Florida Department of Environmental Protection

Southeast District Office
400 N. Congress Avenue, Suite 200
West Palm Beach, FL 33401-2913
561-681-6600

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T.
Vinyard Jr.
Secretary

September 11, 2012

Cliff Berry, Sr., Director and Registered Agent
Cliff Berry, Inc
P.O. Box 13079
Ft. Lauderdale, FL 33316

Subject: Warning Letter # 12-0065HW13SED
Hazardous Waste Compliance Evaluation Inspection at Cliff Berry, Inc. - Miami Terminal, 3033 NW North River Dr., Miami, Florida 33142-6304
EPA ID #FLD058560699

Dear Mr. Berry:

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. Hazardous waste and used oil compliance evaluation inspections conducted on October 27, 2011 and November 11, 2011, respectively, at your used oil processing facility indicates that a violation of Florida Statutes and Rules may exist at the above described facility. Department of Environmental Protection personnel observed possible violations regarding hazardous waste and used oil management. The observations of the Department are in the attached inspection reports.

Section 403 Florida Statutes, provides that facilities must comply with Title 40 Code of Federal Regulations (CFR), Parts 260 to 268 and 279 as adopted in Chapter 62-730, Florida Administrative Code (F.A.C.) and Chapter 62-710, F.A.C. The activities observed during the Department's field inspection and any other activities at your facility that may be contributing to violations of the above-described statutes or rules should be ceased.

You are requested to contact Ms. Kathy Winston at the address above or 561/681-6756 within fifteen (15) days of receipt of this Warning Letter to arrange a meeting to discuss this matter. 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.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), Florida Statutes. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,

Jill S. Creech, P.E
Southeast District Director

JSC/JWL/KK/kw

Attachments: Hazardous Waste Inspection Reports dated October 27, 2011 and November 11, 2011

cc: Electronic Archboard/OCULUS
Glen Perrigan, DWM via email
Mike Halpin, Office of the Secretary, via email

Florida Department of

Environmental Protection

Hazardous Waste Inspection Report

FACILITY INFORMATION:

Facility Name: Cliff Berry Inc - Miami Terminal

On-Site Inspection Start Date: 10/27/2011 **On-Site Inspection End Date:** 10/27/2011

ME ID#: 51668 **EPA ID#:** FLD058560699

Facility Street Address: 3033 NW North River Dr, Miami, Florida 33142-6304

Contact Mailing Address: PO Box 13079, Fort Lauderdale, Florida 33316-0100

County Name: Miami-Dade **Contact Phone:** (954) 763-3390

NOTIFIED AS:

CESQG (<100 kg/month)
Transporter
Transfer Facility
Used Oil

INSPECTION TYPE:

Routine Inspection for Used Oil Processor facility

Routine Inspection for CESQG (<100 kg/month) facility

Routine Inspection for Hazardous Waste Transporter facility

Routine Inspection for Hazardous Waste Transfer Facility

Routine Inspection for Used Oil Transporter facility

Routine Inspection for Used Oil Transfer Facility

Routine Inspection for Used Oil Marketer facility

Routine Inspection for Universal Waste Transporter facility

INSPECTION PARTICIPANTS:

Principal Inspector:	Roger E. Carman, Inspector
Other Participants:	Zack Davis, Disposal Services Coordinator; Leroy Arce, Facility Manager; Leo Garciljuad, Biofuel System Operator

LATITUDE / LONGITUDE: Lat 25° 47' 47.6926" / Long 80° 14' 38.8063"

SIC CODE: 4953 - Trans. & utilities - refuse systems

TYPE OF OWNERSHIP: Private

Introduction:

On October 27, 2011, a representative of the Florida Department of Environmental Protection (FDEP), Southeast District Office(SED), conducted a routine hazardous waste and used oil inspection at Cliff Berry Inc.- Miami Terminal (CBI Miami). CBI Miami is located in an industrial area near the Miami River in Miami, Florida. CBI Miami is located on an approximately 3.39-acre parcel of land owned by Cliff Berry, Inc., and is served by City of Miami water and sewer. The facility is authorized to process used oil, oily wastewater, petroleum contact water, oily solid waste, and used oil filters under their active permits #77628-HO-004 and #77628-SO-005. The facility is also registered as a Hazardous Waste Transporter and Transfer

Facility (less than 10-day storage), and a Large Quantity Handler of Universal Waste batteries, mercury lamps and
devices, and a Small Quantity Handler of pharmaceutical waste. The Used Oil Processing permit will expire on February 12, 2013. In addition, CBI Miami is a Conditionally Exempt Small Quantity Generator (CESQG) of hazardous waste. The facility employs 20 people, and operates Monday through Friday from 6am to 9pm. The two more recent inspections conducted by the Department were on January 29, 2008, and December 10, 2009. The latter inspection resulted in CBI signing a Consent Order, filed on June 10, 2010, agreeing to pay a civil penalty in the amount of $2,700.

During the inspection, the inspector was escorted by facility personnel through the bulk offloading/pit area; the tank farm and used oil processing area; the wastewater pre-treatment plant; the facility laboratory; the container offloading and solid waste bulking area (covered dock); the nonhazardous waste and hazardous waste 10-day storage areas; the used oil filter processing building; the oily waste roll-off storage area; and the new bio-diesel manufacturing area. The inspector also observed the loading station where processed used oil is loaded into trucks. CBI Miami was represented by Mr. Zack Davis, Disposal Services Coordinator, Mr. Leroy Arce, Plant Manager, Mr. Leo Garciljuad, the bio-diesel system operator. The Department was represented by Mr. Roger Carman.

Process Description:

The two main waste streams managed at the facility are used oil and oily wastewater. The oily wastewater treated at the facility consists of bilge water from cruise ships, and wastewaters and petroleum contaminated water from facilities such as car wash facilities and fuel distribution centers.

Used Oil Processing Area
During the inspection of the used oil processing area, the inspector observed that used oil tanks #2 and #5 were not properly labeled with word "Used Oil". The tanks had been repainted and the labeling had not been restored. Five horizontal tanks for oily waters at the east end of the truck unloading area had been removed because of deterioration. All other storage tanks were reportedly in use. The inspector also observed CBI Miami personnel repairing a leak in a 6" wastewater pipe leading from the oily water processing area to the on-site wastewater discharge location. The leak had occurred just below the point where the pipe enters the ground outside the north secondary containment wall at the east side of the used oil processing area.

Oily Waste Roll-off Storage Area
During the inspection of the oily waste roll-off storage area, the inspector observed that the secondary containment curb on the south side of the area was severely damaged such that large gaps were visible between the joints of the cement blocks of the curb. The inspector also observed within the storage area numerous open-head 55-gallon drums containing oil contaminated wastes that were open, i.e., no lids installed. CBI Miami also had one 55-gallon drum labeled as containing methanol stored in this area. CBI Miami personnel determined that this methanol was usable product and removed the drum from the area during the inspection.

East Warehouse Area
During the inspection of the East Warehouse area, the inspector was told that CBI Miami had discontinued using its used oil filter crushing unit. Used oil filters are placed into a lined roll-off box and are shipped to a foundry. The antifreeze recycling unit that was located in the south portion of the East Warehouse had been removed and replaced with a new bio-diesel manufacturing system. Mr. Leo Garciljuad, the bio-diesel system operator, explained the process to the inspector. Mr. Garciljuad told the inspector that he used about 30 gasoline soaked rags per month to clean the bio-diesel equipment. Mr. Garciljuad explained to the inspector that when he is finished using the rags, he placed them into an open 55-gallon plastic drum located in the building. At the time of the inspection, the 55-gallon plastic drum in the bio-diesel area was not labeled with the words "Hazardous Waste" or with other words that identified its contents. Mr. Garciljuad further explained that at the end of the day, he would remove the rags and would place them into the compactor/roll-off unit for oily rags used to manage only nonhazardous waste. Mr. Davis told the inspector that the oily rag roll-off's waste was disposed of in Wheelabrator's landfill in south Broward County. During the inspection, Mr. Garciljuad demonstrated to the inspector the equipment cleaning process described above. CBI Miami personnel confirmed to the inspector that a hazardous waste determination had not been made for these rags prior to disposal.

Hazardous Waste Transfer Area
During the inspection of the hazardous waste transfer area (HWTA), the inspector observed that the HWTA did not appear to be segregated from nearby process chemicals used for the oily wastewater treatment plant (WWTP). Specifically, there was no observable berm or curb across the entrance to the HWTA and containers in the HWTA were not provided any other secondary containment device. Within the HWTA, the inspector observed three 55-gallon drums labeled as containing a bleach (sodium hypochlorite) solution stored with no segregation from the hazardous wastes. The inspector observed that one of the 55-gallon drums of bleach solution was open and a 5-gallon container labeled as "flammable" and "toxic" was stored directly on top of the drum. The 5-gallon container was not labeled with any hazardous waste information or label. Mr. Davis replaced the hazardous waste label at the time of the inspection. Other containers of process chemicals that were observed within the same secondary containment of the HWTA were NAT-DDBSA/EB-200 solution labeled as a corrosive (acidic) and one 55-gallon drum labeled as containing 50% hydrogen peroxide solution. The inspector also observed that there was not adequate aisle space between containers within the HWTA. The inspector also observed that access to the fire extinguisher next to the HWTA was obstructed by a plastic trash tote and that access to one fire extinguisher located inside the warehouse at the north end of the covered dock was obstructed by a mop and a 30-gallon container.

Following the facility walk-through, the inspector reviewed the facility's available used oil and hazardous

waste-related documentation. The inspector observed that CBI Miami failed to be shown as a transporter on hazardous waste manifest 008202734 JJK. CBI Miami had recorded this manifested hazardous waste shipment in its internal tracking records.

The inspector reviewed the facility's current Used Oil Processing Permit. The permit's site map showed the HWTA in a different location than that observed during the inspection. A review of Department files of information submitted by CBI Miami subsequent to the issuance of the current permit did not show that CBI Miami submitted a permit modification for the relocation of the HWTA observed during the inspection. During the inspection, the inspector observed that the original permitted HWTA was no longer used for waste storage and observed it to be storing miscellaneous equipment. In addition, the inspector noted that the permit language in Section V, Paragraph 1, described the activity allowed for the nonhazardous waste bulking area located at the north end of the covered dock. The permit language seemed to restrict the bulking in this area to only oily wastes from CERCLA sites. During the inspection, the inspector observed that CBI Miami was bulking all types of nonhazardous wastes received from various commercial and industrial facilities into the roll-off box in this area.

New Potential Violations and Areas of Concern:

Violations

Type:	Violation
Rule:	262.11
Explanation:	CBI-Miami failed to determine if the gasoline contaminated rags used for cleanup in the bio-fuel area were a hazardous waste prior to placing them in the nonhazardous rag compactor unit.
Corrective Action:	Prior to disposal, CBI-Miami must make a determination for these rags.

Type:	Violation
Rule:	263.22(a)
Explanation:	CBI-Miami was not shown as a transporter on manifest# 008202734 JJK when it was received at their hazardous waste transfer facility on 09-16-2011 and subsequently shipped out on 09-22-2011.
Corrective Action:	CBI-Miami must notify the generator, each transporter, and the designated facility of the error and provide documentation showing the date they received the waste at their transfer facility.

Type:	Violation
Rule:	265.176
Explanation:	Ignitable hazardous wastes in the hazardous waste transfer area were stored <50 feet from the facility's property line.
Corrective Action:	Determine a distance >50 feet to store ignitable and reactive wastes in the hazardous waste transfer area.

Type:	Violation
Rule:	265.177(c)
Explanation:	Hazardous wastes stored in the hazardous waste transfer area were not segregated from incompatible hazardous wastes or incompatible materials by means of a dike, berm, wall or other device.
Corrective Action:	Provide segregation of incompatible wastes and other incompatible materials stored nearby.

Type:	Violation
Rule:	265.35
Question Number:	1.520
Question:	Is there sufficient aisle space to allow unobstructed movement of personnel and equipment? (e.g., adequate aisle space in between barrels to check for leakage, corrosion and proper labeling, etc.)
Explanation:	The inspector observed that there was inadequate aisle space between containers stored in the hazardous waste transfer area.
Corrective Action:	CBI-Miami needed to remove and rearrange containers stored in this area. During the inspection personnel began removing containers of biomedical waste from this area.

Type:	Violation
Rule:	279.54(f)
Question Number:	28.190
Question:	Are ASTs, UST tank fill lines and containers labeled "used oil"?
Explanation:	During the inspection of the used oil processing area, the inspector observed that used oil tanks #2 and #5 were not properly labeled with word "Used Oil". The tanks had been repainted and the labeling had not been restored.
Corrective Action:	Label each above-ground used oil storage tank with the words "Used Oil".

Type:	Violation
Rule:	62-710.800(2)
Explanation:	The inspector observed that the secondary containment curb on the south side of the oily waste storage area was severely damaged such that large gaps were visible between the joints of the cement blocks of the curb. Part I - General and Standard Conditions, Paragraph 25, of the Used Oil and Material Processing Facility permit requires that the permittee shall maintain and operate the facility to minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden release of used oil, sludges, residues or constituents to air, soil, or surface water which could threaten human health or the environment, in accordance with 40 CFR 279.52 and Rule 62-710.800(1), F.A.C.
Corrective Action:	CBI-Miami must repair and maintain the secondary containment for the oily waste storage area.

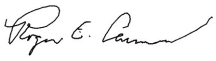
Conclusion:

CBI Miami appeared to be out of compliance with its used oil permit and the hazardous waste and used oil rules and regulations. The process chemicals may be incompatible with various hazardous wastes stored in the HWTA as identified in Appendix V to 40 CFR 265. For example, flammable wastes should not be stored with peroxides or hypochlorites.

Signed:

A hazardous waste compliance inspection was conducted on this date, to determine your facility's compliance with applicable portions of Chapters 403 & 376, F.S., and Chapters 62-710, 62-730, 62-737, & 62 -740 Florida Administrative Code (F.A.C.). Portions of the United States Environmental Protection Agency's Title 40 Code of Federal Regulations (C.F.R.) 260 - 279 have been adopted by reference in the state rules under Chapters 62-730 and 62-710, F.A.C. The above noted potential items of non-compliance were identified by the inspector(s).

This is not a formal enforcement action and may not be a complete listing of all items of non-compliance discovered during the inspection.

Roger E. Carman	Inspector	
PRINCIPAL INSPECTOR NAME	**PRINCIPAL INSPECTOR TITLE**	
	FDEP	12/8/2011
PRINCIPAL INSPECTOR SIGNATURE	**ORGANIZATION**	**DATE**

Supervisor: **Karen Kantor**

NOTE: By signing this document, the Site Representative only acknowledges receipt of this Inspection Report and is not admitting to the accuracy of any of the items identified by the Department as "Potential Violations" or areas of concern.

Florida Department of

Environmental Protection

Hazardous Waste Inspection Report

FACILITY INFORMATION:

Facility Name: Cliff Berry Inc - Miami Terminal

On-Site Inspection Start Date: 11/07/2011 **On-Site Inspection End Date:** 11/07/2011

ME ID#: 51668 **EPA ID#:** FLD058560699

Facility Street Address: 3033 NW North River Dr, Miami, Florida 33142-6304

Contact Mailing Address: PO Box 13079, Fort Lauderdale, Florida 33316-0100

County Name: Miami-Dade **Contact Phone:** (954) 763-3390

NOTIFIED AS:

CESQG (<100 kg/month)
Transporter
Transfer Facility
Used Oil

INSPECTION TYPE:

Follow-Up Inspection for Hazardous Waste Transfer Facility

INSPECTION PARTICIPANTS:

Principal Inspector: Roger E. Carman, Inspector

Other Participants: Zach Davis, Disposal Services Coordinator; Leo Garciljuad, Biodiesel System Operator

LATITUDE / LONGITUDE: Lat 25° 47' 47.6926" / Long 80° 14' 38.8063"

SIC CODE: 4953 - Trans. & utilities - refuse systems

TYPE OF OWNERSHIP: Private

Introduction:

The inspector conducted a follow up inspection on November 11, 2011, to confirm the location of the current HWTA. Mr. Davis accompanied the inspector during this portion of the follow up inspection. The inspector also obtained addition information about the bio-diesel manufacturing process. Mr. Garciljuad accompanied the inspector and provided additional information about the bio-diesel process.

Process Description:

The location of the current HWTA was determined to be located southwest of the actual permitted (2008) HWTA as shown on the attached site map - Attachment 1. The current HWTA consisted of fenced bay approximately X' and its back wall was the facility's south exterior wall. The east side of the HWTA was an interior wall of the warehouse and the west side was contiguous with the non-hazardous waste storage and was separated by a drive-over curb and fencing. The front of the HWTA was gated, but not provided with a berm or curb. The oily wastewater treatment plant (WWTP) and the nonhazardous waste storage areas in this warehouse were provided with curbs and thus were segregated from the HWTA. However, the HWTA did not appear to be segregated from the WWTP's bulk treatment chemical containers stored both east and north within the common secondary containment of the warehouse. The inspector roughly measured that the back wall of the HWTA was approximately 30 feet north of the north curb of NW North River Drive. The facility's actual property line was not determined by the inspector. Containers labeled with hazardous waste labels and flammable DOT labels were observed near the back wall of the HWTA.

CBI Miami uses the base-catalyzed methanol process to process used vegetable oils into bio-diesel fuel. Sodium hydroxide is used as the base. At the time of the follow up inspection, CBI Miami had

approximately 70,000 gallons of used vegetable oil stored on-site in two frac tanks, one tanker trailer, and numerous 55-gallon drums. Water removed from the vegetable oil is processed through CBI Miami's WWTP. Glycerin from the process is being accumulated on-site in a plastic tote. No hazardous waste determination had been made for the glycerin because Mr. Garciljuad believed the glycerin was a usable material that could be sold as a product. The bio-diesel fuel is mixed with the facility's on-site diesel fuel supply.

Pre-existing Potential Violations and Areas of Concern:

Violations

Type:	Violation
Rule:	262.11
Explanation:	CBI-Miami failed to determine if the gasoline contaminated rags used for cleanup in the bio-fuel area were a hazardous waste prior to placing them in the nonhazardous rag compactor unit.
Corrective Action:	Prior to disposal, CBI-Miami must make a determination for these rags.

Type:	Violation
Rule:	263.22(a)
Explanation:	CBI-Miami was not shown as a transporter on manifest# 008202734 JJK when it was received at their hazardous waste transfer facility on 09-16-2011 and subsequently shipped out on 09-22-2011.
Corrective Action:	CBI-Miami must notify the generator, each transporter, and the designated facility of the error and provide documentation showing the date they received the waste at their transfer facility.

Type:	Violation
Rule:	265.176
Explanation:	Ignitable hazardous wastes in the hazardous waste transfer area were stored <50 feet from the facility's property line.
Corrective Action:	Determine a distance >50 feet to store ignitable and reactive wastes in the hazardous waste transfer area.

Type:	Violation
Rule:	265.177(c)
Explanation:	Hazardous wastes stored in the hazardous waste transfer area were not segregated from incompatible hazardous wastes or incompatible materials by means of a dike, berm, wall or other device.
Corrective Action:	Provide segregation of incompatible wastes and other incompatible materials stored nearby.

Type:	Violation

Rule:	265.35
Question Number:	1.520
Question:	Is there sufficient aisle space to allow unobstructed movement of personnel and equipment? (e.g., adequate aisle space in between barrels to check for leakage, corrosion and proper labeling, etc.)
Explanation:	The inspector observed that there was inadequate aisle space between containers stored in the hazardous waste transfer area.
Corrective Action:	CBI-Miami needed to remove and rearrange containers stored in this area. During the inspection personnel began removing containers of biomedical waste from this area.

Type:	Violation
Rule:	279.54(f)
Question Number:	28.190
Question:	Are ASTs, UST tank fill lines and containers labeled "used oil"?
Explanation:	During the inspection of the used oil processing area, the inspector observed that used oil tanks #2 and #5 were not properly labeled with word "Used Oil". The tanks had been repainted and the labeling had not been restored.
Corrective Action:	Label each above-ground used oil storage tank with the words "Used Oil".

Type:	Violation
Rule:	62-710.800(2)
Explanation:	The inspector observed that the secondary containment curb on the south side of the oily waste storage area was severely damaged such that large gaps were visible between the joints of the cement blocks of the curb. Part I - General and Standard Conditions, Paragraph 25, of the Used Oil and Material Processing Facility permit requires that the permittee shall maintain and operate the facility to minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden release of used oil, sludges, residues or constituents to air, soil, or surface water which could threaten human health or the environment, in accordance with 40 CFR 279.52 and Rule 62-710.800(1), F.A.C.
Corrective Action:	CBI-Miami must repair and maintain the secondary containment for the oily waste storage area.

Conclusion:

Based on the initial and follow up inspections, it appeared that at least the back part of the relocated HWTA was less than 50 feet from the facility's property line and ignitable hazardous wastes were observed stored in the HWTA near the back wall. It also appeared that the HWTA shared a common secondary containment with bulk chemicals used for the WWTP, and therefore, incompatible mixing of hazardous wastes and other materials could occur.

Signed:

A hazardous waste compliance inspection was conducted on this date, to determine your facility's compliance with applicable portions of Chapters 403 & 376, F.S., and Chapters 62-710, 62-730, 62-737, & 62 -740 Florida Administrative Code (F.A.C.). Portions of the United States Environmental Protection Agency's Title 40 Code of Federal Regulations (C.F.R.) 260 - 279 have been adopted by reference in the state rules under Chapters 62-730 and 62-710, F.A.C. The above noted potential items of non-compliance were identified by the inspector(s).

This is not a formal enforcement action and may not be a complete listing of all items of non-compliance discovered during the inspection.

Roger E. Carman	Inspector	
PRINCIPAL INSPECTOR NAME	**PRINCIPAL INSPECTOR TITLE**	
	FDEP	1/5/2012
PRINCIPAL INSPECTOR SIGNATURE	**ORGANIZATION**	**DATE**

Supervisor: **Karen Kantor**

NOTE: By signing this document, the Site Representative only acknowledges receipt of this Inspection Report and is not admitting to the accuracy of any of the items identified by the Department as "Potential Violations" or areas of concern.