



Florida Department of Environmental Protection

Southwest District Office
13051 North Telecom Parkway
Temple Terrace, Florida 33637-0926

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

November 4, 2008

**CERTIFIED MAIL 7008 0150 0003 4893 7230
RETURN RECEIPT REQUESTED**

Mr. Bradley Arnold, County Administrator
Sumter County Board of County Commissioners
P.O. Box 1066
Bushnell, Florida 33513

RE: Sumter County's October 7, 2008 Letter Requesting Waiver of Department Penalty
Sumter County Materials Recovery Facility
OGC File No.: 08-2376

Dear Mr. Arnold:

On October 16, 2008, the Department received your October 7, 2008 letter on behalf of the Sumter County Board of County Commissioners (the County) in response to the penalty assessed in the Department's August 15, 2008 Warning Letter WL#08-0008SW60SWD for the Sumter County Materials Recovery Facility (facility).

The Department has reviewed and considered the County's response, which requests that the Department approve an offset of the \$3,500 penalty towards completion a County project that is already underway to connect the facility's existing leachate collection system to the City of Bushnell's wastewater treatment plant. The County indicated that this project would resolve any future problems with the facility's leachate collection system. The Department believes that the project constitutes a corrective action for the violation cited in the referenced Warning Letter. It is the Department's policy that civil penalties cannot be applied toward the cost of corrective actions.

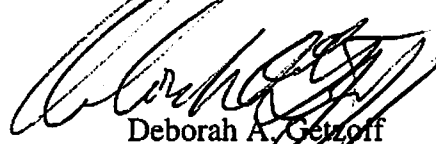
The Department acknowledges the County's request, and other concerns, presented in the October 7, 2008 letter. As some background, in June 2001, the Florida Legislature enacted the Environmental Litigation Reform Act (ELRA) with the intention of streamlining the process for environmental enforcement actions for cases where the potential impacts to the environment are less serious or the magnitude of the non-compliance is low. The case at hand is a good application of the ELRA process for minor cases with small penalties that can be resolved quickly. The civil penalties were assessed in accordance with Section 403.121(3)(e) of the Florida Statutes and are consistent with the intent of ELRA. Therefore, since civil penalties cannot be applied toward the cost of corrective action, and the penalties assessed are directed by

the Florida Legislature through ELRA, the Department does not agree to waive, offset, or reduce the referenced penalty.

On September 30, 2008, the Department provided a Short Form Consent Order to the County for settlement of the referenced penalty. Upon receipt of this letter, please sign and return the Consent Order to the Department at the District address in accordance with the timeframes specified.

If you have any questions, you may contact Ms. Stephanie Watson of this office at (813) 632-7600, extension 451, or by email at stephanie.m.watson@dep.state.fl.us. The Department appreciates your cooperation in this matter.

Sincerely yours,



Deborah A. Getzoff
District Director
Southwest District

cc: William Kutash, Waste Program Administrator, FDEP SWD
Susan Pelz, P.E., Solid Waste, FDEP SWD
Stephanie Watson, Solid Waste, FDEP SWD
Nancy Gaskin, Solid Waste, FDEP SWD