



Florida Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

CERTIFIED MAIL

7006 0810 0000 4206 1719

Mr. Gerald Lourenco
Friends Recycling, LLC.
2350 NW 27th Avenue
Ocala FL 34475

OCD-SW-08-0488

Marion County-SW
Friends Recycling, LLC.
Transmittal of Short Form Consent Order OGC#08-2397

Dear Mr. Lourenco:

On September 12, 2008, you met with the Department to discuss the violations outlined in Warning Letter (OWL-SW-07-0012). The warning letter included civil penalties for alleged violations. Since most of the violations were committed under prior management of the facility and your willingness to resolve the potential violations, the civil penalties have been reduced to \$1500.00 plus \$750.00 for administrative cost for a total of \$2250.

Attached is the Short Form Consent Order **OGC# 08-2397** for your review to complete to the resolution of the above-referenced case. Please review the document, sign the appropriate spaces and return to the Department within 15 days of its receipt.

If you have any questions regarding this Consent Order you may contact Gloria-Jean De Pradine or Tom Lubozynski of this office at (407) 893-3328 or by email at Gloria.depradine@dep.state.fl.us or Tom.lubozynski@dep.state.fl.us.

Sincerely,

F. Thomas Lubozynski for

Vivian F. Garfein
Director, Central District

Date: September 29, 2008

VFG/FTL/gnd

Attachments – Proposed Short Form Consent Order



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Mr. Gerald Lourenco
Friends Recycling, LLC.
2350 NW 27th Avenue
Ocala FL 34475

SUBJECT: Marion County - SW
Proposed Settlement of Friends Recycling, LLC.
Short Form Consent Order OGC No.: 08-2397

Dear Mr. Lourenco:

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter, OWL-SW-07-0012 dated August 17, 2007, a copy of which is attached.

The corrective actions required to bring your facility into compliance have been performed. The Department finds that you are in violation of the rules and statutes cited in the attached Warning Letter (OWL-SW-07-0012). In order to resolve the matter identified in the attached Warning Letter, you are assessed civil penalties in the amount of \$1500.00, along with \$750.00 to reimburse the Department costs, for a total of \$2250.00

The Department acknowledges that payment of these civil penalties by you does not constitute an admission of liability. This 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 08-2397** assigned above and the notation "**Ecosystem Management and Restoration Trust Fund.**" Payment shall be sent to the **Department of Environmental Protection, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767.**

The payment shall be made in 6 monthly installment payments of \$375.00 commencing within 30 days of your signing this letter. The final payment is due no later than March 15, 2009. Failure to timely make any installment will allow the Department at its discretion to accelerate the balance which will become due immediately.

Your signing this letter constitutes your acceptance of the Department's offer to resolve the matter on these terms. If you elect to sign this letter, please return it to the Department at the address indicated above. The Department will then countersign the letter and file it with the Clerk of the Department. When the signed letter is filed with the Clerk, the letter shall constitute final agency action of the Department, which shall be enforceable pursuant to Sections 120.69 and 403.121, Florida Statutes.

If you do not sign and return this letter to the Department at the District address within 20 days of receipt of this letter, the Department will assume that you are not interested in settling this matter on the above-described terms, and will proceed accordingly. None of your rights or substantial interests are determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,



F. Thomas Lubozynski for

Vivian F. Garfein, Director
Central District

Date: September 29, 2008

Attachment:

- 1. Notice of Rights
- 2. Warning Letter, OWL-SW-07-0012 dated August 17, 2007

FOR THE RESPONDENTS:

I, Gerald Lourenco, on behalf of Friends Recycling, LLC **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: _____

Date: _____

FOR DEPARTMENT USE ONLY

DONE AND ENTERED this _____ day of _____, 2008.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Vivian F. Garfein
Director, Central District

FILING AND ACKNOWLEDGMENT

FILED on this date pursuant to §120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby Acknowledged.

Clerk

Date

cc: Lea Crandall, Agency Clerk

NOTICE OF RIGHTS

Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, 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 named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.



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Michael W. Sole
Secretary

ELECTRONIC MAIL

jerry@alternativewasteservices.com

Mr. Jerry Lourenco, Manager
Friends Recycling, LLC
2350 NW 27th Avenue
Ocala, FL 34475

OWL-SW-07-0012

Marion County - SW
Friends Recycling, LLC, C&D Disposal and Recycling
Permit(s) SO42-0019600-005
Warning Letter

Dear Mr. Lourenco:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving this matter.

A review of Department's records for the above-referenced facility located at 2350 N.W. 27th Avenue, Ocala, Marion County, Florida (Section 2, Township 15 South and Range 21 East) indicated that violations of Chapter 403, Florida Statutes and Chapter 62-701, Florida Administrative Codes (F.A.C.) may exist at the above-described location.

Specifically solid waste was disposed of outside of the allowable permitted and certified area (Cell #1) of the disposal facility. The potential violations are listed in "Summary of Non-compliance Items (Attachment 1).

Section 403.161(1)(b), Florida Statutes (F.S.) requires each person to comply with any rule, regulation, or permit adopted or issued by the Department. Activities at your facility that may be contributing to violations of statutes or rules should cease immediately.

The Department has calculated penalties for the potential violations described in Attachment 1. The penalty worksheet, Attachment 2, is enclosed. The penalty amount was calculated in accordance with Section 403.121, Florida Statutes, and the Department's Guidelines for Characterizing Solid Waste Violations.

Mr. Gerald Lourenco, Manager
OWL-SW-07-0012
Page 2

You are requested to contact William Rodriguez or Gloria-Jean De Pradine by telephone at (407) 893-3328 or by e-mail at william.rodriguez@dep.state.fl.us or gloria.depradine@dep.state.fl.us within 10 days of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

Please be advised that this Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes.

We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,



Vivian F. Garfein
Director, Central District

Date: August 17, 2007

FTL/gnd/wr

Attachments:

1. Summary of Non-compliance Items and Recommended Corrective Actions
2. Penalty Computation Worksheet

cc: Debby Valin, Debby.Valin@dep.state.fl.us Pollution Prevention Program, Central District

Attachment 1
Summary of Potential Noncompliance Items

1. Regulation

Section 403.161(1)(b), F.S: Rule 62-701.300(1)(a); and Permit SO42-0019600-005, Specific Condition #31 Phase 2 Operations

Operations within the Phase 2 shall not commence until the following requirements have been completed:

- (a) The Department has been notified and the financial assurance mechanism has been updated to include closure and include closure and long-term care costs for Phase 2 in accordance with the approved cost estimate and updated with the appropriate inflation factors as noted in Specific Condition #33.
- (b) The professional engineer of record has submitted a signed and sealed ***Certification of Construction Completion*** of a Solid Waste Management Facility form and if necessary, record drawings depicting any substantial deviations from the approved plan and specifications.
- (c) The permittee has received written authorization from the Department's Central District, accepting the ***Certification of Construction Completion*** and updated financial assurance mechanism.

Potential Violation

A review of Friend's Recycling, LLC, Disposal and Recycling Facility permit application (Engineer's Report dated July 10, 2007, Page 3, Section 2.4.3 Sequence of work) indicated that Cell #2 is now receiving waste. Also, a previous site inspection revealed that solid waste was being disposed in Cell #2 (Phase 2). The Department does not have on file a ***Certification of Construction Completion*** for Cell #2 submitted by the facility, or documentation of the Department accepting the ***Certification of Construction Completion*** for Cell #2.

Recommended Corrective Action

Provide a Certificate of Construction Completion for Cell 2 within 30 days of receipt of this letter.

2. Regulation

Section 403.161(1)(b), F.S: Rule 62-701.300(1)(a); and Permit SO42-0019600-005, Specific Condition #23

The facility shall meet the certification requirements of Rule 62-701.730(3), F.A.C.

Potential Violation

Information submitted to the Department indicates that filling is occurring in Cell 2. Also inspections conducted at the facility indicated that waste was placed for

disposal in Cell 2. The Department was neither notified nor was the Certification of Construction submitted to the Department prior to placement of waste in Cell #2.

3. Regulation

Rule 62-4-090 F.A.C. and Permit #SO42-0019600-005, Specific Condition #28

An operation permit renewal application must be submitted to the Department 60 days prior to the operation of expiration of the permit.

Potential Violation:

The permit expiration date is September 4, 2007. The facility management was notified by letter dated June 15, 2007 that the required date for submittal of the renewal application was July 6, 2007. The application was not received until July 16, 2007.

4. Regulation

Section 403.161(1)(b), F.S: Rule 62-701.300(1)(a); and Permit SO42-0019600-005, Specific Condition #27.

The Department shall be notified and approval obtained prior to executing any substantial changes or revisions to the construction/operation authorized by the permit.

Potential Violation

Information submitted to the Department indicates that filling is occurring in Cell 2. Also an inspection conducted at the facility indicated that waste was placed for disposal in Cell 2. The Department was neither notified nor was the Certification of Construction submitted to the Department prior to placement of waste in Cell #2.

Recommended Corrective Action (Items 2-4)

Schedule a meeting within 10 days of receipt of this warning letter to discuss corrective actions necessary for the resolution of this case.

Attachment 2

PENALTY COMPUTATION WORKSHEET

Violator's Name: Friends Recycling, LLC. /Gerald Lourenco

Violator's Facility: Friend's Recycling, LLC, C&D Disposal and Recycling

Name of Department Staff Responsible for Penalty Computation: William Rodriguez

Date: August 10, 2007

PART I - Penalty Determination

	Violation Type	ELRA	Multi-Day	Adjustment	Total
1	<u>Section 403.161(1)(b)</u> <u>Permit #SO42-0019600-005</u> <u>Specific Condition #31</u> <u>Disposal of C&D debris beyond permitted footprint or design height</u>	\$2,000.00 <u>SW-1</u>	4	\$8,000.00	\$8,000.00
2	<u>Permit# SO42-0019600-005</u> <u>Specific Condition #23</u> <u>Section 403.121(4)(e), F.S.</u> <u>Failure to submit required notification to the Department</u>	\$1,000.00 <u>GEN-11</u>	0	\$0	\$1,000.00
3	<u>Section 403.161(1)(b)</u> <u>Permit #SO42-0019600-005</u> <u>Specific Condition #28</u> <u>Section 403.121(5), F.S.</u> <u>Failure to comply with any other Departmental statute or rule requirement not otherwise identified in this section</u>	\$500.00 <u>GEN-13</u>	0	\$0	\$500.00
4	<u>Permit# SO42-0019600-005</u> <u>Specific Condition #27</u> <u>Section 403.121(4)(e), F.S.</u> <u>Failure to submit required notification to the Department</u>	\$1,000.00 <u>GEN-11</u>	0	\$0	\$2,000.00

Total Penalties for all Violations	\$10,500.00
Cost and Expenses Incurred by the Department	\$750.00
<u>TOTAL</u>	<u>\$11,250.00</u>

The penalties calculated were based on the Guidelines for the Characterization of Solid Waste Violations. Economic benefit could not be calculated because the requirements for specific condition #31 must still be completed.



William Rodriguez

August 17, 2007

Date



Vivian F. Garfein

August 17, 2007

Date

PENALTY COMPUTATION WORKSHEET

Part II - Multi-day Penalties and Adjustments

ADJUSTMENTS

MULTI-DAY PENALTIES

Dollar amount

Number of days matrix amount is to be multiplied: **4**
(approximately **4** months from time of inspection to
submittal of permit application) \$2000.00

TOTAL **\$8000.00**

Justification

A site inspection conducted at the facility on February 22, 2006, revealed that solid waste was being disposed in Cell #2 (Phase 2). The renewal permit application received on July 16, 2007 confirmed that Cell 2 was receiving waste.

The current Permit #SO42-0019600-005 only authorized disposal for Phase 1 AKA Cell 1. Page 1 of the permit specifically states that waste shall not be placed for disposal in Phase 2, AKA Cell 2, until the requirements of Specific Condition 31 have been completed.

Specific Condition # 31 stated that operations within the Phase 2 shall not commence until the following requirements have been completed:

- Notification to the Department that the financial mechanism had been updated to include closure and long-term care costs for Phase 2.
- Submittal by the professional engineer of record a signed and sealed ***Certification of Construction Completion*** of a Solid Waste Management Facility form and if necessary, record drawings depicting any substantial deviations from the approved plan and specifications.
- Receipt by the permittee written authorization from the Department's Central District, accepting the ***Certification of Construction Completion*** and updated financial assurance mechanism.

Adequate financial assurance has been provided for both phase 1 and 2 closure and long-term care.