



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

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F.6.

7/23/2024

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### **Subject:**

Permission to authorize Solid Waste Department Director to execute a settlement offer from the Florida Department of Environmental Protection

### **Fiscal Impact:**

Penalties and reimbursement for expenses total \$6,750

### **Dept/Office:**

Solid Waste Management Department

### **Requested Action:**

It is requested that the Board of County Commissioners authorize the Solid Waste Management Department Director to sign the settlement between the Florida Department of Environmental Protection (FDEP) and Brevard County to resolve compliance violations observed during an inspection of Cell 1 of the South Landfill at the Central Disposal Facility.

### **Summary Explanation and Background:**

The Solid Waste Management Department operates a Class I landfill located at the Central Disposal Facility at 2250 Adamson Road, Cocoa, Florida. The Class I landfill currently consists of the original Slurry Wall Landfill and South Landfill Cells 1 and 2. On April 16, 2024, the FDEP visited the site for an inspection to determine compliance with the current Solid Waste Operating permits for both landfills. During the inspection, several violations were observed at South Landfill Cell 1, including excessive erosion, protruding waste, leachate seeps and stormwater contamination from leachate, and groundwater monitoring wells missing padlocks. A Warning Letter was issued to Solid Waste on May 30, 2024, detailing the observed violations. The required response letter was returned to FDEP on June 28, 2024, detailing the ongoing remediation efforts and providing a timeline for a return to compliance. FDEP issued a Long Form Consent Order on July 16, 2024. The FDEP has agreed that \$6,500 of the penalty can be invested in a Pollution Prevention project that will benefit the Solid Waste Management Department.

### **Clerk to the Board Instructions:**



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

July 24, 2024

**M E M O R A N D U M**

**TO:** Tom Mulligan, Solid Waste Management Director

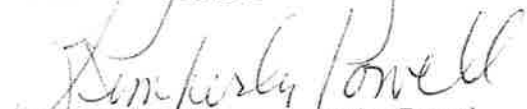
**RE:** Item F.6., Permission to Authorize Solid Waste Department Director to Execute Settlement Offer from the Florida Department of Environmental Protection (FDEP)

The Board of County Commissioners, in regular session on July 23, 2024, authorized you to sign settlement between FDEP and Brevard County to resolve compliance violations observed during and inspection of Cell 1 of the South Landfill at the Central Disposal Facility.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

/ns

cc: Finance  
Budget



# FLORIDA DEPARTMENT OF Environmental Protection

Central District Office  
3319 Maguire Blvd., Suite 232  
Orlando, Florida 32803

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

May 30, 2024

Thomas Mulligan, P.E., Director  
Brevard County Solid Waste Management Department  
2725 Judge Fran Jamieson Way  
Building A, Suite 118  
Viera, Florida 32940  
[thomas.mulligan@brevardfl.gov](mailto:thomas.mulligan@brevardfl.gov)

Re: Warning Letter  
Brevard Central Landfill  
SW Facility ID #16256  
Brevard County

Dear Mr. Mulligan:

A routine compliance inspection was conducted at your facility on April 16, 2024. During this inspection, possible violations of Chapter 403, F.S., Chapter 62-701, Florida Administrative Code (F.A.C.) were observed.

During the inspection Department personnel noted the following:

- Erosion was noted along the south, east, and north side slopes of Cell 1 at the South Landfill.
- Waste was observed protruding through the side slopes along the south, east, and north sides of Cell 1 at the South Landfill.
- Leachate seeps were noted along the south, east, and north side slopes of Cell 1 at the South Landfill. Leachate was also noted to be mixed with storm water in the drainage ditch along the south, east, and north side slopes.
- Multiple monitoring wells were observed without a lock throughout the facility. MW-14DR was observed with the cap broken during the time of the inspection.

Violations of Florida Statutes or administrative rules may result in liability for damages and restoration, and the judicial imposition of civil penalties, pursuant to Sections 403.162 and 403.121, Florida Statutes.

Please contact David Janson, at (407) 897-4141 or [David.Janson@FloridaDEP.gov](mailto:David.Janson@FloridaDEP.gov), within **7 days** of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in receiving any facts you may have that will assist in determining whether any

Brevard Central Landfill; Facility ID No.:16256  
Warning Letter  
Page 2 of 2  
May 30, 2024

violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), Florida Statutes. We look forward to your cooperation in completing the investigation and resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Watkins", with a stylized flourish at the end.

Aaron Watkins, Director  
Central District  
Florida Department of Environmental Protection

AW/nh/jef/dj

Enclosure:     Inspection Report

cc:     FDEP: Micheal Eckoff, Jenny E Farrell, David Janson  
Vicky Pena, Engineer [Vicky.Pena@brevardfl.gov](mailto:Vicky.Pena@brevardfl.gov)



**Florida Department of  
Environmental Protection**

**Inspection Checklist**

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**FACILITY INFORMATION:**

**Facility Name:** BREVARD CENTRAL LANDFILL  
**On-site Inspection Start Date:** 04/16/2024  
**On-site Inspection End Date:** 04/16/2024  
**WACS No.:** 16256  
**Facility Street Address:** 2250 ADAMSON ROAD  
**City:** COCOA  
**County Name:** BREVARD  
**Zip:** 32926

**INSPECTION PARTICIPANTS:**

(Include ALL Landfill and Department Personnel with Corresponding Titles)

**Principal Inspector:** David Janson, Inspector

**Other Participants:** Michael Eckoff, Environmental Consultant ; Vicky Pena, Engineer; Thomas Mulligan , Director of Solid Waste; James Dixon, Supervisor ;

**INSPECTION TYPE:**

Routine Operation Inspection for Landfill - Class I

**ATTACHMENTS TO THE INSPECTION CHECKLIST:**

This Cover Page to the Inspection Checklist may include any or all of the following attachments as appropriate.

**Note: Checklist items with shaded boxes are for informational purposes only.**

1.0 - SECTION 1.0 - FILE REVIEW

2.0 - SECTION 2.0 - LANDFILL OPERATION AND MAINTENANCE

Inspection Date: 04/16/2024

**1.0 - SECTION 1.0 - FILE REVIEW****Requirements:**

The requirements listed in this section provide an opportunity for the Department's inspector to indicate the conditions found at the time of the inspection. A "Not Ok" response to a requirement indicates either a potential violation of the corresponding rule or an area of concern that requires more attention. Both potential violations and areas of concern are discussed further at the end of this inspection report.

Item No.	FILE REVIEW (Pre- or Post-Inspection, as appropriate.)	Ok	Not Ok	Unk	N/A
1.1	For landfills and C&D disposal facilities, does the facility have a current plan for the method and sequence of filling wastes? 62-701.500(2)(f) for landfills; 62-701.730(7)(a) for C&D debris sites	✓			
1.2	For landfills, are the following records being reported to the Department?(Check any that are Not OK) <input type="checkbox"/> Waste reports (annually) 62-701.500(4) <input type="checkbox"/> Annual estimate of remaining life 62-701.500(13)(c)	✓			
1.3	Is gas monitoring being performed as required by the permit? 62-701.500(9), 62-701.530(2)	✓			
1.4	Are the results of the gas sampling reported to the Department quarterly? 62-701.530(2)(c)	✓			
1.5	Is water quality sampling and testing performed according to standard procedures and at the required frequencies? 62-701.510(2) for landfills; 62-701.730(8) and 62-701.730(10) for C&D debris sites; 62-713.400(3) for stationary soil treatment facilities.	✓			
1.6	Do the results of the water quality testing suggest there may be adverse impacts to water quality from the operation of the solid waste facility? 62-701.510(3) and (4); 62-701.730(4)(c) and (10) for C&D debris sites; 62-713.400(3) for stationary soil treatment facilities.			✓	
1.7	For closed landfills and C&D disposal facilities with final elevations higher than 20 feet above grade, has a final survey report verifying the final elevations and contours of the facility been submitted to the Department? 62-701.600(6)(b), 62-701.730(9)(e)				✓
1.8	Is financial assurance adequate? 62-701.630 for landfills; 62-701.710(7)(a) and 62-701.710(1)(d)1. for waste processing facilities; 62-701.730(11)(a) for C&D debris facilities; 62-713.600(6)(a) for stationary soil treatment facilities; 62-711.500(3) for waste tire facilities. NOTE: The Solid Waste Financial Coordinator in Tallahassee can assist with this information.	✓			
1.9	Are cost estimates current and adjusted every year? 62-701.630(4) for landfills; 62-701.710(7)(a) and 62-701.710(1)(d)1. for waste processing facilities; 62-701.730(11)(a) for C&D debris facilities; 62-713.600(6)(b) and 62-713.600(6)(c) for stationary soil treatment facilities; 62-711.500(3) for waste tire facilities.	✓			
1.10	For C&D debris disposal and disposal with recycling facilities, is an Annual Report submitted to the Department for the disposal operation by February 1st of each year? 62-701.730(12)				✓
1.11	For C&D recycling facilities with no disposal, is an Annual Report for the recycling facility submitted to the Department by February 1st of each year? 62-701.710(8)(b)				✓
1.12	For compost facilities, has the compost product been sampled and analyzed every 20,000 tons or every 3 months (whichever is sooner)? 62-709.530(1)				✓
1.13	For compost facilities, has the annual report been submitted by June 1st? 62-709.530(3)				✓

Inspection Date: 04/16/2024

**2.0 - SECTION 2.0 - LANDFILL OPERATION AND MAINTENANCE****Requirements:**

The requirements listed in this section provide an opportunity for the Department's inspector to indicate the conditions found at the time of the inspection. A "Not Ok" response to a requirement indicates either a potential violation of the corresponding rule or an area of concern that requires more attention. Both potential violations and areas of concern are discussed further at the end of this inspection report.

Item No.	SOLID WASTE PROHIBITIONS (unless "grandfathered" in, see 62-701.300 (18))	Ok	Not Ok	Unk	N/A
2.1.1	Unauthorized storage, processing, or disposal of solid waste except as authorized at a permitted solid waste management facility or other exempt facility. 62-701.300(1)(a)	✓			
2.1.2	Unauthorized disposal or storage prohibited, except yard trash, within 500 feet of a potable water well? 62-701.300(2)(b)	✓			
2.2	Unauthorized storage or disposal of yard trash prohibited within the minimum setbacks of (Check any that are Not OK) 62-701.300(12) <input type="checkbox"/> 100 feet from potable water wells (except on-site)? <input type="checkbox"/> 50 feet from water bodies?	✓			
2.3	Unauthorized disposal or storage prohibited in any natural or artificial body of water including ground water and wetlands? (Does not apply to standing water after a storm event.) 62-701.300(2)(d)	✓			
2.4	Unauthorized disposal or storage prohibited, except yard trash, within 200 feet of any natural or artificial body of water, including wetlands without permanent leachate controls, except impoundments or conveyances which are part of an on-site, permitted stormwater management system or on-site water bodies with no off-site discharge? 62-701.300(2)(e)	✓			
2.5	Unauthorized open burning of solid waste prohibited except in accordance with Department requirements? 62-701.300(3)	✓			
2.6	Are the following unauthorized wastes or special wastes properly controlled, managed and disposed? (Check any that are Not OK) <input type="checkbox"/> Hazardous waste 62-701.300(4) <input type="checkbox"/> Biomedical waste 62-701.300(6) <input type="checkbox"/> Yard trash 62-701.300(8)(c) <input type="checkbox"/> Whole waste tires 62-701.300(8)(e) <input type="checkbox"/> Regulated asbestos waste 62-701.520(3), 62-701.730(19) <input type="checkbox"/> Used oil and oily wastes, except as exempted 62-701.300(11) <input type="checkbox"/> PCB wastes 62-701.300(5) <input type="checkbox"/> Lead-acid batteries 62-701.300(8)(a) <input type="checkbox"/> White goods 62-701.300(8)(d) <input type="checkbox"/> Liquids 62-701.300(10) <input type="checkbox"/> CCA treated wood 62-701.300(14) <input type="checkbox"/> Biological waste - Disposal of dead animals due to disease 62-701.520(5)(a) <input type="checkbox"/> Biological waste - Disposal of dead poultry and hatchery residue 62-701.520(5)(b) <input type="checkbox"/> Biological waste - Disposal of captive wildlife, fish or marine mammals, and domestic animals that have not died due to disease 62-701.520(5)(c)	✓			
2.7	Are only permitted waste types disposed at facility? 62-701.340(2), 62-701.500(6)(a), 62-701.500(2)(c)	✓			

Inspection Date: 04/16/2024

2.6.5	<p>Recommended guidance for Item 2.6 above. Facility was provided a copy of the Department's Disposal of Deceased Domestic Animals Guidance Document dated November 9, 2018. (Note: The Guidance Document is to provide direction regarding the disposal of deceased domestic animals pursuant to Chapter 62-701.520(5), F.A.C. and Chapter 823.041, F.S.)</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> N/A</p>				
<b>Item No.</b>	<b>LANDFILL OPERATION AND MAINTENANCE</b>	<b>Ok</b>	<b>Not Ok</b>	<b>Unk</b>	<b>N/A</b>
2.8	Is there a trained operator on-site at Class I and III landfills when receiving wastes? 62-701.500(1)	✓			
2.9	Is there at least one trained spotter at each working face when receiving wastes at Class I and III landfills? 62-701.500(1)	✓			
2.10	<p>Are the following records or plans current and available on-site? (Check any that are Not OK)</p> <p><input type="checkbox"/> Training Plan 62-701.320(15)(a)</p> <p><input type="checkbox"/> Operating Plan 62-701.500(2)</p> <p><input type="checkbox"/> Waste weight records 62-701.500(4)</p> <p><input type="checkbox"/> Precipitation records 62-701.500(8)(g)</p> <p><input type="checkbox"/> Load-checking program records 62-701.500(6)(a)</p> <p><input type="checkbox"/> Training records 62-701.320(15)(a)</p> <p><input type="checkbox"/> Operation record 62-701.500(3)</p> <p><input type="checkbox"/> Quantity of leachate 62-701.500(8)(f)</p>	✓			
2.11	Is the operation plan substantially followed? 62-701.500(2)	✓			
2.12	Is incoming waste weighed? 62-701.500(4)(a) and 62-701.500(2)(d)	✓			
2.13	Is the method and sequence of filling waste according to plans? 62-701.500(2)(f)	✓			
2.14	Is access properly controlled to prevent unauthorized waste disposal? 62-701.500(5)	✓			
2.15	Is waste compacted as required? 62-701.500(7)(a)	✓			
2.16	Are the working face and side slopes above ground graded to a slope no greater than 3 feet horizontal to 1 foot vertical rise? 62-701.500(7)(c)	✓			
2.17	Is a narrow working face practiced? 62-701.500(7)(d)	✓			
2.18	Is the frequency, amount and quality of initial cover, as required? 62-701.500(7)(e)	✓			
2.19	Is the frequency, amount and quality of intermediate cover, as required? 62-701.500(7)(f)		✓		
2.20	Is litter controlled and are litter control devices maintained? 62-701.500(7)(i) and 62-701.500(11)(f)	✓			
2.21	Is erosion control adequate? 62-701.500(7)(j)		✓		
2.22	Is the leachate collection and removal system maintained and operated as required? 62-701.500(2)(j), 62-701.500(8)(b) and 62-701.500(8)(h)	✓			
2.23	Is leachate disposed of or treated as required? 62-701.500(8)(b), 62-701.500(8)(c) and 62-701.500(8)(d)	✓			
2.24	If leachate recirculation is practiced at the facility, is it done in accordance with Department requirements and the Operation Plan? 62-701.400(5)				✓
2.25	Is gas controlled to not cause objectionable odors beyond the property boundary? 62-701.530(3)(b)	✓			
2.26	Is gas controlled to not allow combustible gas concentrations to exceed specified limits? 62-701.530(3)(a)	✓			
2.27	Are gas vents intact and functioning properly? 62-701.500(9), 62-701.530(1)(a)3	✓			
2.28	Is mixing of leachate and stormwater prevented or minimized? 62-701.500(10), 62-701.400(9)(b)		✓		
2.29	Is stormwater management system maintained and operated as required? 62-701.500(10)	✓			
2.30	Is there sufficient operating equipment? 62-701.500(11)(a)	✓			
2.31	Is there sufficient reserve equipment (or other arrangements)? 62-701.500(11)(b)	✓			
2.32	Are communication facilities adequate? 62-701.500(11)(c)	✓			
2.33	Are approved dust control methods adequate? 62-701.500(11)(d)	✓			



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2.34	Are fire protection and fire fighting capabilities adequate and operational? 62-701.500(11)(e)	✓			
2.35	Are there required signs for operational directions and public information? 62-701.500(11)(g)	✓			
2.36	Are all-weather access roads and inside perimeter roads properly maintained? 62-701.500(12)	✓			
2.37	Are groundwater wells intact and properly maintained? 62-701.510(2)(b), 62-701.620(8)		✓		
2.38	Are all additional specific conditions (not otherwise addressed above) in the permit, Department order, or certification, if any, being followed? 62-701.320(1), 403.161, F.S.	✓			

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**Current Violations:**

Rule: 62-701.500(7)(f)  
Question Number: 2.19  
Explanation: Waste was observed protruding through the side slopes along the south, east, and north sides of Cell 1 at the South Landfill.  
Corrective Action: Apply and maintain intermediate cover to the initial cover as soon as possible.

**Attachments****Waste Protruding South Side**

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Rule: 62-701.500(7)(k)  
Question Number: 2.21  
Explanation: Erosion was noted at the time of the inspection along the south, east, and north side slopes of Cell 1 of the South Landfill where leachate seeps had occurred.  
Corrective Action: Please propose a corrective action schedule to address areas of erosion noted along the south, east, and north side slopes of Cell 1 of the South Landfill.

**Attachments****Erosion Along South Slope****Erosion Along East Slope**

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Rule: 62-701.400(9)(b), 62-701.500(10)  
Question Number: 2.28  
Explanation: Leachate seepage was observed along the southern, eastern, and northern slopes of Cell 1 of the Class 1 South Landfill, with the potential for runoff into the stormwater pond.  
Corrective Action:

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The facility shall submit a corrective action plan to the Department describing the leachate seepage problem and shall include a description and timeline of

corrective actions. In an email dated April 19, 2024 Vicky Pena stated that the facility began correcting the deficiencies on April 18, 2024 and will continue to report progress to DEP.

**Attachments**

Leachate Mixing w/ Stormwater(S)



Leachate Seep Along Cell 1(E)



Leachate Mixing w/ Stormwater (E)



Leachate mixing w/ Stormwater (N)



Rule: 62-701.510(2)(b), 62-701.620(8)

Question Number: 2.37

Explanation: 62-701.510(5) "Monitoring wells shall be locked to minimize the potential for unauthorized access."

Multiple monitoring wells were observed without a lock throughout the facility. MW-14DR was observed with the cap broken during the time of the inspection.

Corrective Action: The facility shall lock all monitoring wells as soon as possible to prevent unauthorized access.

**Attachments**

Groundwater Well Unlocked



MW-14DR Well Cap Broken





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**Comments**

Solid Waste Operation Permit - Class I South Landfill

Permit ID: 0075133-024-SO-01 ; Permit Modification: 0075133-027-SO-IM issued September 20, 2022

Permit Issued: March 11, 2020

Permit Expires: March 11, 2030

Solid Waste Operation Permit - Class I Slurry Wall Landfill

Permit ID: 0075133-020-SO-01 ; Permit Modification 0075133-023-SO-MM issued March 10, 2015

Permit Issued: April 3, 2014

Permit Expires: April 3, 2024\*

\*The facility submitted a permit renewal for the SWL in a timely manner on January 26, 2024. The Department issued a Request for Additional Information on March 8, 2024.

**Section 1.0 - File Review**

Item 1.2 - The 2023 Solid Waste Quantity Report was received on January 12, 2024.

Item 1.4 - The 3rd quarter 2023 gas monitoring report was received on July 27, 2023. The 4th quarter 2023 gas monitoring report was received on October 30, 2023. The 1st quarter 2024 gas monitoring report was received on February 23, 2024.

Item 1.5 - The 1st semi annual 2023 groundwater monitoring report was received on May 18, 2023. The 2nd semi annual 2023 groundwater monitoring report was received on November 27, 2023.

Item 1.6 - The groundwater monitoring reports are reviewed as a separate function and not part of this inspection.

Item 1.8 - In an email dated April 25, 2024, the Departments Financial Coordinator stated that at this time the facility is in Compliance with Financial Assurance and funding is adequate.

Item 1.9 - Current 2023 cost estimates were determined to be adequate for the South Landfill and the Slurry Wall Landfill.

**Section 2.0 - Landfill Operation and Maintenance**

Item 2.1.1 - No unauthorized waste was observed at the facility at the time of the inspection.

Item 2.8 - Jeremy Davis - Class I,III Landfill Operator (current until January 31, 2027). Anthony Conner - Class I,III Landfill Operator (current until August 31, 2028). Scott Gilbert - Class I,III Landfill Operator (current until January 31, 2027). Jeff Hess - Spotter (current until November 27, 2026). Johnny Gardner - Spotter (current until March 21, 2025). Jarvis Smith - Spotter (current until June 26, 2026).

Item 2.10 - An electronic copy of the Operation Plan dated July 11, 2022 was reviewed during and after the inspection. Random load checks are being conducted three times a week and reports were reviewed during the inspection.

Item 2.19 - Waste was observed protruding through the south, east, and norths side slopes of Cell 1 at the South Landfill. \*\*See above violation with attached photos\*\*

Item 2.21 - Erosion was observed at the time of the inspection along the south, east, and north side slopes where leachate seeps had occurred of Cell 1 at the South Landfill. \*\*See above violation with attached photos\*\*

Item 2.28 - Leachate seeps observed along the south, east, and north side slopes of Cell 1 at the South Landfill were observed during the inspection. Leachate and stormwater were mixing in the stormwater conveyance channel along the south, east, and north sides of Cell 1 at the South Landfill. \*\*See above violation with attached photos\*\*

Item 2.37 - Multiple groundwater monitoring wells were observed unlocked and the labels appeared hard to read. One well, MW-14DR, was observed with the cap broken. \*\*See above violation with attached photos\*\*

Item 2.38 - 3rd quarter 2023 slurry wall monitoring report was received September 26, 2023. 4th quarter 2023 slurry wall monitoring report was received January 3, 2024. 1st quarter 2024 slurry wall monitoring

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report was received April 15, 2024 and reviewed on April 16, 2024. Appendix 3.34 - MPIS Mid-Permit Report 3 is due March 31, 2026, covering sampling conducted between November 2023 and November 2025.

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Inspection Date: 04/16/2024

**Signed:**

David Janson

Inspector

**PRINCIPAL INSPECTOR NAME****PRINCIPAL INSPECTOR TITLE**

DEP

04/24/2024

**PRINCIPAL INSPECTOR SIGNATURE****ORGANIZATION****DATE**

Michael Eckoff

Environmental Consultant

**INSPECTOR NAME****INSPECTOR TITLE**

NO SIGNATURE REQUIRED

FDEP

**INSPECTOR SIGNATURE****ORGANIZATION**

Vicky Pena

Engineer

**REPRESENTATIVE NAME****REPRESENTATIVE TITLE**

NO SIGNATURE REQUIRED

Brevard County

**REPRESENTATIVE SIGNATURE****ORGANIZATION**

NOTE: By signing this document, the Site Representative only acknowledges receipt of this Inspection Report and is not admitting to the accuracy of any of the items identified by the Department as "Not Ok" or areas of concern.

Thomas Mulligan

Director of Solid Waste

**REPRESENTATIVE NAME****REPRESENTATIVE TITLE**

NO SIGNATURE REQUIRED

Brevard County

**REPRESENTATIVE SIGNATURE****ORGANIZATION**

NOTE: By signing this document, the Site Representative only acknowledges receipt of this Inspection Report and is not admitting to the accuracy of any of the items identified by the Department as "Not Ok" or areas of concern.

James Dixon

Supervisor

Inspection Date: 04/16/2024

**REPRESENTATIVE NAME****REPRESENTATIVE TITLE**

NO SIGNATURE REQUIRED

Brevard County

**REPRESENTATIVE SIGNATURE****ORGANIZATION**

NOTE: By signing this document, the Site Representative only acknowledges receipt of this Inspection Report and is not admitting to the accuracy of any of the items identified by the Department as "Not Ok" or areas of concern.

**Report Approvers:**Approver: Jenny E. FarrellInspection Approval Date: 05/06/2024



BOARD OF COUNTY COMMISSIONERS

**Solid Waste Management Department**

2725 Judge Fran Jamieson Way  
Building A, Room 118  
Viera, Florida 32940

**Attention:** David Janson, Environmental Specialist II  
Florida Department of Environmental Protection, Central District – Orlando

**From:** Tina Ziten Lyons, Assistant Director,  
Brevard County Solid Waste Department

**Subject:** 16256 Brevard Central Landfill Warning Letter June 16, 2024 timelines

**Date:** June 28, 2024

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Dear Mr. Janson,

Per your request in the email dated June 19, 2024, Brevard County Solid Waste Department would like to share the timelines for completion of corrective actions related to the violations listed in the May 30, 2024 letter as follows:

1. **Erosion was noted along the south, east and north side slopes of cell 1 at the South Landfill**
  - a. Staff have regraded the sideslopes of the south, east and north sides with soil and sod is being placed. The sod placement began on the first week of June, so far about 54,000 square feet has been covered on the southeastern portion of the eastern sideslope and the total areas mentioned in the letter will be covered with sod.
  - b. South side has not been measured yet and should be re-sodded since Cell 3 has not been installed.
  - c. The erosion will be managed by the sod, as it takes root as a vegetative cover to hold the soil and landfill sideslopes in place.
    - From the 80-foot elevation down the soil has been for all slopes. The east slope has been sodded to the pumping station, which is half of the area. Sod has been placed on the south slope, some of which will need to be redone as Kelly wells have since been install, which is discussed below. Sod will be placed on the north slope once the east is completed. All earth and sod work is expected to be completed by September 2024.
2. **Waste was observed protruding through the side slopes along the south, east, and north sides of Cell 1 at the South Landfill.**
  - a. The sideslopes along the south, east and north sides of Cell 1 at the South Landfill were regraded, thus covering any waste that was protruding.
  - b. Staff have been directed in writing to improve site house keeping, including immediate cleanup of wind-blown litter when observed on site. Landfill operations staff have been instructed to observe heavy equipment operating and implement ongoing training and

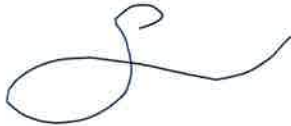


- mentoring to ensure all staff understand their role in developing the landfill according to the permit and engineered design.
- c. Staff have been instructed on application of daily and interim cover to better comply with regulations.
  - d. Staff received written notification to communicate activities on the landfill with the solid waste environment and compliance group (lead by Ms. Vicky Peña), to ensure all staff are aligned with the South Landfill operational plan, permits, and landfill build-out design.
  - e. The County is updating its methods on operating various pieces of landfill equipment to ensure safe, effective, and efficient use. Updated training profiles for staff is being overseen by internal HR and training content is being updated to reflect recent landfill management development.
  - f. The landfill operations staff, engineering, and maintenance staff must all adhere to the site operational plan and permit. Deviation from this will result in employee discipline up to the point of termination.
    - The work in addressing the erosion (by regrading) and waste removal from the sideslopes was completed in mid-June 2024.
3. **Leachate seeps were noted along the south, east and north slopes of Cell 1 at the South Landfill.**
- a. The County has contracted Sullivan Environmental to assess the leachate impacts, make recommendation for remediation of impacted areas and mitigate ongoing seeps. The contractor recommended placing Kelly wells in areas of leachate seeps to divert leachate from surfacing, collect the leachate from the Kelly wells and pump it into the leachate collection system. A Kelly well involves digging a larger hole into the sideslope, the diameter of which is based on the size of the leachate seep, and inserting an 8" high-density polyethylene piece of pipe into the waste where leachate is mitigating to the surface, that can be fitted to a dewatering pump if needed. The pipe is perforated with holes in the lower section, which creates a preferential path for leachate collection under vacuum conditions. The pipe is placed to an optimum depth for leachate collection, while not risking the bottom liner. The area below the pipe and walls of the hole are backfilled with #67 granite stone as a filter media to keep the sump/Kelly well from silting.
  - b. A dewatering pump has been installed into this pipe and dewateres the leachate surrounding the Kelly well. The contractor is also installing a type of French drain where they are digging a trench and placing crushed concrete and #67 granite stone on the southern sideslope. Thus far, the contractor has placed 16 Kelly wells on the east side and is planning on installing about 3 or 4 Kelly wells on the north side of the landfill. There will be no wells installed on the south sideslope since that side will be connecting with cell 3, only the French drain is being placed.
    - This work is ongoing and expected to be completed in approximately 10 weeks, by the second week of September 2024.
4. **Leachate was also noted to be mixed with storm water in the draining ditch along the south, east and north side slopes.**
- a. The stormwater ditch was blocked off in the area where leachate had entered the ditch and the contaminated stormwater was pumped into a tanker truck, which was then emptied into a lift station that connects to the sanitary sewer system. Leachate contaminated soils were removed and disposed, and the ditch was regraded with clean soil.
    - This work is ongoing.
5. **Multiple monitoring wells were observed without a lock throughout the facilities, MW14Dr was observed with the cap broken during the time of inspection.**

- a. The wells referred to above were not groundwater monitoring wells, they were gas migration probes that do not require locks. Groundwater monitoring wells that were installed during the construction of Cell 2 were found and locks are in place for all 12 monitoring wells.
- b. The landfill operations staff have been instructed to inspect all wellheads routinely and enter any that are not locked/ are damaged/ need maintenance into the County's maintenance tracking and request system.
  - The groundwater monitoring well MW-14DR's cap has been repaired.

Overall, the Brevard County Solid Waste department is implementing a range of corrective measures, risk management and mitigation work, and improve staff training and documentation. It is our ongoing intention to work with the FDEP to address any compliance issues promptly and transparently.

Yours sincerely,



Tina Ziten Lyons, M.Sc  
Assistant Director  
Brevard County Solid Waste Department  
2725 Judge Fran Jamieson Way  
Building A, Suite 118  
Viera, Florida 32940

321-633-2042 ex. 59173

CC: Thomas J. Mulligan, PE Department Director. Brevard County Solid Waste Department.  
Jenny Farrell, Environmental Manager. Florida Department of Environmental Protection.  
Vicky Peña, Engineer. Brevard County Solid Waste Department.



## FLORIDA DEPARTMENT OF Environmental Protection

Central District Office  
3319 Maguire Blvd., Suite 232  
Orlando, Florida 32803

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

July 16, 2024

Thomas Mulligan, P.E., Director  
Brevard County Solid Waste Management Department  
2725 Judge Fran Jamieson Way  
Building A, Suite 118  
Viera, Florida 32940  
[thomas.mulligan@brevardfl.gov](mailto:thomas.mulligan@brevardfl.gov)

Re: Central Brevard Landfill  
SW Facility ID #16256  
OGC Case No: 24-2148  
Brevard County

Dear Mr. Mulligan:

Enclosed is a Consent Order ("Order") prepared by the Department for resolution of the referenced enforcement case. Please review this document and within 20 days of receipt, either: 1) return a signed copy to the Department or 2) provide comments and suggested changes. Once fully executed, a copy of the final document will be forwarded to you.

Should you have any questions or comments, please contact David Janson at 407-897-4141 or via e-mail at [David.Janson@FloridaDEP.gov](mailto:David.Janson@FloridaDEP.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "AA 7L", is written over a horizontal line.

*On behalf of:*

Aaron Watkins, Director  
Central District

Enclosure: Draft Consent Order, Exhibit 1, Exhibit 2

cc: FDEP: Jenny E Farrell, David Janson  
Tina Ziten Lyons, Assistant Director [Tina.Ziten-Lyons@brevardfl.gov](mailto:Tina.Ziten-Lyons@brevardfl.gov)  
Vicky Pena, Engineer [Vicky.Pena@brevardfl.gov](mailto:Vicky.Pena@brevardfl.gov)

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT	)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION	)	CENTRAL DISTRICT
	)	
v.	)	OGC FILE NO. 24-2148
	)	
BREVARD COUNTY	)	

**CONSENT ORDER**

This Consent Order ("Order") is entered into between the State of Florida Department of Environmental Protection ("Department") and Brevard County ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits 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(9) and 403.703(22), F.S.
3. Respondent is the operator of the Brevard Central Landfill, a Class I Landfill, located at 2250 Adamson Road, Cocoa, in Brevard County, Florida ("Facility"). The Facility's ID Number is 16256.
4. Respondent operates the Facility under Permit No. 0075133-024-SO-01 which expires on March 11, 2030.
5. The Department finds that the following violations occurred:
  - a) The facility failed to maintain and operate the leachate collection system as leachate seeps were observed along the south, east, and north side slopes of Cell 1 at the

South Landfill, with the potential for runoff into the stormwater pond, which is in violation of Rule 62-701.400(9)(b), F.A.C. and Rule 62-701.500(10), F.A.C.

b) Waste was observed protruding through the side slopes along the south, east and north side slopes of Cell 1 at the South Landfill, which is in violation of Rule 62-701.500(7)(f), F.A.C. Corrective actions for this violation were provided to the Department via email on June 28, 2024.

c) Erosion was noted along the south, east, and north side slopes of Cell 1 at the South Landfill where leachate seeps had occurred, which is in violation of Rule 62-701.500(7)(k), F.A.C.

d) Groundwater monitoring well MW-14DR was observed with the cap broken, which is in violation of Rule 62-701.620(8), F.A.C. Corrective actions for this violation were provided to the Department via email on June 28, 2024.

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

**ORDERED:**

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

a) Respondent shall remove all leachate from the south, east, and north side slopes including the stormwater ditches of Cell 1 at the South Landfill. This work is ongoing and shall be completed by September 27, 2024.

b) Respondent shall re-grade the side slopes of the south, east, and north sides of Cell 1 at the South Landfill and remove any protruding waste. This work is ongoing and shall be completed by September 27, 2024.

7. Every quarter after the effective date of this Order and continuing until all corrective actions have been completed, Respondent shall submit to the Department a written report containing information about the status and progress of projects being completed under this Order, information about compliance or noncompliance with the applicable requirements of this Order, and any reasons for noncompliance. These reports shall also include a projection

of the work Respondent will perform pursuant to this Order during the 12-month period which will follow the report. Respondent shall submit the reports to the Department within 30 days of the end of each quarter.

8. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$ 6,750.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$ 6,500.00 for civil penalties and \$ 250.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The civil penalty in this case includes one violations that each warrant a penalty of \$2,000.00 or more.

9. In lieu of making cash payment of \$6,500.00 in civil penalties as set forth in Paragraph 8, Respondent may elect to off-set the amount of \$6,500.00 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. If Respondent chooses to implement a P2 Project, Respondent shall notify the Department of its election by certified mail within 15 days of the effective date of this Order.

10. If Respondent elects to implement a P2 Project as provided in Paragraph 9, Respondent shall submit a completed P2 Project Plan (Plan) within 30 days of the effective date of this Order. The Plan must be completed using Exhibit 1, "P2 Project Plan" template.

11. In the event the Department requires additional information to process the Plan described in Paragraph 10, Respondent shall provide a modified Plan containing the information requested by the Department within 30 days of the date of the request.

12. 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 Respondent that the balance is due.

13. In lieu of making cash payment of \$6,500.00 in civil penalties as set forth in paragraph 9 above, Respondent may elect to off-set this amount by implementing an in-kind penalty project, which must be approved by the Department. An in-kind project must be either an environmental enhancement, environmental restoration or a capital/facility improvement project and may not be a corrective action requirement of the Order or otherwise required by law. The Department may also consider the donation of environmentally sensitive land as an in-kind project. The value of the in-kind penalty project shall be one and a half times the civil penalty off-set amount, which in this case is the equivalent of at least \$9,750.00. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election by certified mail within 30 days of the effective date of this Consent Order. Notwithstanding the election to implement an in-kind project, payment of the remaining \$250.00 in costs must be paid within 30 days of the effective date of the Consent Order.

14. If Respondent elects to implement an in-kind project as provided in paragraph 13, then Respondent shall comply with all the requirements and time frames in Exhibit 2 entitled In-Kind Projects.

15. Respondent agrees to pay the Department stipulated penalties in the amount of \$ 1,000.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 6 and 7 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 paragraph 16, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any stipulated penalties assessed under this paragraph shall be in addition to the civil penalties agreed to in paragraph 8 of this Order.

16. 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, effective and filed with the Clerk of the Department before ability to make online payment is available.

17. Except as otherwise provided, all submittals and payments required by this Order shall be sent to [DEP\\_CD@dep.state.fl.us](mailto:DEP_CD@dep.state.fl.us) or Department of Environmental Protection, Central District, 3319 Maguire Blvd. Suite 232, Orlando, FL 32803.

18. 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.

19. 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.

20. 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.

21. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for alleged violations up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order

22. 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.

23. 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.

24. 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 \$15,000.00 per day per violation, and criminal penalties.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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 name and address of each agency affected and each agency's file or identification number, if known;

- b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- c) A statement of when and how the petitioner received notice of the agency decision;
- d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
- f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

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 Central District Office, 3319 Maguire Blvd. Suite 232, Orlando, FL 32803. 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.

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

FOR THE RESPONDENT:

\_\_\_\_\_  
Thomas Mulligan  
Solid Waste Department Director  
Brevard County

\_\_\_\_\_  
Date

As approved by the Board 07-23-2024

\_\_\_\_\_  
**For Department Only**

DONE AND ORDERED this \_\_\_\_\_ day of \_\_\_\_, 2024, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

\_\_\_\_\_  
Aaron Watkins  
District Director  
Central District

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

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date

Copies furnished to:

Lea Crandall, Agency Clerk  
Mail Station 35

## Exhibit 1

### P2 Project Plan (Plan)

(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 are 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 per Project individually. Add or average corresponding figures from each Project table to complete the Plan table, *for multiple Projects.*)

(Project Name)							
Annual Resource Consumption Comparison							
Item	Quantity Used (gal/lb/kwh-specify)			Purchasing Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	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 (%) Reduction
	Before	After	Reduction	Before	After	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 (%) Reduction
	Before	After	Reduction	Before	After	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 (%) Reduction
	Before	After	Reduction	Before	After	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. **Implementation Schedule:** (Provide a brief discussion of the steps necessary to implement the Projects and expected time frames for completion. A table or list format is

preferred. The schedule shall include a list of milestones with dates, or timeframes based on Plan approval date, including Progress and Final Report submittals. Provide a description of any anticipated problems and options. *The implementation should take no longer than six months to complete.*)

**E. Project Reporting:**

1. Within 90 days of approval of the Project Plan, the Respondent shall submit a P2 Project Progress Report to the Department that describes the Respondent's progress in implementing the P2 Project and meeting the requirements in the Plan, and includes a list of equipment ordered, purchased, and/or installed.

2. Within 180 days of approval of the Plan, 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.

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

3. 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.

4. 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 allowable to offset the allowable amount of the civil penalty:

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 toward P2 credit:

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.

5. 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.



## Exhibit 2

### **In-Kind Projects**

#### **I. Introduction**

##### **Proposal**

a. Within 60 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable, Respondent shall submit, by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

b. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, Respondent shall submit, by certified mail, all requested additional information, clarification, and modifications within 15 days of receipts of written notice.

c. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new proposal within 30 days of receipt of written notice. In the event that the revised proposal is not approved by the Department, Respondent shall make cash payment of the civil penalties as set forth in paragraph 8 above, within 30 days of Department notice.

e. Within 120 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable

Respondent shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within 120 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable then Respondent shall make cash payment of the civil penalties as set forth in paragraph 8 above, within 30 days of Department notice.

f. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to paragraph 13 above, Respondent shall complete the entire in-kind project.

g. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

h. In the event, Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$6,750.00 penalty, no additional penalties shall be assessed under paragraph 15 for failure to complete the requirement of this paragraph.

i. Within 15 days of completing the in-kind project, Respondent shall notify the Department, by certified mail, of the project completion and request a verification letter from the Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs

incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

j. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalty shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$6,750.00, no additional penalties shall be assessed under paragraph 15 for failure to complete the requirements of this paragraph.