



# FLORIDA DEPARTMENT OF Environmental Protection

South District  
PO Box 2549  
Fort Myers FL 33902-2549  
[SouthDistrict@FloridaDEP.gov](mailto:SouthDistrict@FloridaDEP.gov)

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Noah Valenstein**  
Secretary

10/23/2020

Edilberto Lopez  
Marathon Transfer Station  
10525 Aviation Blvd.  
Marathon, Florida 33050  
via email: [eddie@discountrocksand.com](mailto:eddie@discountrocksand.com)

Re: Monroe County – Solid Waste Program  
OGC Case No. 20-1305  
Permit Number: 302507-006-SO/31  
WACS Number 98733

Dear Mr. Lopez:

Enclosed is the signed and entered Consent Order to resolve the above referenced case. This copy is for your records. Please note that all compliance dates begin from the date of entry of this Order, which is October 23, 2020.

Upon satisfactory completion of all conditions of the Order, we will close this case and place it in our inactive file.

If you have any questions, please contact Brian Cumbie at [Brian.Cumbie@FloridaDEP.Gov](mailto:Brian.Cumbie@FloridaDEP.Gov) or 305-289-7072. Your cooperation in resolving this case is appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Iglehart", is written over a horizontal line.

Jon M. Iglehart  
Director of District Management

Enclosure: Executed Consent Order

cc: Lea Crandall, FDEP [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us)



# FLORIDA DEPARTMENT OF Environmental Protection

**Ron DeSantis**  
Governor

**Jeanette Nunez**  
Lt. Governor

South District  
PO Box 2549  
Fort Myers FL 33902-2549  
SouthDistrict@FloridaDEP.gov

**Noah Valenstein**  
Secretary

September 24, 2020

Marathon Waste Transfer, LLC  
Edilberto Lopez, President  
10500 Aviation Blvd.  
Marathon, FL 33050

SUBJECT: Department of Environmental Protection v. Marathon Waste Transfer, LLC, OGC File No.: 20-1305  
WACS #98733  
Monroe County-SW

Mr. Lopez:

The State of Florida Department of Environmental Protection ("Department") finds that Marathon Waste Transfer, LLC ("Respondent") Failed to maintain required fire protection controls; Failed to prevent unpermitted waste in the yard trash pile; Failed to provide reports to the Department by the annual deadline; Failed to remove recovered materials within six days as required by their permit; Failed to provide Stormwater System Maintenance report to the Department; Exceeded Department air emission standards in violation of the rules and statutes cited in the attached warning letter. 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 \$ 5,100.00 in civil penalties and \$ 750.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$ 5,850.00. The civil penalty in this matter includes 1 violation(s) 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 South District Office at 2295 Victoria Avenue, Suite 364, Fort Myers, Florida 33901 by 10/05/2020. 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, Edilberto Lopez:

- (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 \$ 5,850.00 in full by 10/30/2020.
- (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 Brian Cumbie at 305-289-7072 or at [Brian.Cumbie@FloridaDEP.Gov](mailto:Brian.Cumbie@FloridaDEP.Gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Iglehart", is written over a horizontal line.

Jon Iglehart  
District Director  
South District

FOR THE RESPONDENT:

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

By: [Signature]  
[Signature]

Date: 10/21/2020

Title: President  
[Type or Print]

---

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 23 day of October, 2020, in Lee  
County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

[Signature]  
Jon Iglehart  
District Director  
South District

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

[Signature]  
Clerk

October 23, 2020  
Date

Attachments: Notice of Rights

Final clerked copy furnished to:

Lea Crandall, Agency Clerk ([lea.crandall@dep.state.fl.us](mailto: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](mailto: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.