



FLORIDA DEPARTMENT OF Environmental Protection

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

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

April 13, 2023

Waste Pro Freeport, LLC
Mr. Sean Jennings, President
Post Office Box 917209
Longwood, Florida 32791-7209
sjennings@wasteprousa.com

RE: Stipulated Penalty Assessment; DEP vs Waste Pro Freeport, LLC;
Facility ID# 15091; OGC File NO. 19-1396; Walton County

Dear Mr. Jennings:

On March 10, 2022, an Amended Consent Order was issued to resolve solid waste issues relating to Waste Pro Freeport, LLC, Facility ID# 15091, located in Walton County. The Department requested that you review the Amended Consent Order, sign and return it within 15 days for execution. Since the Amended Consent Order was never executed, Waste Pro Freeport, LLC remains subject to the original Consent Order that was executed on August 30, 2019 (2019 Order).

The 2019 Order required completion of required closure work by August 28, 2019. Waste Pro Freeport LLC agreed to pay stipulated penalties for failure to comply with the terms of the 2019 Order. Closure work was not completed until March 30, 2023.

As stated in the 2019 Order, the Department may demand stipulated penalties at any time after violations occur. The Department is assessing stipulated penalties totaling \$18,929.50 for the period of August 28, 2019 through March 30, 2023. These penalties are due within 30 days of issuance of this letter.

Your cooperation in resolving this matter is greatly appreciated. If you have any questions, please contact Cliff Richardson at (850) 595-0655 or by email at Cliff.J.Richardson@FloridaDEP.gov.

Waste Pro Freeport, LLC
Stipulated Penalty Assessment
OGC #19-1396
Page 2 of 2

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth Mullins Orr". The signature is written in a cursive style.

Elizabeth Mullins Orr
Director
Northwest District

EMO/cr

Enclosures:
2019 Executed Consent Order

ec: Ralph Mills, Waste Pro, rmills@wasteprousa.com
Steavon Barrentine, Waste Pro, sbarrentine@wasteprousa.com
Mark Novokowsky, Nova Environmental, Mark@NovaEnvironmental.com

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	NORTHWEST DISTRICT
)	
v.)	OGC FILE NO. 19-1396
)	
WASTE PRO FREEPORT, LLC)	
_____)	

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and Waste Pro Freeport, LLC (“Respondent”) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent neither admits nor denies the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to administer and enforce the provisions of the Florida Resource Recovery and Management Act, sections 403.702, et seq., Florida Statutes (“F.S.”), and the rules promulgated and authorized in Title 62, Florida Administrative Code (“F.A.C.”). The Department has jurisdiction over the matters addressed in this Order.

2. Respondent is a “person” within the meaning of sections 403.031(5) and 403.703(22), F.S.

3. Respondent is the operator of a Construction and Demolition Debris Disposal Facility, located on Highway 20, approximately 2 miles west of the City of Freeport on Highway 20 and further identified by the Walton County Property Appraiser’s Office Parcel Identification Number 08-1S-19-23000-003-0030 (“Facility”). The Department has assigned WACS ID No. 15091 to the Facility.

4. Respondent operates the Facility under Department Permit No. 0002049-013-SO which expires on August 12, 2021.

5. On June 25, 2019, the Respondent’s engineering consultant contacted the Department to request additional time to complete closure activities citing that the Respondent’s construction contractor had encountered delays which would likely prevent them from completing closure by June 29, 2019.

5. The Department finds that the following violation(s) occurred:

- a) The Facility did not complete closure by June 29, 2019 as required by Specific Condition G(1)(a) of the closure permit. This violation requires the assessment of administrative penalties under section 403.161, Fla. Stat., of \$1000.

6. The Department has incurred expenses to date while investigating this matter in the amount of \$250 and are recoverable pursuant to section 403.141(1), Fla. Stat.

7. The Department has assessed a total of \$1000 in civil penalties and \$250 in Department costs.

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

ORDERED:

8. Respondent shall comply with the following corrective actions within the stated time periods:

- a) Respondent shall comply with all Department rules regarding solid waste management. Respondent shall correct and redress the violation in the time period required below and shall comply with all applicable rules in Chapter 62-701, F.A.C.
- b) Respondent shall complete the required closure work no later than August 28, 2019, in accordance with rule 62-701.730(9)(b), F.A.C.
- c) Within 30 days from the effective date of this Consent Order, Respondent shall make payment to the Department for costs and expenses in the amount of \$1250 in settlement of the regulatory matters addressed in this Order. This amount includes \$1000 for civil penalties and \$250 for costs and expenses incurred by the Department during the investigation of this matter, preparation and the tracking of this Order.

9. Respondent agrees to pay the Department stipulated penalties in the amount of \$ 500.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph 8, including all subparts, of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment, and shall do so as further described in paragraphs 9 and 10, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order.

10. 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 becomes final and effective filed with the Clerk of the Department before ability to make online payment is available.

11. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Elizabeth Mullins Orr, Assistant Director, Department of Environmental Protection, Northwest District, 160 West Government Street, Suite 308, Pensacola, Florida 32502.

12. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

13. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

14. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and

(c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

15. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for violations outlined in this Order. This waiver is conditioned upon (a) Respondent's complete compliance with all of the terms of this Order, and (b) the remediation of contaminated areas to the applicable site rehabilitation levels. The Department's cause of action for damages accrues when the Department concludes that remediation of contaminated areas to the applicable site rehabilitation levels is not feasible or that the Respondent failed to completely implement the Department-approved remedial or corrective action plan (however designated). If the Department and Respondent fail to reach agreement on the payment of the damages, the Department may initiate appropriate legal action to recover the damages as provided by law.

16. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

17. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

18. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation, and criminal penalties.

19. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, F.S., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, F.S.

20. 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.

21. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), F.S.

22. This Consent Order is a final order of the Department pursuant to section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

23. Persons who are not parties to this Consent 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 Consent Order means that the Department's final action may be different from the position it has taken in the Consent Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Consent 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 Consent Order;
- d) A statement of when and how the petitioner received notice of the Consent 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 Consent Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Consent 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 Consent Order.

The petition 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 at Department of Environmental Protection, Northwest District, 160 West Government Street, Suite 308, Pensacola, Florida 32502. 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. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

24. Rules referenced in this Order are available at <http://www.dep.state.fl.us/legal/Rules/rulelist.htm>.

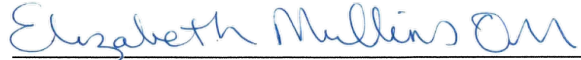
FOR THE RESPONDENT:

E. Ralph Mills
E. Ralph Mills, President
Waste Pro Freeport, LLC

8/16/19
Date

DONE AND ORDERED this 30th day of August, 2019, in Escambia County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



for Emile D. Hamilton
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

August 30, 2019
Date

Copies furnished to:
Lea Crandall, Agency Clerk
Mail Station 35