



FLORIDA DEPARTMENT OF Environmental Protection

CENTRAL DISTRICT OFFICE
3319 MAGUIRE BLVD., SUITE 232
ORLANDO, FLORIDA 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

June 2, 2021

Steven Lockhart, General Counsel and Registered Agent
Finfrock Industries, LLC
2400 Apopka Blvd.
Apopka, FL 32703
slockhart@finfrock.com

Re: Finfrock Precast Concrete
IW Facility ID # FLA108961
OGC Case #21-0446

Dear Mr. Lockhart:

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 David Smicherko at 407-897-4342 or via e-mail at Helena.Dacenay@FloridaDEP.gov.

Your cooperation in this matter will be appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read "AW 7L", is written over a light blue horizontal line.

On behalf of:

Aaron Watkins
Director, Central District

Enclosure

cc: Lea Crandall, OGC
Zoey Carr, Central District
Daun Festa, Central District



FLORIDA DEPARTMENT OF Environmental Protection

CENTRAL DISTRICT OFFICE
3319 MAGUIRE BLVD., SUITE 232
ORLANDO, FLORIDA 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

May 26, 2021

Finrock Industries, LLC
Steven Lockhart, General Counsel and Registered Agent
2400 Apopka Blvd.
Apopka, FL 32703
slockhart@finrock.com

SUBJECT: Department of Environmental Protection v. Finrock Industries, LLC
OGC File No.: 21-0446
Finrock Precast Concrete
Facility ID No. FLA108961

Mr. Lockhart:

The State of Florida Department of Environmental Protection ("Department") finds that Finrock Industries, LLC ("Respondent") was discharging Type I wastewater to an unpermitted pond on site and was not properly implementing a Best Management Practices Plan, in violation of Rule 62-620, Florida Administrative Code. 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 \$ 6,750.00 in civil penalties and \$ 250.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$ 7,000.00. 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 Central District, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803 by May 26, 2021. 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, Steven Lockhart, on behalf of Respondent, Finfrock Industries, LLC:

- (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 violations referenced above. Furthermore, the Department accepts payment of the Settlement (*as defined below*) as the full and complete satisfaction of any and all fees, penalties, damages or costs associated with alleged deficiencies at the subject parcel which relate to the issues referenced in the December 22, 2020 e-mail from Ms. Helena Dacenay to Mr. Jason Ochoa (*attached hereto as "Exhibit A"*). Furthermore, the Department hereby releases Respondent of liability associated with the alleged deficiencies at the subject parcel which relate to the issues referenced in Exhibit A. This Settlement does not waive or release Respondent from any liability or issues not referenced within Exhibit A.

Respondent's Performance

After signing and returning this document to the Department,

- (1) Respondent must pay \$ 7,000.00 in full by July 1, 2021 ("Settlement").

- (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 David Smicherko at 407-897-4169 or at David.Smicherko@floridadep.gov.

Sincerely,




Aaron Watkins
District Director
Central District

FOR THE RESPONDENT:

I, Steven Lockhart, on behalf of Respondent, Finrock Industries, LLC, **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By:


[Signature]

Date: May 26, 2021

Title: General Counsel

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 2nd day of June, 2021, 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.



June 2, 2021

Clerk

Date

Attachments:

Notice of Rights

Email (Dacenay to Ochoa) December 22, 202 (2.27pm)

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.

Exhibit A

[REDACTED]

From: Ochoa, Jason
Sent: Wednesday, February 17, 2021 3:05 PM
To: [REDACTED]
Subject: FW: Wastewater Follow up

From: Dacenay, Helena <Helena.Dacenay@floridadep.gov>
Sent: Thursday, January 7, 2021 1:15 PM
To: Ochoa, Jason <jchoa@finrock.com>
Subject: RE: Wastewater Follow up

Hello again Jason,
Following up on the wastewater side of things too. Has any progress been made with the below items?

From: Dacenay, Helena
Sent: Tuesday, December 22, 2020 2:27 PM
To: Ochoa, Jason [REDACTED]
Subject: Wastewater Follow up

Hi Jason,
After discussing some issues I noted during my inspection on 12/17/20, the following items have been determined to be deficiencies that result in the facility being out of compliance for their wastewater permit:

- The sediment trap for the Type I pond was overfilled with sediment and not operating as intended (see attached pic)
- A current lab certification was not available on site (US Water should be able to provide you a copy of this)
- A best management practices plan needs to be referenced for the batch plants (this can be included in your SWPPP)
- A copy of the current permit could not be located on site (let me know if you need me to send a copy)
- The Type I wastewater leaving the new plant was being diverted to a pond that is not permitted for Type I wastewater. Please see attached pic and aerial view. Type I wastewater must be sent to the permitted type I pond or new site plans and operations must be submitted to the permitting department for approval of a second Type I pond
- Please advise how long the Type II water from the new plant has been getting taken over to the type II system of the old plant

Please let me know if you have any questions or concerns about the above.
Thanks,



Helena Dacenay
Florida Department of Environmental Protection
Compliance Assurance Program
Environmental Specialist III | Emergency Response Assistant
Office: 407.697.4342
Duty Cell: 407.448.1266
Helena.Dacenay@floridaDEP.gov