

# Memorandum



**Date:** September 15, 2009

Agenda Item No. 12(B)1

**To:** Honorable Chairman Dennis C. Moss  
and Members, Board of County Commissioners

**From:** George M. Burgess  
County Manager

**Subject:** Quarterly Report: Negotiations and Settlements of Enforcement Actions Resulting from the Operation of the County's Water and Sewer System

On July 18, 2006, the Board of County Commissioners (Board) approved Resolution R-874-06 authorizing the County Manager or his designee to negotiate and settle certain enforcement actions or notices of violation from the operation of the County's water and sewer system not to exceed \$10,000. This resolution requires that these negotiations and settlements be presented to the Board for ratification.

Miami-Dade Water and Sewer Department (WASD) entered into a settlement with the Florida Department of Environmental Protection (FDEP) which requires the payment of a total of \$2,750 in penalties and fees. The settlement is for violations that took place between February 7, 2008 through January 15, 2009 at the North District Wastewater Treatment Plant located at 2575 NE 151 Street. The violations were for not reporting immediately to FDEP regarding 1) malfunction of meters used to measure the fuel consumption at five power generators, and 2) failure to record and maintain daily fuel consumption data for the five generators. On June 25, 2009, WASD executed FDEP Office of General Counsel (OGC) File No. 09-00844-13-AV (attached) in which WASD agreed to pay civil penalties due in the amount of \$2,500, plus \$250 in FDEP costs.

Appropriate personnel actions and procedural changes have been implemented to address these violations. Additional training has also been provided to water and wastewater treatment plants staff on the necessity to comply with the specific conditions of operating permits to avoid repeat violations.

WASD will continue to keep the Board apprised of any other settlements of enforcement actions resulting from the Department's operations.

A handwritten signature in black ink, appearing to read "G. Burgess".

Assistant County Manager



Department of Environmental Protection

Southeast District
400 N. Congress Avenue, Suite 200
West Palm Beach, Florida 33401

Handwritten notes: '0101', 'of Joe R.', 'VIV. G.', 'Vince A.', and a downward arrow.

Charlie Crist Governor
Jeff Kottkamp Lt. Governor
Michael W. Sole Secretary

JUN 02 2009

FEDEX # 8748-2211-1022

Mr. John W. Renfrow, Director
Miami-Dade Water and Sewer Department
P.O. Box 330316
Miami, FL 33233-0316

Miami-Dade Water and Sewer Department
Miami-Dade County

RECEIVED stamp with date JUN 11 2009

OFFICE OF THE ASSISTANT DIRECTOR
REGULATORY COMPLIANCE & PLANNING

2009 JUN -5 PM 2:28

MIAMI DADE WATER AND SEWER DEPT DIRECTOR'S OFFICE

SUBJECT: Proposed Settlement by Short Form Consent Order in the Case of State of Florida, Department of Environmental Protection vs. Miami Dade Water and Sewer Department/North District
Facility ID No.: 0250600
OGC File No.: 09-0844-13-AV

RECEIVED stamp

JUN 26 2009

DEPT of ENV PROTECTION WEST PALM BEACH

Dear Mr. Renfrow:

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter WL09-0016AV13SED dated March 25, 2009, 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. In order to resolve the matters identified in the attached Warning Letter, you are assessed civil penalties in the amount of \$ 2500.00, along with \$ 250.00 to reimburse the Department costs, for a total of \$ 2750.00.

The civil penalties are apportioned as follows:

- \$500.00 for violation of Rule 62-4.070(3), Florida Administrative Code, Title V Permit 0250600-005-AV, Specific Condition 9.
\$1000.00 for violation of Rule 62-4.070(3), Florida Administrative Code, Title V Permit 0250600-005-AV Specific Condition 5.
\$1000.00 for violation of Rule 62-4.070(3), Florida Administrative Code, Title V Permit 0250600-005-AV, Appendix TV-6, Conditions 9 and 10.

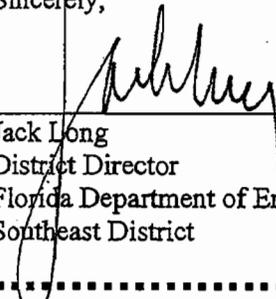
The Department acknowledges that the payment of these civil penalties by you does not constitute an admission of liability. This payment must be made payable to the Florida Department of Environmental Protection by cashier's check or money order and shall include the OGC File Number assigned above and the notation "Ecosystems Management and Restoration Trust Fund." Payment shall be sent to the Florida Department of Environmental Protection, Southeast District, 400 N. Congress Avenue, Suite 200, West Palm Beach, FL 33401, within thirty (30) days of your signing this letter. Failure to make timely

payment will allow the Department, at its discretion, to accelerate the balance, which will become immediately due.

Your signing this letter constitutes your acceptance of the Department's offer to resolve this 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 twenty (20) days of receiving it, 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 is determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,

 6-1-09  
\_\_\_\_\_  
Jack Long  
District Director  
Florida Department of Environmental Protection  
Southeast District

.....  
**FOR THE RESPONDENT**

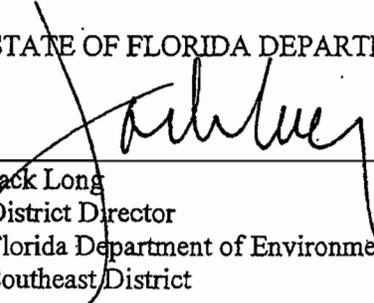
I, John W. Renfrow, on behalf of Miami-Dade Water and Sewer Department/North District, **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By:  Date: 6/25/09  
\_\_\_\_\_  
John W. Renfrow

.....  
**FOR DEPARTMENT USE ONLY**

DONE AND ENTERED this 2<sup>nd</sup> day of JULY, 2009.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

\_\_\_\_\_  
Jack Long  
District Director  
Florida Department of Environmental Protection  
Southeast District



# Florida Department of Environmental Protection

Southeast District  
400 N. Congress Avenue, Suite 200  
West Palm Beach, Florida 33401

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

Jack Long, Director  
Southeast District Office

**MAR 25 2009**

**FEDX# 8748-2211-0421**

Mr. John W. Renfrow, Director  
Miami-Dade Water and Sewer Department  
P.O. Box 330316  
Miami, FL 33233-0316

# FILE

WARNING LETTER  
WL09-0016AV13SED  
Miami-Dade County

Subject: 2008 Annual Statement of Compliance (SOC)  
Miami-Dade Water and Sewer Department/ North District Wastewater Treatment Plant at  
2575 N. E. 151 Street, North Miami, Miami-Dade County  
Facility ID No. 0250600

Dear Mr. Renfrow:

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 the matter.

A review of the 2008 Annual SOC from the subject facility received by the Department on March 2, 2009, indicates that violations of Florida Statutes and Rules may have occurred at the facility. According to the 2008 Annual SOC, the facility did not meter fuel consumption for Units 002-005 and 007-008 from February 7, 2008 to April 9, 2008, and did not maintain records of fuel consumption from February 7, 2008 to January 15, 2009.

The specific violations, which may have occurred, are as follows:

- Permit 0250600-005-AV specific condition # 5 requires monitoring fuel consumption for the above-referenced emission units by metering the fuel between the storage tank and the bank of generators and at the fuel return line between the emission unit 008(CAT 3612) and the main storage tanks whenever any one of these units is operated. You failed to measure fuel consumption by fuel meter for the above-mentioned period.
- Permit 0250600-005-AV specific condition # 9 requires to record and maintain the daily records of diesel fuel usage and from these records the permittee shall record and maintain a rolling 365-day total of amount of fuel consumed by the generators. These records shall be used to demonstrate compliance with the fuel limitation. You failed to maintain records of fuel consumption for the above- specified period.
- Permit 0250600-005-AV Appendix TV-6 conditions 9 and 10 require to report any Plant - Operation Problems "immediately" if the permittee is temporary unable to comply with any of the

conditions of the permit due to breakdown of equipment, etc. Such notification does not release the permittee from any liability for failure to comply with Department rules.

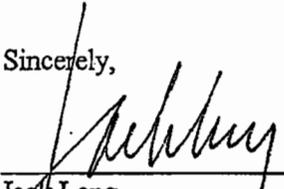
It is a violation of Section 403.161(1) (b) Florida Statutes (F.S.) for any facility to violate or fail to comply with any rule, regulation, order, permit or certification adopted or issued by the Department pursuant to its lawful authority. You are advised that any activity at your facility that may be contributing to violations of the above described statutes or rules should be ceased immediately. The operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the administrative imposition of penalties up to \$10,000.00 pursuant to Section 403.121, Florida Statutes, or the judicial imposition of civil penalties up to \$10,000.00 per violation per day pursuant to Section 403.141 and 403.161, Florida Statutes.

If, after further investigation, the Department determines that the violations occurred, this matter may be resolved through entry of a Consent Order, which would include a compliance schedule and an appropriate penalty. In accordance with the Department's Settlement Guidelines for Civil and Administrative Penalties dated July 17, 2007 and the Guidelines for Characterizing Air Violations dated October 2007, the penalty, which would be proposed, in this case is \$2,500.00 plus \$250.00 for cost and expenses.

You are requested to contact Raisa Neginsky of this office at 561-681-6622 within fifteen days of receipt of this Warning Letter to arrange a meeting with Department personnel 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 may help resolve this matter. However, we must be given the names and positions of any persons you intend to bring to the meeting and we must have the information at least five days before the meeting.

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,

  
\_\_\_\_\_  
Jack Long  
District Director  
Southeast District

3/24/09  
Date

  
JL/LARN/m

Attachments: Penalty Calculations

cc: Dianne Spingler, DARM, DEP, Tallahassee (Dianne.Spingler@dep.state.fl.us)  
Sheila Schneider, DARM, Tallahassee (Sheila.Schneider@dep.state.fl.us)  
Air Enforcement Files, DEP, West Palm Beach  
Air Program Arch board  
Vicente E. Arrebola, P. E, Assistant Director -Wastewater (Arrebv@miamidade.gov)