



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SEP 15 2015

Timothy F. Campbell
Clark, Campbell, Lancaster & Munson, P.A.
500 South Florida Avenue, Suite 800
Lakeland, Florida 33801

RE: Southeast Construction & Maintenance, Inc.,
EPA ID Number: FLD 984 218 404
Consent Agreement and Final Order, Docket No. RCRA-04-2015-4018(b)

Dear Mr. Campbell:

Enclosed, please find a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above-referenced matter. Please note that payment of the civil penalty is due within thirty (30) days of the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk.

Thank you for your assistance in resolving this matter. If you have any questions, please contact me at 404-562-9023, or by email at pratt.marirose@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Marirose J. Pratt".

Marirose J. Pratt
Assistant Attorney
US EPA, Region 4

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2015-4018(b)
)	
Southeastern Construction & Maintenance Inc.)	
1150 Pebbledale Road)	Proceeding Under Section 3008(a) of the
Mulberry, Florida 33860-7857)	Resource Conservation and Recovery Act,
EPA ID No.: FLD 984 218 404)	42 U.S.C. § 6928(a)
)	
Respondent)	
_____)	

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of Chapter 403 of the Florida Statutes (Fla. Stat.), Fla. Stat. § 403.702 et seq. [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939(f)] and the regulations promulgated pursuant thereto and set forth at Florida Administrative Code Annotated Rule (Fla. Admin. Code Ann. r.) 62-730 et seq. [Title 40 of the Code of Federal Regulations (40 C.F.R.) Parts 260 through 270]. This action is seeking the imposition of civil penalties pursuant to Section 3008(a) of RCRA for alleged violations of Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] and for violations of Fla. Admin. Code Ann. r. 62-730 et seq. [40 C.F.R. Parts 260 through 270].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law, and in accordance with 40 C.F.R. § 22.13(b), the parties have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent is Southeastern Construction & Maintenance, Inc. (SE Construction), a for-profit corporation incorporated under the laws of the State of Florida. Respondent is the owner and operator of a facility that fabricates and paints large steel structures. Process operations include surface coating, machining, fabricating and welding steel, sandblasting, shot blasting, and vehicle and heavy equipment repair. The facility is located 1150 Pebbledale Road, Mulberry, Florida (the Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the Florida authorized program are found at Fla. Stat. § 403.702 et seq. and Fla. Admin. Code Ann. r. 62-730.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Florida has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Section 403.721 of the Florida Statutes, Fla. Stat. § 403.721 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these requirements are found at Fla. Admin. Code Ann. r. 62 730.160 [40 C.F.R. Part 262].
12. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005(a) of RCRA, 42 U.S.C. § 6925(a)], sets forth the requirement that facilities that treat, store, or dispose of hazardous waste must have a permit or interim status. The implementing regulations for this

requirement are found at Fla. Admin. Code Ann. r. 62-730.180(1) (permitted) and Fla. Admin. Code Ann. r. 62-730.180(2) (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.4(b)].
15. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
16. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
17. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous.
18. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for methyl ethyl ketone is identified with the EPA Hazardous Waste Number D035.
19. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed “hazardous waste” if it is listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261, Subpart D].
20. Listed hazardous wastes include the F-Listed wastes identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.31(a)].
21. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
22. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “facility” includes all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.
23. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “person” includes a corporation, partnership, or association.

24. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], an “owner” is the person who owns a facility or part of a facility and an “operator” is the person responsible for the overall operation of a facility.
25. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], must determine if that waste is a hazardous waste following the methods articulated in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.11].
26. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.20(a)(1)], a generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, must prepare a Manifest on EPA Form 8700-22 according to the instructions.
27. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)], a generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month is a Small Quantity Generator (SQG) and may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status, as required by Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(1)-(5)] (hereinafter referred to as the “SQG Permit Exemption”).
28. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(2)], and is a condition of the SQG Permit Exemption, a generator is required to ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
29. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(3)], and is a condition of the SQG Permit Exemption, a generator is required to label or clearly mark each container accumulating hazardous waste with the words: “Hazardous Waste.”
30. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)], provided that the generator complies with the satellite accumulation area conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i)-(ii)] (hereinafter referred to as the “SAA Permit Exemption”).
31. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark satellite accumulation containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.

32. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.173(a)], and is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.
33. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.31], and is a condition of the SQG Permit Exemption, a generator is required to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
34. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(5)], which is a condition of the SQG Permit Exemption, a generator is required to: (i) designate at least one employee as the emergency coordinator; (ii) post next to the telephone the name and phone number of the emergency coordinator, the location of fire extinguishers and spill control material, and the phone number of the fire department (unless the facility has a direct alarm); (iii) ensure that all employees are familiar with proper waste handling and emergency procedures; and (iv) ensure that the emergency coordinator appropriately responds to any emergencies as described in the regulations.

IV. EPA ALLEGATIONS AND DETERMINATIONS

35. Respondent is a “person” as defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
36. Respondent is the “owner/operator” of a “facility,” located at 1150 Pebbledale Road, Mulberry, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
37. Respondent is a “generator” of “hazardous waste” as those terms are defined in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.2 and 261.3].
38. At the facility, Respondent fabricates and paints large metal structures.
39. As a result of its operations, Respondent generates the following hazardous waste streams: paint waste (D001/D035), spent solvents (D001/D035/F003/F005), and hazardous waste contaminated personal protection equipment (D035/F003/F005).
40. In February 2005, Respondent notified the Florida Department of Environmental Protection (FDEP) as a SQG of hazardous waste, meaning that it generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste per calendar month.
41. On February 8 and 14, 2013, FDEP conducted an unannounced compliance evaluation inspection (CEI) at Respondent’s facility (February 2013 CEI). The findings of the CEI were documented in a report, dated February 25, 2013.

42. On December 10, 2014, based on the FDEP inspection reports, and other supporting documents, the EPA sent to Respondent a Notice of Opportunity to Show Cause.
43. At the time of the February 2013 CEI, SE Construction had not conducted a proper hazardous waste determination on the following waste streams: aerosol cans with ignitable contents observed in the trash; buckets with several inches of hardened solvent-based paint; clumps of hardened paint throughout the painting areas; waste solvent paint; and spent liquid thinner.
44. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.11] by failing to make a hazardous waste determination on solid waste generated at its Facility.
45. At the time of the February 2013 CEI, SE Construction was not able to produce any hazardous waste manifests for F005 listed wastes shipped for offsite disposal, and personnel stated that spent rags and/or wipes contaminated with F005 listed paint thinner were discarded in the regular trash.
46. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.20(a)(1)] by failing to use a hazardous waste manifest for each off-site shipment of F005 contaminated rags.
47. At the time of the February 2013 CEI, SE Construction was storing hazardous waste still bottoms in a 55-gallon container that was not labeled with the accumulation start date.
48. The EPA therefore alleges that Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(4)] by not complying with the dating requirements of Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(2)].
49. At the time of the February 2013 CEI, SE Construction was storing hazardous waste still bottoms in a 55-gallon container that was not was labeled with the words "Hazardous Waste."
50. The EPA therefore alleges that Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(4)] by not complying with the labeling requirements of Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(3)].
51. At the time of the February 2013 CEI, SE Construction was storing hazardous waste still bottoms and liquid paint waste in 55-gallon containers near the still that were neither closed nor labeled with the words "Hazardous Waste" or with other words identifying their contents.
52. The EPA therefore alleges that Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit

Exemption by not complying with the labeling requirements of Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(ii)] or with the container management requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.173(a)].

53. At the time of the February 2013 CEI, FDEP observed several areas at the facility with poor housekeeping, including areas with open containers of ignitable hazardous waste and buckets of Acme Rack Coating in poor condition, at least one of which was leaking. FDEP also observed a large storage shed containing numerous cans of expired and off-speculation solvent paints that SE Construction stated were solid wastes.
54. The EPA therefore alleges that Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(4)], by not complying with the maintenance and operation requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.31].
55. At the time of the February 2013 CEI, SE Construction had not designated at least one employee as the emergency coordinator, and Facility personnel were not familiar with emergency response procedures.
56. The EPA therefore alleges that Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SQG Permit Exemption by not complying with the emergency preparedness requirements of Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(5)].

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

57. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
58. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
59. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
60. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*
61. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication

addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.

62. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
63. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
64. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
65. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
66. Each party will pay its own costs and attorneys' fees.

VI. PAYMENT OF CIVIL PENALTY

67. Respondent consents to the payment of a civil penalty in the amount of THIRTY-FIVE THOUSAND TWO HUNDRED DOLLARS (\$35,200.00), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
68. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

69. Respondent shall submit a copy of the payment to the following individuals:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

And to:

Javier Garcia, Environmental Engineer
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

70. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717. Respondent must pay the following amounts on any amount overdue:

- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to

31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).

- b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
- c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

- 71. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VII. PARTIES BOUND

- 72. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
- 73. No change in ownership, partnership, corporate or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
- 74. The undersigned representative of Respondent hereby certifies that he or she is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

- 75. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's Facility may present an imminent and substantial endangerment to human health or the environment.
- 76. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
- 77. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, transportation, release, or disposal of any hazardous constituents, hazardous substances,

hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's Facility.

IX. OTHER APPLICABLE LAWS

78. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

79. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in this proceeding:

Marirose J. Pratt
Assistant Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960.
Pratt.marirose@epa.gov
404-562-9023

80. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Timothy F. Campbell
Clark, Campbell, Lancaster & Munson, P.A.
500 South Florida Avenue, Suite 800
Lakeland, Florida 33801
tcampbell@clarkcampbell-law.com
863- 647-5337, extension 1121

XI. SEVERABILITY

- XI. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

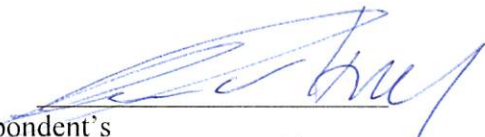
XII. EFFECTIVE DATE

XII. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

In the matter of Southeastern Construction & Maintenance Inc., Docket No.: RCRA-04-2015-4018(b)


AGREED AND CONSENTED TO:

Southeastern Construction & Maintenance Inc.

By: 
Respondent's
Signatory: Stephen V Howell
Title: Executive VP

Dated: 9/4/15

United States Environmental Protection Agency

By:  for
César A. Zapata, Chief
Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Dated: 9/14/15

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

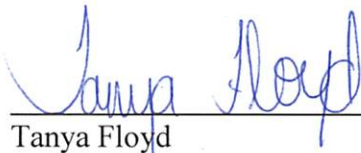
IN THE MATTER OF:) DOCKET NO.: RCRA-04-2015-4018(b)
)
Southeastern Construction &)
Maintenance Inc.)
1150 Pebbledale Road) Proceeding Under Section 3008(a) of the
Mulberry, Florida 33860-7857) Resource Conservation and Recovery Act,
EPA ID No.: FLD 984 218 404) 42 U.S.C. § 6928(a)
)
Respondent)
_____)

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 14th day of September, 2015.

BY:



Tanya Floyd
Regional Judicial Officer
EPA Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Southeast Construction & Maintenance, Inc., Docket Number: RCRA-04-2015-4018(b), and have served the parties listed below in the manner indicated:

Marirose J. Pratt
Assistant Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Javier García
Hazardous Waste Enforcement and Compliance Section
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Resource Conservation and Restoration Division
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Quantindra Smith
Environmental Protection Specialist
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Lakeland, Florida 33801
tcampbell@clarkcampbell-law.com

(Via Certified Mail-Return Receipt Requested)

Date: 9-15-15



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511