

Department of Environmental Protection

Jeb Bush
Governor

MAR 29 2006

Southeast District
400 N. Congress Ave. Suite 200
West Palm Beach, Florida 33401

Colleen M. Castille
Secretary

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Mr. Judd Gilbert
Petroleum Management, Inc.
4700 G Oakes Road
Davie, FL 33314

Broward County
HW- Petroleum Management, Inc.

RE: Settlement of Department of Environmental Protection v. Petroleum Management, Inc., 3650
SW 47th Avenue, Davie, FL 33314, OGC Number: 06-0091

Dear Mr. Gilbert:

Enclosed for your implementation is a copy of the fully executed and filed Consent Order in the above styled case. The compliance dates and terms of this Consent Order have been accomplished in timely manner.

Thank you for your cooperation in this matter. If you have any questions concerning this matter please contact Ms. Karen Kantor at 561/681-6720.

Sincerely,

Colleen M. Castille

Kevin R. Neal
District Director
Southeast District

KRN/PW/SB/kv

cc: Laurie DiGaetano, EPA Region IV
Al Gomez, Broward County EPD
Michael Redig, DEP Tallahassee (MS #4560)
West Palm Beach, DEP File
Lea Crandall, OGC, DEP Tallahassee (MS #35)

"More Protection, Less Process"

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Jeb Bush
Governor

FEB 14 2006

Department of Environmental Protection

Southeast District
400 N. Congress Ave. Suite 200
West Palm Beach, Florida 33401

RECEIVED
MAR 06 2006

Colleen M. Castille
Secretary
DEPT OF ENV PROTECTION
WEST PALM BEACH

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Mr. Judd Gilbert
Petroleum Management, Inc.
4700 G Oakes Road
Davie, FL 33314

Broward County
HW- Petroleum Management, Inc.

Re: Proposed Settlement in the case of the Department of Environmental Protection v.
Petroleum Management, Inc., 3650 SW 47th Avenue, Davie, FL 33314,
OGC Number: 06-0091

Dear Mr. Gilbert:

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter dated October 10, 2005, a copy of which is attached. The corrective actions required to bring your facility into compliance have been performed. The Department finds that you are in violation of the rules and statutes cited in the attached Warning Letter. In order to resolve the matters identified in the attached Warning Letter, your company is assessed civil penalties in the amount of \$1,500.00, along with \$500.00 to reimburse the Department's costs for a total of \$2,000.00. The original civil penalty in this case includes at least one violation of \$2,000.00 or more.

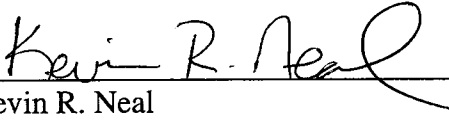
The Department acknowledges that the payment of these civil penalties by you does not constitute an admission of liability. Within 30 days of the effective date of this letter, Petroleum Management, Inc., shall make the payment to the Department. The payment must be made by cashier's check or money order payable to the Department of Environmental Protection 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, Waste Program Administrator, Southeast District, 400 North Congress Avenue, Suite 200, West Palm Beach, Florida 33401.

Your signing this letter constitutes 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. 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. The effective date of the letter is the date on which it is filed with the clerk. If you do not sign and return this letter to the Department at the District address within 20 days, the Department will assume that you are not interested in settling this matter on the above

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described terms, and will proceed accordingly. None of your rights or substantial interests are determined by this letter unless you sign it and it is filed with the Department Clerk.



Kevin R. Neal
District Director
Southeast District


JP KW KK
KRN/JP/KW/kk

I HEREBY ACCEPT THE TERMS OF THIS SETTLEMENT OFFER.

For Petroleum Management, Inc.:

For the Department:


Judd Gilbert
President


Kevin R. Neal
District Director
Southeast District

FOR DEPARTMENT USE ONLY

DONE AND ENTERED this 20 day of March, 2006 in West Palm Beach, Florida.

FILING AND ACKNOWLEDGMENT

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


Clerk

MAR 29 2006
Date

Attachment

cc: West Palm Beach DEP, File

NOTICE OF RIGHTS

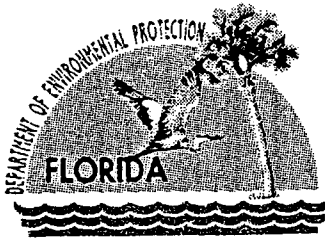
Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and 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 60Q-2.010, Florida Administrative Code.

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



Jeb Bush
Governor

Department of Environmental Protection

Southeast District
400 N. Congress Ave. Suite 200
West Palm Beach, Florida 33401

Colleen M. Castille
Secretary

OCT 10 2005

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

WARNING LETTER #WL05-0224HW06SED

Mr. Judd Gilbert
Petroleum Management, Inc.
4700 G Oakes Road
Davie, FL 33314

Broward County
HW- Petroleum Management, Inc.

Re: Hazardous Waste Compliance Evaluation Inspection at Petroleum Management, Inc.
3650 SW 47th Avenue, Davie, FL 33314, EPA ID Number: FLD980709075

Dear Mr. Gilbert:

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. A hazardous waste compliance evaluation inspection was conducted at your facility on September 8, 2005. During this inspection, possible violations of Chapter 403, Florida Statutes (F.S.), and Chapters 62-730, 62-710, and 62-737, Florida Administrative Code (F.A.C.) regarding the management of hazardous waste and used oil were noted. The observations of the Department are in the attached inspection report. Florida Statutes provide that facilities must comply with Title 40 Code of Federal Regulations (CFR) Parts 260 to 268, Part 273 and Part 279, as adopted in Chapters 62-730, 62-710, and 62-737, F.A.C.

You are advised that any activity at your facility that may be contributing to violations of the above described statutes and rules should be ceased immediately. Operation of a facility in violation of State statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties up to \$50,000 per violation per day pursuant to Section 403.727, F.S.

You are requested to contact Ms. Karen Kantor of this office at 561/681-6720 within 15 days of receipt of this Warning Letter to arrange a meeting to discuss the issues. The Department is interested in reviewing 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.

If after further investigation, the Department determines that the violations occurred, this matter may be resolved through entry of a Consent Order which will include a compliance schedule and an appropriate penalty. In accordance with the Department's January 24, 2002 "Settlement

Clean Fuels of Florida, Inc.

Page 2 of 2

Guidelines for Civil and Administrative Penalties" and the RCRA Civil Penalty Policy of June 2003, the penalty which would be proposed in this case is \$ 16,190.00 plus \$500.00 for costs and expenses.

Please be advised that this Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), F.S. The attached civil penalty worksheets are formulated and tendered only in the context of settlement negotiations in order to attempt to reach a cooperative settlement. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,

Kevin R Neal

Kevin R. Neal
District Director
Southeast District

KRN/JP/KW/kk

cc: West Palm Beach, DEP File
Mike Redig, DEP Tallahassee, MS # 4560
Laurie DiGaetano, EPA Region IV
Al Gomez, Broward County EPD

7004 2890 0000 5694 6127

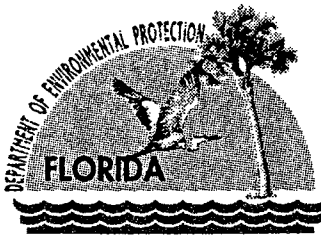
U.S. Postal Service	
CERTIFIED MAIL™ RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Sent to <i>Indel Gilbert</i>	
Street, Apt. No., or P.O. Box No. <i>4700 G Oaks Rd.</i>	
City, State, Zip+4 <i>Davie, FL 33314</i>	

PS Form 3800, June 2002 See Reverse for Instructions

OCT 10 2005
Postmark
Here

COMPLETE THIS SECTION	
1. Article Addressed to: <i>Mr. Indel Gilbert</i> <i>Petroleum Management, Inc.</i> <i>4700 G Oaks Rd.</i> <i>Davie, FL 33314</i>	A. Signature <input checked="" type="checkbox"/> Agent <i>Mark Nickerson</i> <input type="checkbox"/> Addressee
	B. Received by (Printed Name) <i>MARK NICKERSON</i> C. Date of Delivery <i>10-12-05</i>
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)	7004 2890 0000 5694 6127

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540



Jeb Bush
Governor

Department of Environmental Protection

Southeast District
400 N. Congress Ave. Suite 200
West Palm Beach, Florida 33401

Colleen M. Castille
Secretary

OCT 10 2005 HAZARDOUS WASTE INSPECTION REPORT

1. INSPECTION REPORT ___ Complaint X Routine ___ Follow-up ___ Permitting

FACILITY NAME Petroleum Management, Inc. DEP/EPA ID# FLD980709075

ADDRESS 3650 SW 47th Avenue, Davie, FL 33314

COUNTY Broward PHONE (954) 581-4455 DATE 9/8/05 TIME 8:50 am

TYPE OF FACILITY:

Generator
X Cond. Exempt S.Q.G.
___ Small Quantity
___ Generator
___ Non-Handler
X Used Oil

Storage
___ Container
___ Tank
___ Waste Pile
___ Surface Impoundment

Treatment
___ Tank
___ Land Treatment
___ Thermal
___ Chem/Phys/Bio.
___ Incinerator
___ Surface

Transporter
X Transporter
___ Transfer Station

Disposal
___ Landfill
___ Surface Impoundment
___ Waste Pile

2. Applicable Regulations:

X 40 CFR 261.5 ___ 40 CFR 262 X 40 CFR 263 ___ 40 CFR 264
___ 40 CFR 265 ___ 40 CFR 266 ___ 40 CFR 268 X 40 CFR 279

3. Responsible Official: (Name & Title)
Mr. Judd Gilbert, President

4. Survey Participants & Principal Inspector:
Petroleum Management, Inc.: Mr. Judd Gilbert, President
DEP: Karen Kantor, Michelle Matejka

5. Facility Latitude: 26° 04' 35.1355" Longitude: 80° 12' 34.7251"

6. Type of Ownership: FEDERAL STATE COUNTY MUNICIPAL PRIVATE

7. Pre-arranged Inspection: ___ Yes X No

INTRODUCTION

On September 8, 2005, a compliance evaluation inspection was conducted at Petroleum Management, Inc. (PMI), 3650 SW 47th Avenue, Davie, Florida, 33314. PMI is a permitted Used Oil Processor, permit number 54228-HO-002, expiration date October 12, 2008. The facility is situated on a one-acre site in an industrial area, and is connected to city water and served by portable toilet. PMI has been operating at this location since 1985, and has approximately 16 employees.

The site inspection and record review were hosted by Mr. Judd Gilbert, owner. Department of Environmental Protection (Department) personnel conducting the inspection were Ms. Karen Kantor and Ms. Michelle Matejka.

SITE INSPECTION

PMI is a permitted facility authorized to process used oil, oily wastewater, petroleum contact water, oily solid waste, and used oil filters. In addition to these activities, PMI is a registered hazardous waste transporter. The facility includes used oil/oily water collection and processing tanks, used oil filter and oily solid waste storage, designated areas for empty container storage, and parking for tankers, box trucks and vacuum trucks.

The property is concrete-paved, except for the unpaved and grassy areas in the eastern and southwestern portions of the site. The property is bounded by chain-link fencing and concrete block walls. A fire hydrant is located onsite at the facility entrance.

Tank Farm: Used oil and oily wastewater are received in the tank farm area located in the southeast portion of the site. The tank farm consists of three-foot high, concrete-block secondary containment wall enclosing thirteen aboveground storage tanks, one 4,700-gallon overflow tank, one 30,000-gallon boiler tank, and the various pumps and apparatus to transfer used oil and oily waters for processing. Of the thirteen aboveground storage tanks, used oil is stored in two 4,000-gallon tanks, two 10,000-gallon tanks, two 20,000-gallon tanks, and two 13,000-gallon tanks. Used oil and oily waters are stored in the remaining two 8,000-gallon tanks, two 30,000-gallon tanks, and one 20,000-gallon tank. The storage tanks were observed with proper labels and in good condition. The tanks' piping is equipped with locks and safeguards to prevent unauthorized discharges.

Adjacent to the tank farm to the west is a bermed offloading area. Tanker trucks back into this area, and their loads of used oil are transferred to designated storage tanks via a pump housed in a metal secondary containment pan. One 55 gallon drum of oily solid waste (oily gloves, soiled absorbent pads and booms generated from offloading activities) was observed next to this pump, without labeling or proper cover.

Adjacent to the south and southwest of the offload area is the boiler tank and associated filtration equipment and pumps. According to Mr. Gilbert, gravity separation and filtration are the primary processing mechanisms for used oil at PMI. The processed oil is tested for compliance with "on-specification" standards, and is then sold as a fuel oil to PMI customers. Oily waters are filtered, then transferred to the boiler tank where it is heated to 300-400° F to facilitate further oil/water separation, and then the process is shut down. After a standing period of eight hours, the separated

water is pumped to a truck for delivery to Cliff Berry, Inc., and the processed oil is diverted to a holding tank. The processed oil is tested for compliance with "on-specification" standards for market sale.

Inspectors observed puddled rainwater within the tank farm's secondary containment from a storm the previous night; no iridescent sheen or floating oil was noted.

Inspectors observed fire extinguishers (last inspected in December 2004) and spill response kits in accessible locations within the tank farm area.

Used Oil Filter and Oily Solid Waste Storage: The used oil filter and oily solid waste storage area was observed along the southern property boundary, immediately west of the tank farm's boiler tank and cooling tower. This storage area is bounded by a concrete berm. Inspectors observed several 55-gallon drums and 68-gallon bins labeled for these wastes, awaiting consolidation for ultimate disposal. According to Mr. Gilbert, used oil filters are consolidated from the generator containers (drums and bins) into a rolloff dumpster and transported to US Foundry in Medley, Florida, for processing. Oily solid wastes are consolidated into a rolloff container for disposal to the Central Broward landfill in Davie. Fire extinguishers were noted in accessible locations in this area.

Empty container storage areas: PMI stores its empty containers for redistribution to customers adjacent to the used oil filter and oily solid waste storage area, and in the north-central portion of the site adjacent to the perimeter fence. The location next to the used oil/oily solid waste storage area includes a three-walled, elevated storage pad. In both areas, inspectors observed some of these containers without lids or covers and collecting rainwater.

Storage trailer area: Located east of the north-central empty container storage area, this area houses four storage trailers and a mobile office trailer. Within and around the storage containers, inspectors observed various supplies and equipment, including industrial hoses and connects, pump parts, generators, a small forklift, spill response equipment, and a tool shop. Also observed were four empty poly drums collecting rainwater and the components to a wastewater treatment system, also with open containers/receptacles collecting rainwater. Mr. Gilbert reported the treatment system was obtained for possible future use, but that it had not been constructed or implemented to date.

East portion of the site: This area is unpaved with some patches of overgrown grass and vegetation. Approximately one-quarter of the bare area was covered with puddled rainwater from the previous night's storm. In the overgrown area adjacent to the east perimeter wall, inspectors observed: a storage trailer containing empty drums and spare tires; four empty tankers; two flat bed trucks; one tanker truck without a cab; an aboveground metal storage vault; three covered empty drums; and two open transport trailers. Mr. Gilbert explained that some of these items were to be sold to other parties, some were intended for future use and would be moved to an appropriate storage location, and the remaining items were to be properly disposed/scrapped. The tankers appeared to be in good condition and placarded.

Covered storage area: This area is located in the southwest corner of the site, and consists of roofed open storage and trailer parking. Under the covered storage area, inspectors observed parked vehicles, miscellaneous equipment, employees' portable toilet, and small transport trailers. Two large trailers and a box truck were parked in the trailer parking area. On top of one of the trailers, inspectors observed several boxes of spent Mercury-containing lamps (estimated 100 units) and a pallet of lead acid batteries (estimated 6 units); while these items were observed off the ground, they were still exposed to the weather elements. Mr. Gilbert stated that they occasionally transport universal wastes, which are picked up by AERC for recycling. He stated that the universal wastes currently onsite represent three to four month's accumulation. The ground beneath the roofed area and the trailers appeared to be unpaved; inspectors observed minor surficial oil stains on the ground in the trailer parking area.

Parking areas: Vehicle parking for employees and visitors is located along the northwest edge of the site. Eastward, this area is followed by tanker and box truck parking areas; this location is sloped toward the north boundary wall and is equipped with a sump for the removal of puddled rainwater.

RECORD REVIEW

Department personnel reviewed the following documents associated with the facility's used oil and hazardous waste transporter activities:

- Used Oil Processor/Transporter/Transfer facility registration (valid through 6/30/06)
- Contingency plan
- SPCC plan
- Rebuttal Presumption and Analysis Plan
- used oil acceptance and delivery records
- hazardous waste transporter manifests
- closure plan
- training records
- oily water and used oil filter disposal manifests

These records appeared to be in order.

Not available for inspector review was documentation of emergency response arrangements with local authorities and the required financial responsibility (certificate of insurance). Inspectors noted that the facility's Hazardous Waste Transporter approval had expired on 7/31/05.

Also, Department personnel requested a photocopy of manifest number 09780, dated 8/25/05 by the generator and PMI (as Transporter 1). This manifest was signed by Transporter 2, Freehold Cartage, on 8/31/05, indicating that the waste was held by PMI for six (6) days. Other manifests reviewed also showed periods of more than 24 hours in the transfer of hazardous waste between Transporter 1 and Transporter 2.

DEPARTMENT FINDINGS

PMI notified the Department on 10/28/04 as a used oil processor, marketer, and transporter, and as a transporter of hazardous waste. Based upon the record review and inspection, PMI appears to generate less than 100 kg of hazardous waste per month and would be classified as a Conditionally Exempt Small Quantity Generator (CESQG) of hazardous waste as defined in 40 CFR 261.5.

An exit interview was conducted during the inspection and the following areas of concern and potential violations were discussed:

1. Accumulated rainwater in empty containers must be removed and properly disposed. Rainwater accumulation in these containers must be prevented to avoid overspills or discharges.
2. One drum for the collection of oily solid waste generated in the vicinity of the tank farm pump must be properly labeled and covered. A photograph of the properly labeled and covered drum was requested.
3. Spent Mercury-containing lamps and used lead-acid batteries sitting on top of a storage trailer must be stored indoors out of the weather elements prior to removal for recycling. A legible copy of the disposal record and a photograph depicting an appropriate alternative storage location were requested.
4. Minor surface staining at the trailer parking of the covered storage area must be scraped up and properly disposed. A photograph of the restored area was requested.
5. Documentation that emergency response arrangements have been made with the local authorities must be retained. The facility was requested to provide legible copies of this documentation.

Also during the exit interview, Department personnel inquired about the six-day discrepancy in the transfer of waste from Transporter 1 (PMI) to Transporter 2 (Freehold Cartage) on manifest number 09780. Mr. Gilbert stated that Freehold Cartage comes to the PMI facility once per week to retrieve the hazardous waste for transport to the designated TSD. According to Mr. Gilbert, the hazardous waste containers are given to Freehold Cartage by truck-to-truck transfer at the PMI facility. Mr. Gilbert stated that the hazardous waste was held less than ten days, and did not leave the truck until transferred to Freehold Cartage. Department personnel informed Mr. Gilbert that PMI was not registered as a Transfer facility, and was subject to the limit of less than 24 hours storage of the hazardous waste.

On September 16, 2005, Department personnel contacted Mr. Gilbert by telephone to discuss the facility's hazardous waste activities and insurance. Mr. Gilbert was informed that, according to Department records, his Hazardous Waste Transporter certification expired when his insurance did on 7/31/05; legible copies of the renewal materials he reportedly submitted were requested. Mr. Gilbert stated his belief that he had submitted his only documentation of his emergency response arrangements with the authorities to the Department following his inspection in 2004; he was instructed to make these arrangements again if Department staff were unable to locate the documentation in the facility's file.

Department personnel contacted Mr. Gilbert on September 22, 2005, the response deadline indicated on the exit interview, for the status of his response. Mr. Gilbert was informed that the Department did not locate the documentation of his emergency response arrangements with the authorities in his facility's file. Mr. Gilbert was also informed that, to date, the Department's information management database did not include PMI as a current Hazardous Waste Transporter. Mr. Gilbert stated he had responded to the items listed on the exit interview and would submit them by September 23, 2005.

On October 6, 2005, Department personnel located copies of PMI's documentation of emergency response arrangements with the local authorities among their permit documents. As of the date of this report, the Department has not received the documentation requested in the exit interview and subsequent telephone conversations.

The facility's current registration as a used oil processor/transporter/transfer facility was verified through the Department's electronic data management system; having a current registration also indicates that the facility was operating in accordance with insurance and annual reporting requirements for used oil activities at the time of renewal. Also verified through this means was the expiration of PMI's Hazardous Waste Transporter registration on 7/31/05. According to Department records, PMI is not registered as a Small Quantity Handler/Transporter of Mercury-containing devices (MCDs).

Hazardous waste management rules may have been violated, as noted below ("Summary of Potential Violations"). The Department expects the potential violations to be corrected in an expeditious and safe manner. The Department's Enforcement Section is willing to provide assistance within the Department's capabilities, limitations, time constraints, and workload. In addition, if not already done, the Department suggests that a copy of the hazardous waste regulations (40 CFR 260-268 and 279) be obtained from local public, college, or law libraries or EPA Region IV or US Government Printing Office. Please be advised that the Department does not have copies of 40 CFR 260-268 and 279 to hand out.

SUMMARY OF POTENTIAL VIOLATIONS

FAC 62-730.170(2)(a)

Failure of a Hazardous Waste Transporter to maintain financial responsibility for sudden accidental occurrences

PMI failed to maintain financial responsibility for sudden accidental occurrences for coverage of injury to persons and for damage to property and the environment from the spillage of hazardous waste during transport.

FAC 62-730.170(3)

Failure of a Hazardous Waste Transporter to submit annual verification of insurance

PMI failed to submit the appropriate DEP Form 62-730.900(5)(a) through (c) or certificate of insurance to verify evidence of financial responsibility, updated for the current year.

FAC 62-730.171(3)

Failure to submit a Transfer Facility Notification form

PMI failed to submit DEP form 62-730.900(6), Transfer Facility Notification.

62-710.401(6)

Failure to label used oil containers

PMI failed to label one drum containing used oil and oily solid waste.

FAC 62-737.400(5)

Failure to meet the requirements and management standards for handlers and transporters of spent universal wastes

PMI failed to manage universal waste lamps and batteries in a way that prevents exposure to moisture.

CORRECTIVE ACTIONS

FAC 62-730.170(2)(a)

Failure of a Hazardous Waste Transporter to maintain financial responsibility for sudden accidental occurrences

Effective immediately, PMI should maintain financial responsibility for sudden accidental occurrences for coverage of injury to persons and for damage to property and the environment from the spillage of hazardous waste during transport.

FAC 62-730.170(3)

Failure of a Hazardous Waste Transporter to submit annual verification of insurance

Effective immediately, PMI should submit to the Department the appropriate DEP Form 62-730.900(5)(a) through (c) or certificate of insurance to verify evidence of financial responsibility, updated for the current year.

FAC 62-730.171(3)

Failure to submit a Transfer Facility Notification form

Effective immediately, PMI should submit to the Department DEP form 62-730.900(6), Transfer Facility Notification.

FAC 62-710.401(6)

Failure to label used oil containers

Effective immediately, PMI should properly label one drum containing used oil and oily solid waste.

FAC 62-737.400(5)

Failure to meet the requirements and management standards for handlers and transporters of spent universal wastes

Effective immediately, PMI should manage universal waste lamps and batteries in a way that prevents exposure to moisture.

Please be advised that the findings in this report are based on the information available to the Department to date. Future information provided to the Department may affect the applicability of the citations referenced above and any pending agency action in accordance with Section 120.57(5), F.S.

Report prepared by: Karen Kantor Date: 10/6/05
Karen Kantor
Environmental Specialist III, Hazardous Waste C&E
Florida Department of Environmental Protection
Southeast District Office

Report approved by: Kathy Winston Date: 10/6/05
Kathy Winston
Environmental Manager, Hazardous Waste C&E
Florida Department of Environmental Protection
Southeast District Office

Petroleum Management, Inc.
PENALTY JUSTIFICATION

Based upon Guidelines for Characterizing
RCRA Violations dated January 1999.

1. **Regulation:** FAC 62-730.170(2)(a)
Failure of a Hazardous Waste Transporter to maintain financial responsibility for sudden accidental occurrences

Violation: PMI failed to maintain financial responsibility for sudden accidental occurrences for coverage of injury to persons and for damage to property and the environment from the spillage of hazardous waste during transport.

Characterization of Violation:

Potential for Harm - Major

The RCRA penalty calculation in the Guidelines for Characterizing RCRA Violations indicates that the potential for harm is major.

Extent of Deviation - Major

The RCRA penalty calculation in the Guidelines for Characterizing RCRA Violations indicates that the extent of deviation is major.

Multi-day – unknown

Economic Benefit – Less than \$3,500, not included

Adjustments - N/A

2. **Regulation:** FAC 62-730.170(3)
Failure of a Hazardous Waste Transporter to submit annual verification of insurance

Violation: PMI failed to submit the appropriate DEP Form 62-730.900(5)(a) through (c) or certificate of insurance to verify evidence of financial responsibility, updated for the current year.

Characterization of Violation:

Potential for Harm - Minor

The RCRA penalty calculation in the Guidelines for Characterizing RCRA Violations indicates that the potential for harm is minor.

Extent of Deviation - Minor

The RCRA penalty calculation in the Guidelines for Characterizing RCRA Violations indicates that the extent of deviation is minor.

Multi-day – unknown

Economic Benefit – unable to calculate

Adjustments - N/A

- 3. Regulation:** FAC 62-730.171(3)
Failure to submit a Transfer Facility Notification form

Violation: PMI failed to submit DEP form 62-730.900(6), Transfer Facility Notification.

Characterization of Violation:

Potential for Harm - Moderate

The RCRA penalty calculation in the Guidelines for Characterizing RCRA Violations indicates that the potential for harm is moderate.

Extent of Deviation - Major

The RCRA penalty calculation in the Guidelines for Characterizing RCRA Violations indicates that the extent of deviation is major.

Multi-day – unknown

Economic Benefit – unable to calculate

Adjustments - N/A

- 4. Regulation:** FAC 62-710.401(6)
Failure to label used oil containers

Violation: PMI failed to label one drum containing used oil and oily solid waste.

Characterization of Violation:

Potential for Harm - Moderate

The Guidelines for Characterizing Used Oil Violations state that failure to label used oil containers presents a minor potential for harm. However, since the container was open, the potential for harm is elevated to moderate.

Extent of Deviation - Minor

The Guidelines for Characterizing Used Oil Violations indicates that a minor extent of deviation is presented when less than 165 gallons (less than three drums) of used oil/oily solid waste are open and unlabeled.

Multi-day – unknown

Economic Benefit – unable to calculate

Adjustments – \$640, which is a 40% upward adjustment for history of noncompliance

- 5. Regulation:** FAC 62-737.400(5)
Failure to meet the requirements and management standards for Handlers and Transporters of spent universal wastes

Violation: PMI failed to manage universal waste lamps and batteries in a way that prevents exposure to moisture.

Characterization of Violation:

Potential for Harm - Minor

Using the Potential for Harm Ranking System, the nature of the waste, volume of waste (<6 drums), potential discharge of the waste, and potential receptors (10-100 people) were taken into account in determining this portion of the matrix. The potential for harm was determined to be minor.

Extent of Deviation - Major

The RCRA penalty calculation in the Guidelines for Characterizing RCRA Violations indicates that if a transporter fails to meet the requirements and management standards for spent universal wastes (failure to maintain and operate a facility in order to minimize an unplanned or sudden release of hazardous waste), then the extent of deviation is major.

Multi-day – unknown

Economic Benefit – unable to calculate

Adjustments - N/A

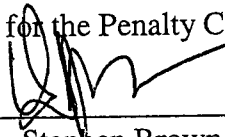
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PENALTY COMPUTATION WORKSHEET

Facility's Name: Petroleum Management, Inc.
Facility Address: 3650 SW 47th Avenue
Davie, Florida, 33314

Department Staff Responsible for the Penalty Computations:


Karen Kantor


Stephen Brown

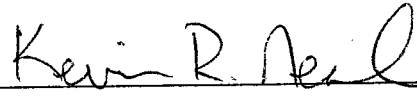

Leslie Smith

Date: 10/6/05

PART I - Class A Penalty Determinations

Alleged Violation Type	Potential for Harm	Extent of Dev.	Matrix Amount	Multi- event	Adjust- ments	Total
1. FAC 62-730.170(2)(a) Failure of Transporter to maintain financial responsibility for sudden accidental occurrences	Major	Major	\$9,000	N/A	N/A	\$9,000
2. FAC 62-730.170(3) Failure of a Transporter to submit annual verification of insurance	Minor	Minor	\$150	N/A	N/A	\$150
3. FAC 62-730.171(3) Failure to submit a Transfer Facility Notification form	Moderate	Major	\$3,900	N/A	N/A	\$3,900
4. FAC 62-710.401(6) Failure to label used oil containers	Moderate	Minor	\$1,600	N/A	\$640	\$2,240
5. FAC 62-737.400(5) Failure to meet the requirements and management standards for Handlers and Transporters of spent universal wastes	Minor	Major	\$900	N/A	N/A	\$900
Total:						\$16,190

All penalty calculations are based on the Florida Department of Environmental Protection Hazardous Waste Regulation Section's "Guidelines for Characterizing RCRA Violations" revised as of January 1999 and "Guidelines for Characterizing Used Oil Violations" revised as of 8/96. Certain violations require Potential for Harm Ranking System characterization and have been utilized where applicable. See Part II for each violation for which an adjustment or multi-day penalty is determined. The attached civil penalty worksheets are formulated and tendered only in the context of settlement negotiations in order to attempt to reach a cooperative settlement.


Kevin R. Neal
District Director
Southeast District

10/10/05
Date

Southeast District Office
Penalty Computation Worksheet

Part II - Multi-day Penalties and Adjustments

Adjustments:

Dollar Amount:

Good Faith/lack of good Faith prior to Discovery: \$ 0

Justification:

Good Faith/lack of good Faith after Discovery: \$ 0

Justification:

History of Non-Compliance: \$ 640.00

Justification: PMI had been cited during inspections on July 19, 2002, and February 9, 2004, for failure to properly label used oil and used oil filter containers as such. The current violation indicates that the company has not been adequately deterred by prior notification of the violation. Therefore, the gravity-based penalty is adjusted upward by 40% because of the company's history of noncompliance.

Economic Benefit of Non-Compliance: \$ 0

Justification: Less than \$3,500; not included

Ability to pay: \$ 0

Justification:

Multi-Day Penalties:

Dollar Amount:

Number of days adjustment factor(s) to be applied: \$ 0

Justification:

Number of days matrix amount is to be multiplied: \$ 0

Justification:

Part III-Other Adjustments Made After Meeting
With Responsible Party

ADJUSTMENTS Dollar Amount: -\$14,690

Relative merits of the case: _____

Resource considerations: _____

Other justification: Violation 1, failure of Transporter to maintain financial responsibility for sudden accidental occurrences (FAC 62-730.170(2)(a)), and Violation 2, failure of a Transporter to submit annual verification of insurance (FAC 62-730.170(3)), were rescinded since the facility had in fact met these requirements; it was determined that Tallahassee had received their insurance submittal but failed to update the facility's records and issue their certificate (reduce by \$9,150.00). Violation 3, failure to submit a Transfer Facility Notification form (FAC 62-730.171(3)), was also rescinded since the facility was able to demonstrate that their transport and storage activities were not subject to this requirement; this determination was made in accordance with the state-wide interpretation of the applicable regulations (reduce by \$3,900.00). District Staff recommends further reduction in the remaining civil penalty to \$1,500.00 in order to settle the matter and avoid the risk of litigation.

Kevin R. Neal 2/10/06
Kevin R. Neal Date
District Director
Southeast District

rev 4/93

ECONOMIC BENEFIT CALCULATION

FACILITY: Petroleum Management, Inc.

VIOLATION: FAC 62-730.170(2)(a): Failure of Transporter to maintain financial responsibility for sudden accidental occurrences

**AVOIDED
COST (AC)** \$ -

**DELAYED
COST (DC)** \$ 5,500.00 x 1 x \$ 0.17 = \$ 916.67
of Vehicles # years w/o ins.

**ECONOMIC
BENEFIT (EB)** \$ - + \$ 91.67 = \$ 91.67
AC(1-T) DC(I)
where T=38%, I=10%