

Date

Name of Respondent

Address

**Comment [OGC1]:** If the Respondent's mailing address is different from the address where the violation(s) occurred, the location of the violation should be referenced in "SUBJECT" area that follows.

SUBJECT: Department of Environmental Protection v. Insert Name of Respondent,  
OGC File No.: #  
Include other pertinent information, e.g. Property/Parcel ID...

**Comment [OGC2]:** Include other pertinent information, such as Facility or EPA ID, the facility or property address, etc., that would be helpful to you in tracking this.

Choose Mr./Ms. ↓ Insert Name of Respondent:

The State of Florida Department of Environmental Protection ("Department") finds that Insert Respondent ("Respondent" or "you") Describe the activities that resulted in a violation(s), in violation of Choose the appropriate citation to identify what was violated ↓.

**Comment [OGC3]:** In general, you should briefly describe the nature of the violation(s) so that the SFCO can be understood regardless of whether a warning letter is attached. You do not need to identify every activity/every violation (if there are many, you can attach a warning letter).

>>>OPTION 1<<< Before sending this letter, the Department requested that you undertake certain actions to resolve the violation(s). These actions have since been completed. However, due to the nature of the violation(s), you remain subject to civil penalties. You are also responsible for costs incurred by the Department during the investigation of this matter. >>>OR<<< >>>OPTION 2<<< Although there are no actions required to correct the violation(s), you remain subject to civil penalties as a result of the violation(s). You are also responsible for costs incurred by the Department during the investigation of this matter. >>>END OPTIONS<<<

**Comment [OGC4]:** If the violation required corrective actions that have already been performed, insert only OPTION 1.

If the violation did not require corrective actions (e.g., the failure to submit notice of an event that already occurred), insert only OPTION 2.

### The Department's Offer

Based on the violations described above, the Department is seeking \$ Insert Penalty Amount in civil penalties and \$ Insert Amount of Costs/Expenses for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$ Insert Total Payment Amount Due. >>>OPTION 1<<< The civil penalties are apportioned as follows: Specify appropriate penalty breakdown with citations, e.g. \$1,500 for violation of Rule ###, F.A.C.; \$500.00 for violation of Rule ###, F.A.C.; etc.>>>OR<<<>>>OPTION 2<<< The civil penalty in this matter includes # violation(s) of \$2,000.00 or more. >>>END OPTIONS<<<

**Comment [OGC5]:** You MUST distinguish between the penalty amount and costs/expenses.

If there is more than one violation, follow this sentence with one of the following:  
A. The civil penalty in this case includes # violations that each warrant a penalty of \$2,000.00 or more.  
**OR**  
B. The civil penalties are apportioned as follows: \$ # for violation of Rule #, F.A.C.; \$ # for violation of Rule #, F.A.C.

### Respondent's Acceptance

If you wish to accept this offer and fully resolve this pending enforcement matter, please sign this letter and return it to the Department at Insert District Office and Address by Date. 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:

- (1) acknowledge and waive your right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer;
- (2) acknowledge and waive your right to an appeal pursuant to Section 120.68, F.S.;  
and
- (3) 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 your acceptance of this offer does not constitute an admission of liability for the violation(s) referenced above.

### **Respondent's Performance**

After signing and returning this document to the Department,

- (1) You must pay \$ [Insert Total Payment Amount Due](#) >>>OPTION 1<<<in full by [Date](#). >>>OR<<<>>OPTION 2<<<in # equal [Choose Frequency](#); installments of \$ [Insert Installment Amount](#). The first payment is due by [Date](#) and your final payment is due no later than [Date](#). Failure to timely make any installment payment will enable the Department, at its discretion, to accelerate the remaining balance to become immediately due. >>>END OPTIONS<<<
- (2) The payment(s) must: (a) be in the form of a [cashier's check or money order](#); (b) be payable to the "Department of Environmental Protection"; (c) include the OGC Number assigned above and the notation "Ecosystem Management and Restoration Trust Fund"; and (d) be sent to [Insert District Office and Address](#).

**Comment [OGC6]:** The payment schedule should not extend beyond one year.

**Comment [OGC7]:** Include other forms of payment when appropriate.

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 you 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 you, whose interests will be substantially affected.

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

If you have any questions, please contact [Case Manager](#) at [Insert Phone Number](#) or at [Insert Email Address](#).

Sincerely,

[Insert District Director's Name](#)

District Director

[Insert District](#)

**Comment [OGC8]:** Or other person, as delegated by your district director.

FOR THE RESPONDENT:

I, \_\_\_\_\_ [Type or Print Name], **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

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

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

**FOR DEPARTMENT USE ONLY**

DONE AND ORDERED this <#> day of [Month](#), [Year](#), in [County](#) County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

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[Insert District Director's Name](#)  
District Director  
[Insert 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  
[List the relevant Warning Letter, if attached](#)

**Comment [OGC9]:** DONE/ORDERED, Director's Signature, and CLERK signature must be on the same page.

Copies furnished to:  
Lea Crandall, Agency Clerk  
Mail Station 35

DRAFT

## 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 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.

**Comment [OGC10]:** All of this language must be included.