



Jack Long, Director
Southeast District Office

MAY 18 2010

Florida Department of Environmental Protection

Southeast District Office
400 N. Congress Avenue, Suite 200
West Palm Beach, FL 33401
(561) 681-6600

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

RECEIVED

JUN 03 2010
DEPT of ENV PROTECTION
WEST PALM BEACH

CERTIFIED MAIL #7003 2260 0007 1983 9649

RETURN RECEIPT REQUESTED

Cliff Berry, II, President

Cliff Berry, Inc.

P.O. Box 13079

Ft. Lauderdale, FL 33316

Subject: Proposed Settlement in case of the Department of Environmental Protection vs.
Cliff Berry Inc - Miami Terminal, OGC #10-1658

Dear Mr. Berry:

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter dated April 12, 2010, 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 matter identified in the attached Warning Letter, the Department has calculated civil penalties in the amount of \$2,700.00 along with \$250.00 to reimburse the Department costs, for a total of \$2,950.00. The civil penalties are apportioned as follows: \$1,199.00 for 40 CFR 279.54(b); \$600.00 for 40 CFR 279.54(c); and \$901.00 for 40 CFR 279.52(b)(2) & (3).

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." Payments shall be sent to the Department of Environmental Protection, 400 N. Congress Ave., Ste 200, West Palm Beach, FL, 33401.

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. 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.

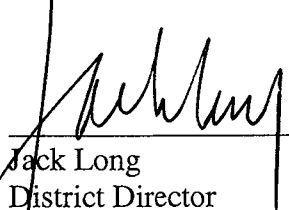
If you do not sign and return this letter to the Department at the District address within 20 days of the mailing date, the Department will assume that you are not interested in settling this matter on the above described terms, and will proceed accordingly. None of your rights or

"More Protection, Less Process"

www.dep.state.fl.us

substantial interests are determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,





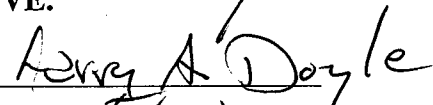
Jack Long
District Director
Southeast District

5-18-2010

Date

FOR THE RESPONDENTS:

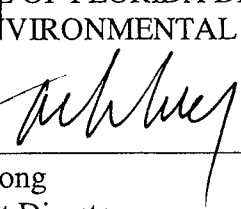
I,  on behalf of 
HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By: 
Date: 5/20/10

FOR DEPARTMENT USE ONLY

DONE AND ENTERED this 7th day of JUNE, 2010.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION




Jack Long
District Director
Southeast District

Date

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 Date JUN 10 2010

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

RECEIVED
JUN 03 2010
DEPT of ENV PROTECTION
WEST PALM BEACH

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:

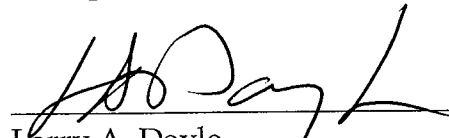
(a) The Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; (c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order; (d) A statement of when and how the petitioner received notice of the Consent Order; (e) A statement of all material facts disputed by petitioner, if any; (f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order; (g) A statement of which rules or statutes the petitioner contends require reversal or modification of the Consent 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 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.

EXHIBIT A

I, Larry A. Doyle, the Executive Vice-President of Cliff Berry, Inc., named as Respondent in the Consent Order attached herein, hereby certify and represent to the State of Florida Department of Environmental Protection that the undersigned executed the Consent Order for and on behalf of said corporation and that in so executing said instrument, the undersigned was duly authorized to do so in his named capacity as officer and by so executing does hereby bind said corporation to the terms of said instrument as therein set forth.


Larry A. Doyle
Executive Vice-President

Dated: 5/20/10

DATE:				ENFORCEMENT TRACKING	
TO:		Jack Long		INITIAL	
FROM/THROUGH:		Joe Lurix		DATE	
		Karen Kantor		580032	
				KIC	
				6/7/2010	
				6/7/2010	
PROGRAM:		Hazardous Waste			
Case Name/ No.: Cliff Berry Inc. Miami Terminal				Facility ID#: FLD058560699	
OGC# 10-1658				County: Miami-Dade	
Description of Violations:					
Case Summary:					
Penalty Summary:					
Penalty Amount:		Costs & Expenses:		Total Penalty:	
\$2,700.00		\$250.00		\$2,950.00	
Attachment(s): Short Form Consent Order for Execution.					
CHECKLIST FOR CONSENT ORDER (EXECUTION)					
Case Manager:					
STEP # 1:		Cover Letter (Director or Designee Signs)			
Contents		Consent Order (Director or Designee Signs)			
Checklist		Copy of Inspection Report and/or Checklist			
		Exhibit(s):			
		No. of Exhibits 1			
		Notice of Rights (Short Form CO only)			
		Other/Comments:			
		Record in PA/Director Log			
STEP # 2:		Send Email,			
Copying & Mailing Procedure		Cover Letter (Signed by Director or Designee)			
		Consent Fianl Judgemet: Signed (Respondent & (2) Director			
		Clerk Signs and Date Consent Order			
		Original Consent Order with Signatures			
		Remains in File (Executed by Director)			
		Copy of Consent Order to Respondent			
		Copies of Letter & Consent Order to CC's			
		Copies of Letter & Consent Order to Archboard			
		Special Instructions:			
		Record Date Mailed in PA/Director Log			
STEP # 3:		CASE FILE:			
Filing Procedures		Original Consent Order with Signatures			
		Remains in File (Executed by Director or Designee)			
		ARCHBOARD:			
		Copies of Letter & Consent Order			
		SPECIAL INSTRUCTIONS:			