



**FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

SOUTHEAST DISTRICT OFFICE  
3301 GUN CLUB ROAD, MSC 7210-1  
WEST PALM BEACH, FL 33406  
561-681-6600

RICK SCOTT  
GOVERNOR

CARLOS LOPEZ-CANTERA  
LT. GOVERNOR

JONATHAN P. STEVERSON  
SECRETARY

April 1, 2015

VIA ELECTRONIC MAIL: [hjasphalt@bellsouth.net](mailto:hjasphalt@bellsouth.net)

Humberto Lorenzo, Jr., President  
H & J Asphalt, Inc.  
4310 NW 35<sup>th</sup> Ave.  
Miami, Florida 33142-4323

SUBJECT: Department of Environmental Protection v. H & J Asphalt, Inc.,  
OGC File No.: # 15-0169, EPA ID No. FLD984205765

Mr. Humberto Lorenzo:

The State of Florida Department of Environmental Protection (“Department”) finds that H & J Asphalt, Inc. (“Respondent”) was in violation of the standards for a used oil burner per 40 CFR Part 279, Subpart G. Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violations. These actions have since been completed. However, due to the nature of the violations, the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

**The Department’s Offer**

Based on the violations described above, the Department is seeking \$ 3,800.00 in civil penalties and \$500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$ 4,300.00. The civil penalty in this matter includes 2 violations of \$2,000.00 or more.

**Respondent’s Acceptance**

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Florida Department of Environmental Protection – Southeast District at 3301 Gun Club Rd., MSC 7210-1, West Palm Beach, Florida 33406 by **April 8, 2015**. 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, Mr. Humberto Lorenzo:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final;
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.; and
- (4) 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 the Respondent's 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) Respondent must pay \$4,300 in 2 equal monthly installments of \$2,150. The first payment is due by **May 13, 2015** and your final payment is due no later than **June 17, 2015**. Failure to timely make any installment payment will enable the Department, at its discretion, to accelerate the remaining balance to become immediately due.
- (2) Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Ecosystem Management and Restoration Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order is final and effective filed with the Clerk of the Department before ability to make online payment is available.


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 the Respondent 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 the Respondent, whose interests will be substantially affected. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

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

If you have any questions, please contact Kathy Winston at 561-681-6756 or at [Kathy.Winston@dep.state.fl.us](mailto:Kathy.Winston@dep.state.fl.us).

Sincerely,

  
\_\_\_\_\_  
Jill S. Creech, P.E.  
Southeast 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]

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**FOR DEPARTMENT USE ONLY**

DONE AND ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2015, in Palm Beach County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

\_\_\_\_\_  
Jill S. Creech, P.E.  
Southeast District Director

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  
Copy of Warning Letter dated February 20, 2015

Final clerked copy furnished to:  
Lea Crandall, Agency Clerk ([lea.crandall@dep.state.fl.us](mailto:lea.crandall@dep.state.fl.us))

### 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.



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RICK SCOTT  
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LT. GOVERNOR

JONATHAN P. STEVERSON  
SECRETARY

February 20, 2015

VIA ELECTRONIC MAIL: [hjasph@bellsouth.net](mailto:hjasph@bellsouth.net)

Humberto Lorenzo, Registered Agent  
H & J Asphalt, Inc.  
4310 NW 35<sup>th</sup> Ave. Miami, FL 33142-4323

Humberto Lorenzo, Jr., President  
7840 SW 89<sup>th</sup> Ave.  
Miami, FL 33173

Re: Warning Letter #WL15-0009HW13SED  
H & J Asphalt, Inc.  
4310 NW 35<sup>th</sup> Ave.  
Miami, FL 33142-4323  
EPA ID # FLD984205765  
Miami-Dade County

Dear Mr. Lorenzo:

A hazardous waste and used oil compliance inspection was conducted at your facility on July 28, 2014 under the authority of Section 403.091, Florida Statutes (F.S.). During this inspection, possible violations of Chapter 403, F.S. and Chapter 62-710, Florida Administrative Code (F.A.C.) were observed.

During the inspection on July 28, 2014, Kathy Winston, a Department inspector, notified Mr. Jorge Lorenzo that potential violations existed at the facility and Mr. Jorge Lorenzo was encouraged to take corrective action within 30 days. In addition, the inspector was in contact with you following the inspection via telephone and email for updates on the status of the requested corrective actions. The potential violations included, but are not limited to:

- Failure to properly label used oil containers; failure to ensure that used oil is not a hazardous waste under the rebuttable presumption; failure to maintain adequate used oil acceptance records; failure to provide adequate secondary containment for used oil; and failure to annually register their used oil activities as a burner of off-specification used oil.

Violations of Florida Statutes or administrative rules may result in liability for damages and restoration, and the judicial imposition of civil penalties, pursuant to Sections 403.141, 403.161, and 403.727, Florida Statutes.

Please contact Kathy Winston, at (561) 681-6756, within **15 days** of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in receiving 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 resolving this matter.

Sincerely,



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Jill S. Creech, P.E.  
Southeast District Director  
Florida Department of Environmental Protection



JSC/JS/KK/kw

Attachments: Hazardous Waste Inspection Report dated July 28, 2014

ec: Electronic Archboard/OCULUS  
Glen Perrigan, DWM via email [Glen.Perrigan@dep.state.fl.us](mailto:Glen.Perrigan@dep.state.fl.us)  
Karl Markeset, Miami-Dade County via email [markek@miamidade.gov](mailto:markek@miamidade.gov)



Florida Department of  
Environmental Protection  
Hazardous Waste Inspection Report

**FACILITY INFORMATION:**

**Facility Name:** H & J Asphalt Inc

**On-Site Inspection Start Date:** 07/28/2014

**On-Site Inspection End Date:** 07/28/2014

**ME ID#:** 7334

**EPA ID#:** FLD984205765

**Facility Street Address:** 4310 NW 35th Ave, Miami, Florida 33142-4323

**Contact Mailing Address:** 4310 NW 35th Avenue, Miami, Florida 33142

**County Name:** Miami-Dade

**Contact Phone:** (305) 634-3342

**NOTIFIED AS:**

Non-Handler

**INSPECTION TYPE:**

Routine Inspection for Used Oil facility

Routine Inspection for Used Oil Generator facility

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

**INSPECTION PARTICIPANTS:**

Principal Inspector: Kathy R. Winston, Inspector

Other Participants: Jorge Lorenzo, Vice President; Norva Blandin, Environmental Specialist

**LATITUDE / LONGITUDE:** Lat 25° 48' 54.1" / Long 80° 15' 10.1"

**SIC CODE:**

**TYPE OF OWNERSHIP:** Private

**Introduction:**

H & J Asphalt Inc. (H & J) is an asphalt batch plant that also provides these services: resurfacing and overlays, asphalt sealcoating and parking lot maintenance. The facility has been located at this site for approximately 25 years and is connected to city water and sewer. The facility employs 50 people and has a fleet of ten commercial trucks for various uses and six pick-up trucks.

The facility was never visited by the Department's hazardous waste program before this inspection. This inspection stemmed from an investigation the Department was performing on an illegal used oil transporter; who was bringing their used oil to H & J. The facility appeared to be a burner of off-spec used oil; however, they have not been legally registered with the State since July of 1995. The facility is preparing to switch to burning natural gas in the near future and all the lines and transfer equipment necessary are already in place.

Before beginning a site tour, the inspectors spent some time looking at old documents the facility provided; as they were trying to see, what, if any, Department permits the facility held. It was established that the facility had permits through Miami-Dade RER for the NPDES program, Storage Tanks and Air. These are all programs that the Department has delegated to Miami-Dade RER. The inspectors also found an old document which indicated that the facility did have an EPA ID number assigned to it in the past.

**Process Description:**

Per the facility representative, it was indicated that the entire property was paved, which was not evident to the inspectors. It appeared to the inspectors that the ground was covered with sand and gravel; however, by kicking away at some of the ground cover the inspectors verified the facility's claim. This was an important fact because the inspectors noted more than a few areas where

Inspection Date: 07/28/2014

actually used oil or used oil staining was evident on the ground. There were also areas where buckets containing small amounts of used oil were open to the elements or where buckets had been placed to capture leaks from equipment and hoses, which were filled to the top and running over onto the ground.

There were small areas of staining throughout the yard. The inspectors observed at least three five gallon buckets with small amounts of used oil open to the elements underneath a large piece of equipment resembling a baghouse. There was a piece of equipment that appeared to be some kind of heater and pump system with an indicator panel on one side directly across from the operator's shed. There were numerous puddles of used oil underneath it and it appeared to have been leaking for some time. On the north side of the secondary containment, for the facility's 5000 gallon used oil tank were two five gallon buckets, one of which had the top half of it cut off. Both of these buckets were overflowing onto the ground. This was the transfer area, where the trucks that came in with used oil would unload. Housekeeping was a major issue in this area.

The secondary containment for the 5000 gallon used oil tank was one third full with not just used oil but also saturated oil dry. The tank was labeled; however, the letters were barely visible. The inspectors provided a stencil and the tank was relabeled during the inspection. It was suggested that the facility get some larger lettering for that tank, as the stencil was small for a tank that size. Sitting behind and to the south of that containment, was a separate smaller containment area for the facility's diesel and gasoline tanks. This containment appeared to have product in it that needed to be addressed, as well. This entire containment area was under cover and it appeared that very little of the liquid in these containments was rainwater.

A separate area that the inspectors took note of was at the rear of the facility and to the east of the operator's shed. There were gates here, which allowed trucks to enter and exit the facility. Another interesting piece of equipment in this area appeared to have something to do with transferring the final product. Next to this apparatus were three five gallon buckets which appeared to have some asphalt in them and then had collected rainwater to the point that they were filled to capacity. Also, noted in this area was a stormdrain. Facility representatives indicated that the drainage from the site was sloped to flow to this point. They also indicated that there was some sort of filter in the stormdrain itself, which only allowed rainwater to pass through.

The next area the inspectors examined was the facility's maintenance shed, which was basically a three sided building with a roof. The facility did both minor and some major repairs of their equipment and trucks. Sitting on the ground inside the shed was what appeared to be a transmission. There was considerable staining on the concrete where the transmission was located. The shop had a thirty gallon parts washer that contained diesel fuel.

In the most northern section of the yard, was a concrete vault with a metal hatch on top. The facility representatives indicated there was a 300 gallon used oil tank inside the vault. There was no labeling on the vault. This was located here because nearby was a ramp which one could drive trucks up onto for performing oil changes. Also, on this end of the yard, and facing NW 46th St., was the facility's office building.

## **New Potential Violations and Areas of Concern:**

### **Violations**

Type:	Violation
Rule:	279.22(c)(1)
Question Number:	5.40
Question:	Are containers/tanks storing used oil marked with the words "Used Oil"?
Explanation:	The facility had two used oil tanks that were not properly labeled.



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Corrective Action: The larger of the two tanks was labeled while the inspectors were still on site; however, it was an 5,000 gallon tank and the inspectors suggested the facility obtain some larger lettering for this tank. The other tank is set inside a concrete containment which has a metal top with a hatch in it; therefore, the facility will have to label the containment to make the labeling visible; please use the stencil the inspector provided for labeling this tank. Please send the Department photos documenting compliance.

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Type: Violation

Rule: 279.63(b)

Explanation: The facility was accepting used oil without establishing the halogen content of that used oil.

Corrective Action: Please purchase a halogen detection meter and provide the Department with pictures of the meter and receipts for the purchases.

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Type: Violation

Rule: 279.65(a)

Explanation: At the time of the inspection, the facility could not provide records for the used oil it was accepting for burning. This information should include name and address of transporter, name of generator or processor where used oil originated, the EPA ID of the transporter, the EPA ID number of the processor or generator (if they have one), the quantity of the used oil accepted and the date of acceptance.

Corrective Action: Please provide the Department with whatever records the facility has pertaining to the used oil that has been accepted in the last three years. Also, begin keeping a log of all used oil accepted at the facility including all the abovementioned information.

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Type: Violation

Rule: 62-710.401(6)

Question Number: 5.80

Question: Either double-walled or stored on an oil-impermeable surface with engineered secondary containment that has the capacity to hold 110% of the volume of the largest container within the secondary containment

Explanation: The facility's secondary containment for the 5,000 gallon used oil tank onsite is about 1/3 full of used oil and oil dry. Therefore; it is not meeting the requirement of secondary containment that would hold 110% of the volume of the largest container.

Corrective Action: Please have the secondary containment for the large used oil tank (5,000 gal.) pumped out so that leak detection is possible and also, so the containment meets the 110% requirement. Please provide the Department with the receipts (BOLs or a manifest) provided by the company that pumps out and transports the used oil offsite.

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Type: Violation

Inspection Date: 07/28/2014

Rule: 62-710.500

Explanation: The facility has not been registered to burn off spec fuel since 1995.

Corrective Action: Submit to the Department form 8700-12FL notifying of your used oil burning activities.

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**Areas of Concern**

Type: Area Of Concern

Rule: 279.22(d)

Question Number: 5.170

Question: If so, did the facility stop the release, contain the oil, clean up the release and manage the contaminated material properly and repair or replace the leaking units prior to returning them to service?

Explanation: There were several areas around the facility where used oil had impacted the ground or where containers appeared to have overflowed. However; the owner states that the entire facility is paved and that what the inspector observed is only impacted sand that has accumulated over time on top of the pavement.

Corrective Action: Please address all areas where used oil has impacted the ground. Please get rid of any open collection containers put under equipment to collect leaks that appear to have overflowed. Also, please attempted to address areas where equipment is leaking and/or established daily facility wide inspections, where these containers are emptied to avoid similar issues.

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**Conclusion:**

Before leaving the site, the inspectors spoke with the vice president of the company and explained their obligations as a used oil burners and a generators of used oil. It was also brought to his attention that because of the facility's storage capacity for petroleum products, they would need to have a Spill Prevention and Countermeasure Control (SPCC) Plan. The inspector indicated that when she returned to the office information concerning all of these requested items would be emailed to the facility. The facility was given 30 days to complete all requested items except the SPCC Plan.

Inspection Date: 07/28/2014

**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.

Kathy R. Winston \_\_\_\_\_

**PRINCIPAL INSPECTOR NAME**

Inspector \_\_\_\_\_

**PRINCIPAL INSPECTOR TITLE**



\_\_\_\_\_  
**PRINCIPAL INSPECTOR SIGNATURE**

10/6/2014 \_\_\_\_\_

**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.