

# Memorandum

MIAMI-DADE  
COUNTY

**Date:** February 15, 2011

Agenda Item No. 12(B)1

**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

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



**Subject:** Authorized Negotiations and Settlements of Enforcement Actions of Violations against Miami-Dade County 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 enforcement action or notices of violation not to exceed \$10,000 brought against Miami-Dade County resulting from the operation of the County's water and sewer system. The resolution requires that these negotiations and settlements be presented to the Board for ratification.

Since the last report given to the Board, the Miami-Dade Water and Sewer Department (WASD) has entered into two (2) settlements with the Florida Department of Environmental Protection (FDEP), requiring the payment of a total \$7,890 in penalties and fees. Copies of the fully executed and filed Consent Order agreements are attached.

In first settlement, Consent Order File Number OGC 10-1925, executed August 18, 2010, WASD agreed to pay civil penalties of \$3,340 plus \$500 for FDEP administrative costs, please see Exhibit A. This settlement was the result of failure to perform air emissions compliance testing during Fiscal Year 2008/2009 on one cogeneration engine at the Central District Wastewater Treatment Plant located on Virginia Key. This test was not scheduled by WASD until May 2009 at which time the engine was out-of-service pending repair for the balance of the fiscal year.

In second settlement, Consent Order File Number OGC 10-1926, executed August 18, 2010, WASD agreed to pay civil penalties of \$3,550 plus \$500 for FDEP administrative costs, please see Exhibit B. This settlement was the result of failure to perform air emissions compliance testing during Fiscal Year 2008/2009 on the lime kiln at the Alexander Orr, Jr. Water Treatment Plant. This test was not scheduled by WASD until June 2009 at which time the kiln was out-of-service due to related plant issues for the balance of the fiscal year.

WASD per FDEP requirement must schedule an emissions test with an approved vendor each fiscal year. All equipment should be in working order at the time of the test. WASD could not repair the two pieces of equipment in time for these tests to take place. This is the first time WASD is penalized by FDEP for failing to test equipment for emissions compliance in the indicated fiscal year period required by FDEP. Procedures have been put into place to make sure this type of incident does not repeat itself - the emissions tests are being scheduled early in the fiscal year to avoid a repeat incident.

Per Resolution 530-10, adopted by the Board on May 4, 2010, 1) the nature of this commitment is a one-time payment, 2) the funding source is WASD operating revenues, and 3) this one-time payment only impacted the 2009-2010 WASD budget, it will not impact any future annual budget.

WASD will continue to keep the Board apprised of any other settlements of enforcement actions in the amount of \$10,000 or less brought against Miami-Dade County resulting from the operation of the County's water and sewer system.



Assistant County Manager

Exhibit A

Florida Department of  
Environmental Protection

Southeast District Office  
400 N. Congress Avenue, Suite 200  
West Palm Beach, FL 33401  
(561) 681-6600

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary



Jack Long, Director  
Southeast District Office

AUG 18 2010

Fed Ex. No. 8748221 15000433

Mr. Vicente Arrebola, P.E., Assistant Director  
Miami-Dade Water and Sewer Department  
3071 SW 38<sup>th</sup> Avenue  
Miami, Florida 33146

RECEIVED  
AUG 18 2010

Miami-Dade Water & Sewer  
Department  
Assistant Director Wastewater

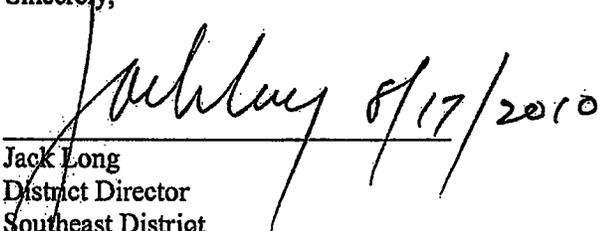
SUBJECT: Settlement by Short Form Consent Order in the Case of State of Florida Department of  
Environmental Protection vs. Miami-Dade Water and Sewer Department Central Facility  
Permit Number: 0250476-007-AV  
OGC File No.: 10-1925

Dear Mr. Arrebola:

Enclosed is a copy of the fully executed and filed Short Form Consent Order in the above- styled case. Additionally, the Department acknowledges that Miami-Dade Water and Sewer Department Central Facility has complied with all the conditions in the above- referenced Consent Order. Payment in the amount of \$3,840.00 has been received. The Department, therefore, will be closing its enforcement case on this matter. We appreciate your cooperation.

If you have any questions concerning this matter, please contact Ms. Patricia Tampas at (561)681-6621.

Sincerely,

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

JL/LA/ RD/pt

cc: Lea Crandall, Agency Clerk, Mail Station 35  
Air Enforcement Files, DEP, West Palm Beach  
Air Program Archboard

2



# Florida Department of Environmental Protection

Southeast District Office  
400 N. Congress Avenue, Suite 200  
West Palm Beach, FL 33401  
(561) 681-6600

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

Jack Long, Director  
Southeast District Office

**JUL 28 2010**

Fed Ex. No. 8748-2211-5228

Mr. Vicente Arrebola, P.E., Assistant Director  
Miami-Dade Water and Sewer Department  
3071 SW 38<sup>th</sup> Avenue  
Miami, Florida 33146

**RECEIVED**

**AUG 10 2010**

DEPT OF ENV PROTECTION  
WEST PALM BEACH

**RECEIVED**

**JUL 30 2010**

Miami-Dade Water & Sewer  
Department  
Assistant Director Wastewater

**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 Central Facility  
Permit Number: 0250476-007-AV  
OGC File No.: 10-1925

Dear Mr. Arrebola:

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter dated May 12, 2010, a copy of which is attached. 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 \$3,340.00 along with \$500.00 to reimburse the Department's cost, for a total of \$3,840.00.

The civil penalty is appropriated as follows: \$3,340 for violation of Section 403.161(1)(b), Florida Statute for failing to comply with Section III A.5 and A.6 of Permit 0250476-007-AV.

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 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 Department of Environmental Protection, Air Program located at 400 North Congress Avenue, Suite 200, West Palm Beach, Florida 33401, within 30 days of your signing this letter.

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 by August 9, 2010, the Department will assume that you are not interested in settling this matter on

Mr. Vicente Arrebola, P.E.  
Miami-Dade Water and Sewer Department  
Page 2 of 3

OGC File No.: 10-1925  
Short Form Consent Order

the above described terms, and will proceed accordingly. None of your rights or substantial interests are determined by this letter unless you sign it and it is filed with the Department's Clerk.

Sincerely,

*Jack Long* 7/27/2010

Jack Long  
District Director  
Southeast District  
JLLA/RD/pt

**FOR THE RESPONDENTS:**

I, Vicente E. Arrebola on behalf of Miami-Dade Water and Sewer Department, HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By *Vicente E. Arrebola*  
Date: 8-6-2010

**FOR DEPARTMENT USE ONLY**

DONE AND ENTERED this 17<sup>TH</sup> day of August, 2010.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

*Jack Long* Date  
Jack Long  
District Director  
Southeast District

**FILING AND ACKNOWLEDGMENT**

FILED, on this date, pursuant to §120.52, Florida Statutes, With the designated Department Clerk, receipt of which is hereby Acknowledged.

*Sheila Schneider* 08/18/10  
Clerk Date

- cc: Sheila Schneider, DEP, [Sheila.Schneider@dep.state.fl.us](mailto:Sheila.Schneider@dep.state.fl.us)
- Diane Spingler, DEP, [Dianne.Spingler@dep.state.fl.us](mailto:Dianne.Spingler@dep.state.fl.us)
- John Renfrow, P.E., MDWASD, [rorou01@miamidade.gov](mailto:rorou01@miamidade.gov)
- Air Enforcement Files, DEP, West Palm Beach
- Air Program Archboard

Exhibit B



Florida Department of  
Environmental Protection

Southeast District Office  
400 N. Congress Avenue, Suite 200  
West Palm Beach, FL 33401  
(561) 681-6600

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

Jack Long, Director  
Southeast District Office

AUG 18 2010

Fed Ex. No. 8748221 15000426

Mr. Ralph Terrero, P.E., Assistant Director  
Miami-Dade Water and Sewer Department  
3071 SW 38<sup>th</sup> Avenue  
Miami, Florida 33146

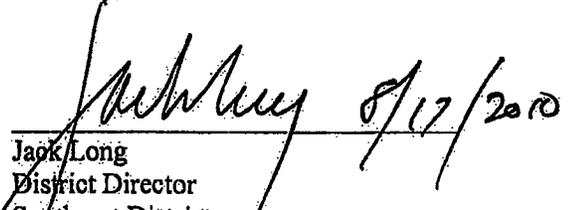
SUBJECT: Settlement by Short Form Consent Order in the Case of State of Florida Department of  
Environmental Protection vs. Miami-Dade Water and Sewer Department Alexander Orr. Jr.  
Facility  
Permit Number: 0250314-015-AV  
OGC File No.: 10-1926

Dear Mr. Terrero:

Enclosed is a copy of the fully executed and filed Short Form Consent Order in the above-styled case. Additionally, the Department acknowledges that Miami-Dade Water and Sewer Department Alexander Orr Jr. Facility has complied with all the conditions in the above-referenced Consent Order. Payment in the amount of \$4,950.00 has been received. The Department, therefore, will be closing its enforcement case on this matter. We appreciate your cooperation.

If you have any questions concerning this matter, please contact Ms. Patricia Tampas at (561)681-6621.

Sincerely,

  
Jack Long  
District Director  
Southeast District

JL/LA/RD/pt

cc: Lea Crandall, Agency Clerk, Mail Station 35  
Air Enforcement Files, DEP, West Palm Beach  
Air Program Archboard

RECEIVED  
AUG 19 2010

Miami-Dade Water & Sewer  
Department  
Assistant Director Water

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# Florida Department of Environmental Protection

Charlie Crist  
Governor

Southeast District Office  
400 N. Congress Avenue, Suite 200  
West Palm Beach, FL 33401  
(561) 681-6600

RECEIVED

Jeff Kottkamp  
Lt. Governor

AUG 09 2010 Michael W. Sole  
Secretary

DEPT of ENV PROTECTION  
WEST PALM BEACH

RECEIVED  
JUL 29 2010

Miami-Dade Water & Sewer  
Department  
Assistant Director Water

Jack Long, Director  
Southeast District Office

Fed Ex. No. 8748-2211-5211

Mr. Ralph Terrero, P.E., Assistant Director  
Miami-Dade Water and Sewer Department  
3071 SW 38<sup>th</sup> Avenue  
Miami, Florida 33146

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 Alexander Orr, Jr. Facility  
Permit Number: 0250314-015-AV  
OGC File No.: 10-1926

Dear Mr. Terrero:

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter dated May 12, 2010, a copy of which is attached. 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 \$3,550.00 along with \$500.00 to reimburse the Department's cost, for a total of \$4,050.00.

The civil penalty is appropriated as follows: \$4,050 for violation of Section 403.161(1)(b), Florida Statute for failing to comply with Section III A.5 and A.6 of Permit 0250314-015-AV.

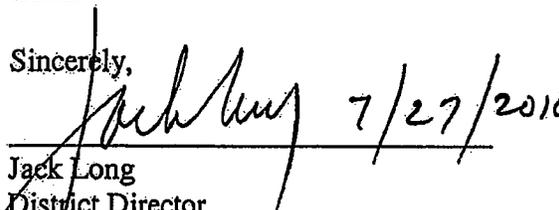
The Department acknowledges that the payment of these civil penalties by you does not constitute an admission of liability. This payment must be made payable to the Department of Environmental Protection by cashier's check or money order and shall include the OGC File Number assigned above and the notation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

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.

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If you do not sign and return this letter to the Department at the District address by August 09, 2010, 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 are determined by this letter unless you sign it and it is filed with the Department's Clerk.

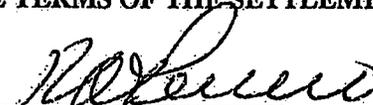
Sincerely,

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

JL/LA/RB/pt

**FOR THE RESPONDENTS:**

I, Rafael A. Torres on behalf of M-D WASD, HEREBY ACCEPT  
THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

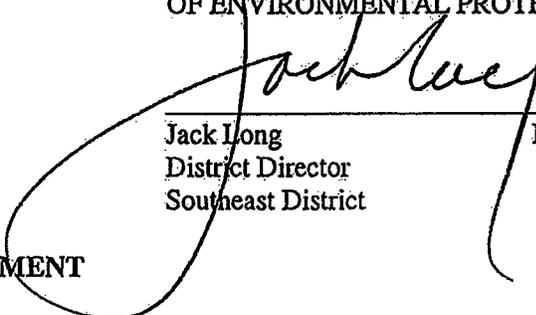
By: 

Date: 8/5/10

**FOR DEPARTMENT USE ONLY**

DONE AND ENTERED this 17<sup>th</sup> day of August, 2010.

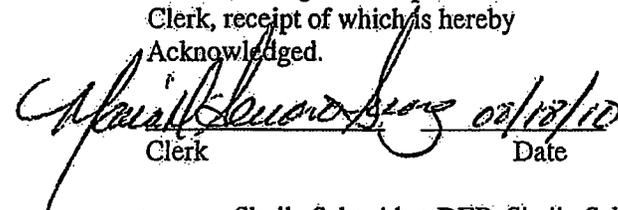
STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

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

Date

**FILING AND ACKNOWLEDGMENT**

FILED, on this date, pursuant to  
§120.52, Florida Statutes,  
With the designated Department  
Clerk, receipt of which is hereby  
Acknowledged.

  
\_\_\_\_\_  
Clerk

08/12/10  
Date

cc: Sheila Schneider, DEP, [Sheila.Schneider@dep.state.fl.us](mailto:Sheila.Schneider@dep.state.fl.us)  
Diane Spingler, DEP, [Dianne.Spingler@dep.state.fl.us](mailto:Dianne.Spingler@dep.state.fl.us)  
John Renfrow, P.E., MDWASD, [rorou01@miamidade.gov](mailto:rorou01@miamidade.gov)  
Air Enforcement Files, DEP, West Palm Beach  
Air Program Archboard