shall constitute settlement and final agency action of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein.

The Department's Offer

Based on the violations described above, the Department is seeking \$10,000.00 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 \$11,000.00**. The civil penalties are apportioned as follows:

- (1) The civil penalties for the NPDES Stormwater violations described in paragraphs "a" and "b" are \$1,000.00 for failure to develop a SWPPP, \$4,000.00 for failure to install and maintain adequate BMPs after SWPPP was developed, \$2,000.00 for failure to conduct required monitoring or testing multiplied for 3 quarters for failure to correct, and \$6,000.00 for delayed costs for SWPPP development.
- (2) The civil penalties for the Solid Waste and Hazardous Waste violations described in paragraphs "c", "d", "e", "f" and "g" are \$2,000.00 for unpermitted storage of solid waste and \$2,500.00 for uncovered containers of used oil and releases, and failure to make a hazardous waste determination.

All penalty amounts listed in above have been capped at \$10,000.00 per ELRA.

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 Northwest District, 106 Government Street, Pensacola, Florida 32502 by September 1, 2020. 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, Mr. Robert Jones, President of Bay County Boat Yard, Inc.:

- (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.; 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 violation(s) referenced above.

Respondent's Performance

After signing and returning this document to the Department,

- (1) Respondent must **pay \$11,000.00 in twenty (20) equal monthly installments of \$500.00 after an initial payment of \$1,000.00.** The first or initial payment is due by September 30, 2020 and your final payment is due no later than June 1, 2022. Failure to timely make any installment payment will enable the Department, at its discretion, to accelerate the remaining balance to become immediately due.
- (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 Michael Fuller at (850) 767-0040 or at michael.fuller@floridadep.gov.

Sincerely,

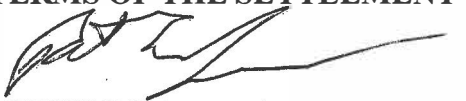


Elizabeth M. Orr
Interim District Director
Northwest District

FOR THE RESPONDENT:

I, Robert E. Jones [Type or Print Name], **HEREBY ACCEPT**
THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By:



[Signature]

Date:

9/30/20

Title:

President

President; Bay County Boatyard, Inc.

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 5th day of October, 2020, in
Escambia County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Elizabeth M. Orr
Interim District 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.



Clerk

October 5, 2020

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 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 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.