

Department of Environmental Protection

Jeb Bush
Governor

Northeast District
7825 Baymeadows Way, Suite B200
Jacksonville, Florida 32256-7590

Colleen M. Castille
Secretary

October 14, 2004

The Honorable Floyd L. Vanzant, Chairman
Board of County Commissioners
Nassau County
Post Office Box 1010
Fernandina Beach, Florida 32035

COPY TO MULLIN FOR RECOMMENDATION

RECEIVED 15 APR 10 46

CLERK OF COUNTY COMMISSIONERS

Dear Chairman Vanzant:

SUBJECT: Proposed Settlement for Miner Road
OGC File No.: 04-1690

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in Warning Letter No. WL03-0611SW45NED, dated March 31, 2003, a copy of which is enclosed. The Department finds that you are in violation of the rules and statutes cited in the enclosed Warning Letter.

The Preliminary Contamination Assessment Report, prepared by Enviroengineering, Inc. for Miner Road and submitted to the Department on July 30, 2004, has been reviewed and shows that no further corrective actions are warranted at this time. **Please be aware that if additional information is discovered, additional sources are found, or additional discharges occur, the Department reserves the right to readdress this issue.**

In order to resolve the matters identified in the enclosed Warning Letters, you are assessed civil penalties in the amount of \$4,500.00, along with \$500.00 to reimburse the Department's costs, for a total of **\$5,000.00.**

The civil penalties are apportioned as follows:

- 403.121(3)(e) Florida Statute - Failure to properly maintain leachate control- **\$3,000**
- 403.121(4) (e) Florida Statute - Failure to notify Department prior to excavation - **\$1,000**
- 403.121 (5) Florida Statute - Failure to follow Department approved excavation plan - **\$500**

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, Northeast District Office, 7825 Baymeadows Way, Suite 200B, Jacksonville, Florida 32256-7590, within 60 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. The

The Honorable Floyd L. Vanzant
October 14, 2004
Page two

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 November 14, 2004, the Department will assume that you are not interested in settling this matter on the above described terms, and will proceed accordingly. None of your rights or substantial interests is determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,


Michael J. Fitzsimmons
Waste program Administrator

FOR RESPONDENT:


I, Floyd L. Vanzant on behalf of Nassau County, **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: 
Date: November 10, 2004

FOR DEPARTMENT USE ONLY

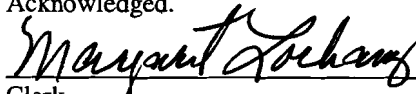
DONE AND ENTERED this 6th day of December, 2004.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


Mario L. Taylor
District Director

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

12-6-04
Date



NASSAU COUNTY
BOARD OF COUNTY COMMISSIONERS
 P.O. Box 1010
 Fernandina Beach, Florida 32035-1010

Jim B. Higginbotham
 Ansley Acree
 Tom Branan
 Floyd L. Vanzant
 Marianne Marshall

Dist. No. 1 Fernandina Beach
 Dist. No. 2 Fernandina Beach
 Dist. No. 3 Yulee
 Dist. No. 4 Hilliard
 Dist. No. 5 Callahan

J. M. "Chip" OXLEY, JR.
 Ex-Officio Clerk

MICHAEL S. MULLIN
 County Attorney

MIKE MAHANEY
 County Administrator

November 16, 2004

807
 3384

Mr. Michael J. Fitzsimmons
 Waste Program Administrator
 Florida Department of Environmental Protection
 7825 Baymeadows Way, Suite B200
 Jacksonville, FL 32245-7590

in signature
 807
 535

RE: Settlement for Miner Road
 OGC File No.: 04-1690

Dear Mr. Fitzsimmons:

Enclosed please find Nassau County's check in the amount of \$5,000.00 as and for complete settlement of the above referenced matter, along with the executed letter accepting the Department's offer to resolve this matter, as authorized by the Board of County Commissioners in the meeting of November 10, 2004.

Please return a fully executed copy of the Consent Order after the Department executes same. A self-addressed envelope has been included for your convenience.

If I can be of any further assistance, please do not hesitate to contact me.

Sincerely yours,

Dictated but not proof read by
 Mr. Mullin. - Mailed in his
 absence to avoid delay.

Michael S. Mullin
 County Attorney

MSM:jb

CC: Jose Deliz. Engineering Services Director
 Dawn Stevenson, Contract Manager

NOTICE OF RIGHTS

Persons who are not parties to this Consent Order, but whose substantial interests are affected by this Consent Order, have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, 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 named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.



Nassau County
 Board of County Commissioners
 P.O. Box 4000
 Fernandina Beach, FL 32035-4000

Wachovia Bank N.A.
 Fernandina Beach, FL 32035
 63-2/630

Check Number **101955**

Vendor No.	Check Date	Check Amount
1253	11/16/2004	5,000.00

Five Thousand Dollars and 00 cents *****
 Pay To The Order Of

FL DEPT OF ENVIRONMENTAL PROTECTION
 NORTHEAST DISTRICT OFFICE
 7825 BAYMEADOWS WAY, STE 200B
 JACKSONVILLE, FL 32256-7577

ACCOUNTS PAYABLE - VOID AFTER 60 DAYS

Floyd L. Vanzant
 _____ MP
 Authorized Signature

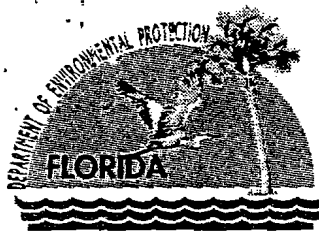
[Signature]
 _____ MP
 Authorized Signature

⑈101955⑈ ⑆063000021⑆ 2137400056376⑈

Nassau County

Board of County Commissioners

Invoice Date	Invoice Number	Invoice Description	GL Account Number	Net Invoice Amount
11/16/2004	SETTLEM-MINE	MINER ROAD SETTLEMENT OGC : 04-1690 "Ecosystems Management and Restoration Trust Fund"	01610539 549000	5,000.00
Vendor No.	Vendor Name	Check No.	Check Date	Check Amount
1253	FL DEPT OF ENVIRONMENTAL PROTE	101955	11/16/2004	5,000.00



Department of Environmental Protection

Jeb Bush
Governor

Northeast District
7825 Baymeadows Way, Suite B200
Jacksonville, Florida 32256-7590

David B. Struhs
Secretary

March 31, 2003

The Honorable Vickie Samus, Chairman
Board of County Commissioners
Nassau County
Post Office Box 1010
Fernandina Beach, Florida 32035

Dear Chairman Samus:

Warning Letter No. WL03-0611SW45NED
Miner Road
Nassau County - Solid Waste

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter.

On August 27, 2002 the department approved an excavation and disposal plan submitted by the county to remove waste discovered along Miner Road in Nassau County. After several discussions with county personnel and Golder Associates, Inc., it has been determined that the county failed to follow the excavation plan approved by the department. Since the approved plan was not followed, it appears that the county may be in violation of Chapter 403, FS, and the rules promulgated thereunder. "Failure to comply with any rule, regulation, order, permit, or certification adopted or issued by the department" is a violation of Section 403.161(1)(b), FS.

You are advised that any activity that may be contributing to violations of the above statutes and rules should cease immediately. Violations of State statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties up to \$10,000 per violation per day pursuant to Sections 403.141 and 403.161, FS. It is the department's policy to typically initiate enforcement action and seek civil penalties for the above-described violation.

The department is also very concerned about the dewatering that occurred in the excavation area. The dewatering was not approved and the department has no assurance that the water removed from the excavation pit wasn't in contact with waste, which would cause the water to become leachate. The department therefore requests that Nassau County implement the requirements of the enclosed document, "Preliminary Contamination Assessment Actions," in the area of Miner Road where the excavation and dewatering occurred. The Preliminary Contamination Assessment Plan described in the enclosed document should be submitted to the department by April 30, 2003.

"More Protection. Less Process"

Printed on recycled paper.

The Honorable Vickie Samus
March 31, 2003
Page two

PLEASE BE ADVISED that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(4), FS.

You are requested to respond, in writing, within fifteen (15) days of receipt of this Warning Letter, addressing the issues herein. The written response should include your willingness to enter into a Consent Order with the department.

Please contact Chet McGhee at the letterhead address or at the telephone number (904) 807-3384, if you have any questions regarding this matter.

Sincerely,



Michael J. Fitzsimmons
Waste Program Administrator


MN
MJF:cml

Enclosures

IMPORTANT!

Severe weather in several parts of the United States last night has caused disruptions in FedEx Express operations and affected our ability to meet delivery commitments. Consistent with the provisions of the FedEx Service Guide, the FedEx Express money-back guarantees are not in effect FOR SHIPMENTS SCHEDULED FOR DELIVERY ON TUESDAY, December 7, 2004. As always, you can track the status of your package at fedex.com.

Track Shipments

 [Quick Help](#)

Detailed Results

Tracking number	846399539983	Reference	OGC FILE 04-1690
Signed for by	A.WILKINSON	Delivered to	Receptionist/Front Desk
Ship date	Nov 16, 2004	Service type	Priority Envelope
Delivery date	Nov 17, 2004 10:11 AM		
Status	Delivered		

Date/Time	Activity	Location	Details
Nov 17, 2004	10:11 AM	Delivered	
	8:21 AM	On FedEx vehicle for delivery	JACKSONVILLE, FL
	7:31 AM	At local FedEx facility	JACKSONVILLE, FL
Nov 16, 2004	8:48 PM	At dest sort facility	JACKSONVILLE, FL
	8:10 PM	Package data transmitted to FedEx	
	6:35 PM	Left origin	JACKSONVILLE, FL
	6:11 PM	Picked up	JACKSONVILLE, FL

[Signature proof](#) [Track more shipments](#)

Email your detailed tracking results (optional)

Enter your email, submit up to three email addresses (separated by commas), add your message (optional), and click **Send email**.

From

To

Add a message to this email.

[Send email](#)