



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

F.21.

7/6/2021

### Subject:

Permission to authorize the Department Director to execute the attached settlement offer from the Florida Department of Environmental Protection (FDEP) Re: Department of Environmental Protection v. Sarno Road Landfill.

### Fiscal Impact:

The penalties and reimbursement for expenses total \$1,250.00.

### Dept/Office:

Solid Waste Management Department

### Requested Action:

It is requested that the Board of County Commissioners authorize the Interim Department Director to sign the settlement between the Florida Department of Environmental Protection (FDEP) and Brevard County to resolve a compliance dispute regarding odors attributed to the vegetative waste processing operations at the Sarno Road Class III Landfill.

### Summary Explanation and Background:

The Solid Waste Management Department operates a Class III landfill located at 3379 Sarno Road, Melbourne Florida. Operations at the Class III landfill include the processing of vegetative waste into mulch for use in weekly cover at the Class III landfill and transport to the Central Disposal Facility for use in daily cover at the Class I landfill. On April 15, 2021 FDEP sent the Department a letter in which they alleged their inspectors detected off-site odors for the date of March 3, 2021 that they attributed to the vegetative processing operations. On May 10, 2021 the Solid Waste Management Department submitted an odor control plan to the FDEP, describing the procedures that had been put in place to avoid offsite "objectionable odors". The FDEP agreed with the plan and issued a Short Form Consent Order on June 10, 2021.

The Florida Department of Environmental Protection found that the Department "failed to control objectional odors from traveling off site as a result of the storage of processed yard trash".

Based on the violation of the rules alleged by FDEP, they are "seeking \$1,000.00 in civil penalties and \$250.00 for cost and expenses" for a total of \$1,250.00. By accepting FDEP's offer the County:

- (1) certify that the person signing the documents is authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569

and 120.57, F.S., on the terms of this offer, once final;

- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.; and
- (4) acknowledge that payment of the above amount does not constitute a waiver of the Department's (FDEP) right, if any, to recover emergency response related costs and expenses for this matter.

Accepting this offer does not constitute an admission of liability for this violation.

### **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 7, 2021

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

**TO:** Euripides Rodriguez, Solid Waste Management Director

**RE:** Item F.21., Permission to Authorize the Department Director to Execute the Settlement Offer from the Florida Department of Environmental Protection (FDEP) for FDEP v. Sarno Road Landfill

The Board of County Commissioners, in regular session on July 6, 2021, authorized you to execute the settlement offer with FDEP to resolve a compliance dispute regarding odors attributed to the vegetative waste processing operations at the Sarno Road Class III Landfill.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

*Kimberly Powell*  
Kimberly Powell, Clerk to the Board

**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

Noah Valenstein  
Secretary

April 15, 2021

Euripides Rodriguez, Director  
Brevard County Solid Waste Management Department  
2725 Judge Fran Jamieson Way  
Viera, Florida 32940-2042  
[euripides.rodriguez@brevardcounty.us](mailto:euripides.rodriguez@brevardcounty.us)

Re: Sarno Road Landfill  
SW Facility ID #16255  
Brevard County

Dear Mr. Rodriguez:

A complaint inspection was conducted at your facility on March 3, 2021. During these inspections, 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:

- Odors were noted beyond the boundaries for the facility.

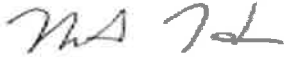
Violations of Florida Statutes or administrative rules may result in liability for damages and restoration, and the judicial imposition of civil penalties, pursuant to Sections 403.121, and 403.161, Florida Statutes.

Please contact Mary Powers, at 407-897-2921, within **5 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 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.

Sarno Road Landfill; Facility ID No.: 16255  
Warning Letter  
Page 2 of 2  
April 15, 2021

Sincerely,



*On behalf of:*

Aaron Watkins, Director  
Central District  
Florida Department of Environmental Protection

AW/ds/mp

Enclosures: Inspection Report (with attachments)

cc: Thomas Mulligan, [Thomas.Mulligan@brevardfl.gov](mailto:Thomas.Mulligan@brevardfl.gov)  
David Smicherko, FDEP  
Mary Powers, FDEP



**Florida Department of  
Environmental Protection  
Inspection Checklist**

---

**FACILITY INFORMATION:**

**Facility Name:** SARNO ROAD LANDFILL  
**On-site Inspection Start Date:** 03/03/2021  
**On-site Inspection End Date:** 03/03/2021  
**WACS No.:** 16255  
**Facility Street Address:** 3379 SARNO ROAD  
**City:** MELBOURNE  
**County Name:** BREVARD  
**Zip:** 32935

**INSPECTION PARTICIPANTS:**

(Include ALL Landfill and Department Personnel with Corresponding Titles)

Principal Inspector: Mary Powers, Inspector

Other Participants: Kenneth Higginbotham, Supervisor; Geraina Johnson, Supervisor;

**INSPECTION TYPE:**

Complaint Investigation Inspection for Landfill - Class III

Complaint Investigation Inspection for WPF - Source-Separated Organics Proc Fac (SOPF)

**Current Violations:**

**Rule:** 62-709.300(7)(a)

**Question Number:** 10.2

**Explanation:** Rule 62-709.300(7)(a) - No person shall cause or allow the discharge of air pollutants that cause objectionable odor in violation of Chapter 62-296, F.A.C.

Specifically, Sarno Road Landfill failed to operate in a manner to control objectionable odors in accordance with subsection 62-296.320(2), F.A.C. since off site odors were detected beyond the property boundary on March 3, 2021.

**Corrective Action:** Operate the facility in a manner so as to prevent objectionable odors from leaving the site.

---

**COMMENTS:**

On March 3, 2021 Mary Powers of FDEP investigated an odor complaint received by the Department. At approximately 9:30 A.M., a mulch/yard debris-type odor was detected off-site at Westwood Condominium, which lies to the east of Sarno Road Landfill Facilities. Odor was also detected on New York Avenue located east of the Sarno Road Landfill and on Wickham Road which is also located to the east of the facility. FDEP personnel met with Kenneth Higginbotham and Geraina Johnson, Supervisors at Sarno Road Landfill and Transfer Station, for an onsite inspection. No odor from the transfer station was noted as travelling off site. No odor was emanating from the Class III portion of the landfill either. DEP personnel drove to the top of the landfill cell where mulched yard debris is generally located for this site. The piles of yard debris were spaced out and sized adequately. However, an odor was detected like that of the one observed off-site. Mr. Higginbotham and Mr. Johnson stated the yard trash is removed every 30 days, and that the mulch is moved every day to not allow it to remain in static piles. They also stated at the time of the inspection that the most recent grinding operations for yard trash

**SARNO ROAD LANDFILL**

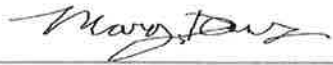
Page 2 of 2

Inspection Date: 03/03/2021

**Signed:**

Mary Powers

Inspector

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

DEP

03/22/2021

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

Kenneth Higginbotham

Supervisor

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

NO SIGNATURE REQUIRED

**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.

Geraina Johnson

Supervisor

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

NO SIGNATURE REQUIRED

**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:** David Smicherko**Inspection Approval Date:** 04/09/2021



# 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  
Interim Secretary

June 10, 2021

Sarno Road Transfer Station  
Mr. Euripides Rodriguez, Director  
3379 Sarno Road  
Melbourne, Florida, Brevard County  
[euripides.rodriguez@brevardcounty.us](mailto:euripides.rodriguez@brevardcounty.us)

SUBJECT: Department of Environmental Protection v. Sarno Road Landfill,  
OGC File No.: 21-0562  
Facility ID No. 16255

Mr. Rodriguez:

The State of Florida Department of Environmental Protection ("Department") finds that Sarno Road Landfill ("Respondent") failed to control objectionable odors from travelling off site as a result of the storage of processed yard trash, in violation of Rule 62-709.300(7)(a), Florida Administrative Code (F.A.C.). Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violation(s). These actions have since been completed. However, due to the nature of the violation(s), the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

### The Department's Offer

Based on the violations described above, the Department is seeking \$1,000 in civil penalties and \$250 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$1,250. The civil penalties are apportioned as follows: \$1,000 for violation of Rule 62-709.300(7)(a), F.A.C.

### Respondent's Acceptance

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Department at 3319 Maguire Blvd Ste 232 Orlando, Florida 32803 by May 24, 2021. The Department will



then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

By accepting this offer you, Euripides Rodriguez:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final;
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.; and
- (4) acknowledge that payment of the above amount does not constitute a waiver of the Department's right, if any, to recover emergency response related costs and expenses for this matter.

The Department acknowledges that the Respondent's acceptance of this offer does not constitute an admission of liability for the violation referenced above.

### **Respondent's Performance**

After signing and returning this document to the Department,

- (1) Respondent must pay \$1,250 in full by July 8, 2021.
- (2) 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 is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, F.S.

Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this

letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondent, whose interests will be substantially affected.

Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

Please be aware that if the Respondent declines to respond to the Department's offer, the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

If you have any questions, please contact David Smicherko at 407-897-4169 or at David.Smicherko@FloridaDEP.gov.

Sincerely,



---

Aaron Watkins  
District Director  
Central District

FOR THE RESPONDENT:

I, Euripides Rodriguez, **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: \_\_\_\_\_  
[Signature]

Date: \_\_\_\_\_

Title: \_\_\_\_\_  
[Type or Print]

---

**FOR DEPARTMENT USE ONLY**

DONE AND ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2021, 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

Attachments:      Notice of Rights

Final clerked copy furnished to:

Lea Crandall, Agency Clerk ([lea.crandall@dep.state.fl.us](mailto:lea.crandall@dep.state.fl.us))

## NOTICE OF RIGHTS

Persons who are not parties to this Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner's substantial interests will be affected by the Order;
- d) A statement of when and how the petitioner received notice of the Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency\_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at the address indicated above. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.



BOARD OF COUNTY COMMISSIONERS

**Solid Waste Management Department**

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

May 10, 2021

Florida Department of Environmental Protection  
Central District  
3319 Maguire Boulevard  
Orlando, FL 32803

Attention: Mary Powers, Environmental Specialist

**Subject: ODOR CONTROL PLAN FOR VEGETATIVE WASTE PROCESSING**  
**Brevard County Sarno Road Class III Landfill**  
**WACS ID 16255**

Dear Ms. Powers:

This letter serves to detail the plan of action that will be taken by the Brevard County Solid Waste Management Department to control offsite objectionable odors that may be associated with vegetative waste processing operations that take place on the top deck of the Sarno Road Class III Landfill. This odor control plan is a result of the March 3, 2021 inspection by FDEP during which "mulch/yard debris-type odor" was detected at both the Westwood Condominium and New York Avenue. As discussed during our enforcement teleconference on April 20, 2021, Brevard County Solid Waste Management Department (BCSWMD) requested 30 days to formulate an odor control plan prior to issuance of a Consent Order by FDEP.

Vegetative waste generated in the south portion of Brevard County is brought to the Sarno Road Landfill for processing. The current contract for vegetative waste mulching and transport is held by Consolidated Resource Recovery, Inc. (CCR). Currently, CCR conducts vegetative waste processing operations at two locations concurrently; either at Sarno Road Landfill (Sarno) and Central Disposal Facility or at the Mockingbird Way Mulching Facility (Mockingbird) and Central Disposal Facility. Currently, with processing/transport operations relocating between Sarno and Mockingbird, there are times when processed waste may remain at the Sarno site long enough to become a source of odor while processing and transport equipment has been relocated to Mockingbird. BCSWMD has formulated a plan to reduce offsite odor complaints that may be attributed to our vegetative waste processing operations at Sarno:

#### Plan A

Brevard County Solid Waste has coordinated with CCR so that either processing/transport equipment is dedicated to the Sarno vegetative waste processing operations, or that transport trucks remain servicing Sarno until all processed material has been removed from the site. This will reduce the amount of time processed vegetative waste remains at the Sarno site and should eliminate the odors associated with composting mulch.

#### Plan B

If the FDEP continues to associate offsite odors with the vegetative waste processing operations at Sarno despite the increased offsite transportation, mobile odor control devices will be utilized at the landfill in addition to the increased offsite transportation. According to wind direction and intensity, BCSWD will utilize two drum-mounted foggers to release odor neutralizing agents into the air. The fogger jet can be mounted on the bung of a typical 55-gallon poly drum filled with an odor neutralizing agent. The drums will be located on the northeast side of the landfill and will be operated while processed materials remain on site, according to wind direction. The attached figure shows the anticipated approximate location of the mobile odor control units.

#### Plan C

If the FDEP continues to associate offsite odors with the vegetative waste processing operations at Sarno despite the increased offsite transportation and use of mobile odor neutralizers, passive odor control socks will be placed along the eastern fence of the undeveloped property located northeast of the Sarno Road Landfill in addition to the previous odor control attempts. This property is owned by BCSWMD, but is not utilized for solid waste management. The attached figure shows the anticipated approximate location of the passive odor control socks.

We hope that this plan of action is satisfactory to FDEP. If you have any questions or comments, please feel free to contact me at 321-633-2042 or [thomas.mulligan@brevardfl.gov](mailto:thomas.mulligan@brevardfl.gov).

Thank you,



Thomas J. Mulligan, Assistant Department Director

Cc: Euripides Rodriguez, Director

Attachment: Approximate odor control device locations

An aerial photograph of an industrial facility, likely a wastewater treatment plant. The image shows various structures, including large rectangular tanks and buildings. Two callout boxes with leader lines point to specific areas. The first callout, labeled 'Drum-Mounted Odor Control Foggers', points to a small structure near a large circular tank. The second callout, labeled 'Passive Odor Control Socks', points to a long, narrow rectangular structure. The surrounding area includes roads, parking lots, and some vegetation.

Drum-Mounted  
Odor Control Foggers

Passive Odor  
Control Socks