



# FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office  
3301 Gun Club Road, MSC 7210-1  
West Palm Beach, FL 33406  
561-681-6600

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

July 10, 2023

Stuart Kennedy, Community Director – Kolter Homes, LLC  
Kolter Development, LLC  
PCN 3328-702-0004-000-9  
Port Saint Lucie, FL 34952  
[skennedy@kolter.com](mailto:skennedy@kolter.com)

SUBJECT: Department of Environmental Protection v. Kolter Development, LLC  
OGC File No.: 23-1022  
WACS ID: 100600  
St. Lucie County

Mr. Kennedy,

Enclosed for your records is a copy of the fully executed and filed Consent Order for the above-styled case. Please familiarize yourself with the compliance dates and terms of the Consent Order so that the complete and timely performance of those obligations may be accomplished.

Thank you for your cooperation in this matter. If you have any questions concerning this matter, please contact Johanna Polycart at 561-681-6624 or at [Johanna.Polycart@floridadep.gov](mailto:Johanna.Polycart@floridadep.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Andreotta".

Jason Andreotta, Director  
Southeast District  
Florida Department of Environmental Protection

cc: Lea Crandall, OGC, DEP Tallahassee (MS#35)  
Shirley Richards, SED



# FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office  
3301 Gun Club Road, MSC 7210-1  
West Palm Beach, FL 33406  
561-681-6600

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

June 21, 2023

Stuart Kennedy, Community Director – Kolter Homes, LLC  
Kolter Development, LLC  
9545 Range Line Road  
Port Saint Lucie, FL 34952  
[skennedy@kolter.com](mailto:skennedy@kolter.com)

SUBJECT: Department of Environmental Protection v. Kolter Development, LLC,  
OGC File No.: 23-1022  
WACS ID: 100600  
St. Lucie County

Mr. Kennedy:

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

The State of Florida Department of Environmental Protection (“Department”) finds that Kolter Development, LLC (“Respondent”) failed to: obtain a required permit or authorization to operate a Source Separated Organics Processing Facility (SOPF), confine particulate matter emissions, implement litter control, meet fire prevention or control requirements, operate in a manner to control vectors, control off-site impacts from objectionable odors, store solid waste in a manner that would not cause an air quality violation, and contain open burning. The failure to comply with these requirements resulted in violations of Rules 62-701.300(1)(a), (1)(b), (3), (7)(b), and (15) Florida Administrative Code (F.A.C.), 62-709.320(2)(a)3.c., F.A.C., 62-709.320(2)(a)2., F.A.C., 62-709.320(2)(a), (2)(b), (2)(c) and (3)(b), F.A.C., 62-709.300(7)(a) and (7)(b), F.A.C., 62-296.320(4)(c), F.A.C., and 62-256.300(1), F.A.C.

Before sending this letter, the Department requested that the Respondent complete certain actions to resolve some of 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 this investigation of this matter.

### **The Department's Offer**

Based on the violations described above, the Department is seeking \$93,500.00 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 **\$94,500.00**. The civil penalties are apportioned as follows: \$12,000 for violation of Rules 62-701.300(1)(a), F.A.C. and 62-709.320(3)(b), F.A.C., \$8,000.00 for violation of Rules 62-701.300(15), 62-709.300(7)(b) and 62-296.320(4)(c) F.A.C., \$4,500.00 for violation of Rule 62-709.320(2)(a)2., F.A.C., \$4,000.00 for violation of Rule 62-709.320(2)(a)3.c. F.A.C., \$4,000 for violation of Rule 62-709.320(2)(b) F.A.C., \$2,000 for violation of Rules 62-709.320(2)(c) F.A.C. and 62-709.300(7)(a), F.A.C., \$32,000 for violation of Rules 62-701.300(1)(b), F.A.C., 62.709.300(7)(b), F.A.C., and 62-296.320(4)(b), F.A.C., and \$27,000 for violation of Rules 62-701.300(3), F.A.C., 62-709.300(7)(b), F.A.C., and 62-256.300(1) F.A.C.

In lieu of making cash payment of \$94,500.00, Respondent may elect to offset a portion of this amount as described below:

- (1) Respondent may elect to offset the civil penalty amount of **\$93,500.00** by implementing a Pollution Prevention (P2) Project, which must be approved by the Department. P2 is a process improvement that reduces the amount of pollution that enters the environment; by conserving resource (including water, raw materials, chemicals, and energy) use, or by minimizing waste generation (including domestic and industrial wastewater, solid and hazardous waste, and air emissions). A P2 Project must reduce pollution or waste within the process beyond what is required by Federal, state, or local law, in order to be eligible for civil penalty offset under this Order.
- (2) If any balance remains after the entire P2 credit is applied to the allowable portion of the civil penalty, Respondent shall pay the difference within **30 calendar days** of written notification by the Department to Respondent that the balance is due.

### **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 the Southeast District Office at 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406 or via email at [SED.SolidWaste@dep.state.fl.us](mailto:SED.SolidWaste@dep.state.fl.us) within **20 calendar days** of the mailing date of this Order. 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, Stuart Kennedy:

- (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; and
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.

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. If Respondent chooses to implement a P2 project, Respondent shall notify the Department in writing of its election within **15 calendar days** of the effective date of this Order. Respondent shall then submit a completed P2 Project Plan (Plan) within **30 calendar days** of submitting written notification to the Department regarding the election of a P2 Project. The Plan must be completed using Exhibit I, "P2 Project Summary" template.

In the event the Department requires additional information to process the Plan, Respondent shall provide a modified Plan containing the information requested by the Department within **15 calendar days** of the date of the request.

Respondent shall implement the approved P2 Project within **60 calendar days** of receiving written approval from the Department and shall submit a P2 Project

Final Report within **180 calendar days** of receiving written approval from the Department.

Your failure to timely start or complete the P2 Project, or timely provide the Department with the Final Report, will cause the P2 Project option to be forfeited and the balance of the civil penalty which is \$93,500.00 shall be due within **10 calendar days** of notice from the Department. Similarly, if Respondent fails to timely notify the Department of its intent to implement a P2, the full civil penalty shall be due within **30 calendar days** of notice from the Department.

2. Notwithstanding the election to implement a P2 Project, payment of the remaining \$1,000.00 in costs must be paid within **30 calendar days** of the effective date of the Consent Order. If Respondent does not elect to implement a P2 Project within the timeframes specified above, then the entire balance of the civil penalty and Department costs which is \$94,500.00, shall be due within **30 calendar days** of the effective date of this Order.
3. Respondent shall make all payments required by this Order by cashier's check, money order, or online payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number as-signed to this Order and the notation "Water Quality Assurance Trust Fund." Online pay-ments 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 the ability to make an 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 Esther Thorne at 561.681.6620 or at [Esther.Thorne@FloridaDEP.gov](mailto:Esther.Thorne@FloridaDEP.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Andreotta", with a stylized flourish at the end.

for  
Jason Andreotta  
Director, Southeast District

FOR THE RESPONDENT:

I, Stuart Kennedy [Type or Print Name], **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: Stuart Kennedy  
[Signature]

Digitally signed by Stuart Kennedy  
DN: cn=Stuart Kennedy, c=US, o=Kolter Homes, ou=Astor Creek Country Club, email=skennedy@kolter.com  
Reason: I am approving this document  
Date: 2023.07.05 09:34:08 -04'00'

Date: 7/5/23

Title: Community Director  
[Type or Print]

**FOR DEPARTMENT USE ONLY**

DONE AND ORDERED this 10th day of July, 2023, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



\_\_\_\_\_  
Jason Andreotta  
Director, Southeast District

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

Kaitlynn Wilson  
Clerk

July 10, 2023  
Date

Attachments: Notice of Rights  
EXHIBIT I: P2 PROJECTS

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.



EXHIBIT I  
P2 PROJECTS

**P2 Project Summary (Summary)**

(Note: Provide the information specified and delete existing text within parentheses)

(Facility Name)

(Address)

(Telephone)

(Preparer Name/Title)

A. **Project Description:** (Summarize P2 Projects selected. Describe the processes or operations to be modified, and the specific changes to be made. Include details such as the specific equipment to be installed, materials to be substituted, and the actual changes to be made to processes or operations. Include manufacturer or vendor information, and specifications.)

B. **Environmental and Economic Benefits:** (Explain why and how each Project proposed constitutes P2.

Specify how each material, chemical, water and energy is saved, and from which processes or operations. Specify how each solid and hazardous waste, industrial wastewater and air emissions is generated, the waste type, and from which processes or operations. **Describe generally in paragraph format.**

Estimate the *annual* savings in *resources* - raw materials, chemicals, water, and energy at the process or operation front end. Estimate the *annual* reductions in *wastes* - solid and hazardous waste, wastewater, and air emission reductions at the process or operation back end.

Figures quoted should represent weights or volumes annually, and should be equalized for production rate changes. Associated cost savings should be included. **Describe specifically using the tables provided.**

Complete the first table for each Project individually. Add or average corresponding figures from each Project table to complete the Summary table, *for multiple Projects.*)

(Project Name)							
<b>Annual Resource Consumption Comparison</b>							
Item	Quantity Used (gal/lb/kwh-specify)			Purchasing Cost (\$)			Percent
	Before	After	Reduction	Before	After	Reduction	(%)

							Reduction
Water							
Chemicals							
Materials							
Energy							
Total Annual Cost Savings =							
<b>Annual Waste Generation Comparison</b>							
Item	Quantity Generated (gal/lb/tons-specify)			Disposal Cost (\$)			Percent (%)
	Before	After	Reduction	Before	After	Reduction	Reduction
Hazardous Waste							
Industrial Wastewater							
Solid Waste							
Air Emissions							
Total Annual Cost Savings =							
<b>Total Annual Avoided Cost Savings =</b>							

<i>Summary of All P2 Projects</i>							
<b>Annual Resource Consumption Comparison</b>							
Item	Quantity Used (gal/lb/kwh-specify)			Purchasing Cost (\$)			Percent (%)
	Before	After	Reduction	Before	After	Reduction	Reduction
Water							
Chemicals							
Materials							
Energy							

Total Annual Cost Savings =							
<b>Annual Waste Generation Comparison</b>							
Item	Quantity Generated (gal/lb/tons- specify)			Disposal Cost (\$)			Percent (%)
	Before	After	Reduction	Before	After	Reduction	Reduction
Hazardous Waste							
Industrial Wastewater							
Solid Waste							
Air Emissions							
Total Annual Cost Savings =							
<b>Total Annual Avoided Cost Savings =</b>							

C. **Project Cost:** (Include per Project the itemized, subtotal and Project total costs. A projected payback period in months or years needs to be included.

Provide a grand total cost for all Projects and an averaged projected payback period, *for multiple Projects. Use list or table format for all.*)

D. **Project Reporting:**

1. Within **30 days** of completing the P2 Project, the Respondent shall submit to the Department a P2 Project Final Report that includes the following:

a. A confirmation that the information presented in Sections A-C of the Summary is unchanged, or an updated version with the sections changed appropriately. A statement that the Project(s) was/were implemented successfully. An explanation of any problems encountered, and corrections applied. *A statement indicating the date the Project was started and also the date completed.*

b. Attached expense reports, receipts, purchasing instruments and other documents itemizing costs expended on preparing and implementing the Project.

2 The Department shall review the Final Report and determine:

a. Whether the project was properly implemented; and

b. Which expenses apply toward pollution prevention credits.

3. A \$1.00 pollution prevention credit for each \$1.00 spent on applicable costs will be applied against the portion of the civil penalty that can be offset.

a. The following costs *are applicable as P2 credits* toward the civil penalty offset amount:

i. Preparation of the P2 Project;

- ii. Design of the P2 Project;
  - iii. Installation of equipment for the P2 Project;
  - iv. Construction of the P2 Project;
  - v. Testing of the P2 Project;
  - vi. Training of staff concerning the implementation of the P2 Project; and
  - vii. Capital equipment needed for the P2 Project.
- b. The following costs *shall not apply as P2 credits* toward the civil penalty offset amount:
- i. Costs incurred in conducting a waste audit;
  - ii. Maintenance and operation costs involved in implementing the P2 Project;
  - iii. Monitoring and reporting costs;
  - iv. Salaries of employees who perform their job duties;
  - v. Costs expended to bring the facility into compliance with current law, rules and regulations;
  - vi. Costs associated with a P2 Project that is not implemented;
  - vii. Costs associated with a P2 Project that has not been approved by the Department; and
  - viii. Legal costs.
- c. If any balance remains after the entire P2 credit is applied to the allowable portion of the civil penalty, Respondent shall pay the difference within **30 days** of written notification by the Department to the Respondent that the balance is due.
4. The Department may terminate the P2 Project at any time during the development or implementation of it, if the Respondent fails to comply with the requirements in this document, act in good faith in preparing and implementing the project, or develop and implement the P2 Project in a timely manner. The Respondent may terminate the P2 Project at any time during its development or implementation.
5. If the P2 Project is terminated for any reason, Respondent shall pay the full balance of the allowable portion of the civil penalty within **10 days** of written demand by the Department.