



# 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

May 11, 2016

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

H & J Asphalt, Inc.  
Humberto Lorenzo, Jr., President  
4310 NW 35th Ave.  
Miami, FL 33142-4323

SUBJECT: Department of Environmental Protection v. H & J Asphalt, Inc.  
OGC File No.: 16-0284  
EPA ID No.: FLD984205765

Mr. Lorenzo:

The State of Florida Department of Environmental Protection ("Department") finds that H & J Asphalt, Inc. ("Respondent") violated used oil management standards, in violation of Section 403.121, Florida Statutes. 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 \$734.00 in civil penalties and \$500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$1,234.00. The civil penalties are apportioned as follows: \$734.00 for violations of Rule 62-710, F.A.C.

### **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 Department via electronic mail, or by mail to the FDEP Southeast District Office, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406 by **May 23, 2016**. 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, Humberto Lorenzo, Jr.:

- (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 \$1,234.00 in 2 equal monthly installments of \$617. The first payment is due by **July 1, 2016** and your final payment is due no later than **August 1, 2016**. Failure to timely make any installment payment will enable the Department, at its direction, 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 "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldeportal.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.

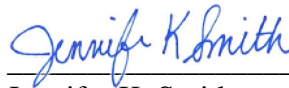
Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order 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 Juchan Choi at 561-681-6632 or at [Juchan.Choi@dep.state.fl.us](mailto:Juchan.Choi@dep.state.fl.us).

Sincerely,



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Jennifer K. Smith  
District Director  
Southeast District

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 \_\_\_\_\_, 2016, in Palm Beach County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

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Jennifer K. Smith  
District Director  
Southeast District

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

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Clerk

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Date

Attachments:            Notice of Rights  
                                Copy of Warning Letter dated April 25, 2016

Final clerked copy furnished to:

Lea Crandall, Agency Clerk ([lea.crandall@dep.state.fl.us](mailto:lea.crandall@dep.state.fl.us))

**OCULUS PROFILE:**

Hazardous Waste/Enforcement\_Legal/Consent Order/Proposed Short Form Consent Order OGC No. 16-0284

**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.



# Florida Department of Environmental Protection

Southeast District Office  
3301 Gun Club Road, MSC 7210-1  
West Palm Beach, Florida 33406  
561-681-6600

Rick Scott  
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Carlos Lopez-Cantera  
Lt. Governor

Jonathan P. Steverson  
Secretary

April 25, 2016

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

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

Re: Warning Letter # WL16-00011HW13SED  
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 December 16, 2015, 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 December 16, 2015, Jay Choi and Kathy Winston, Department inspectors, notified facility representative Mr. Marvin Mondragon, Plant Manager, that potential violations existed at the facility, and Mr. Mondragon was encouraged to take corrective action within 21 days. In addition, Inspector Choi was in contact with you following the inspection via telephone and email for updates on the status of the requested corrective actions. The report for the inspection is attached. The potential violations included, but are not limited to:

- Failure to properly label used oil containers; failure to properly respond to releases of used oil; and failure to maintain used oil acceptance records.

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 Juchan Choi, at (561) 681-6632, 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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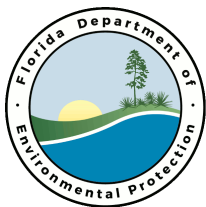
Jennifer K. Smith  
District Director  
Southeast District



JS/KK/jc

Attachments: Hazardous Waste Inspection Report dated December 16, 2015

Ec: Glen Perrigan, DWM, via email [Glen.Perrigan@dep.state.fl.us](mailto:Glen.Perrigan@dep.state.fl.us)  
Juchan Choi, FDEP/WPB via email [Juchan.choi@dep.state.fl.us](mailto:Juchan.choi@dep.state.fl.us)  
Kathy Winston, FDEP/WPB via email [Kathy.Winston@dep.state.fl.us](mailto:Kathy.Winston@dep.state.fl.us)  
Lucas Barroso-Giachetti, Senior Engineer/GLE via email [lucas@gleassociates.com](mailto:lucas@gleassociates.com)



**Florida Department of  
Environmental Protection  
Hazardous Waste Inspection Report**

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**FACILITY INFORMATION:**

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

**On-Site Inspection Start Date:** 12/16/2015

**On-Site Inspection End Date:** 12/16/2015

**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 CESQG (<100 kg/month) facility

Routine Inspection for Used Oil Generator facility

**INSPECTION PARTICIPANTS:**

Principal Inspector: Juchan Choi, Inspector

Other Participants: Kathy, Winston; Marvin Mondragon, Operations Plant Manager

**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 and provide services including resurfacing and overlays, asphalt sealcoating and parking lot maintenance. The facility has been located at this site for approximately 26 years and is connected to city water and sewer. The facility employs approximately 50 people and has a fleet of ten commercial trucks for various uses and six pick-up trucks. The facility is a burner of off-spec used oil.

H & J was previously inspected on July 28, 2014, had multiple violations of used oil regulations, including but 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. The facility completed the required corrective actions to return to compliance, and reached a settlement with the Department through entry into a Consent Order on April 14, 2015.

Pursuant to the Department's annual federal fiscal year commitments to the United States Environmental Protection Agency (USEPA), the facility was inspected as a follow-up investigation to the formal enforcement action during the previous fiscal year.

**Process Description:**

On December 16, 2015, Department inspectors Jay Choi and Kathy Winston inspected the facility. Operations plant manager Marvin Mondragon participated in the inspection.

At the time of inspection, it was noted that several major and minor used oil spills or used oil staining spots were visible throughout the facility; this issue was also observed during the facility's



Inspection Date: 12/16/2015

previous inspection in 2014.

The mechanics maintenance area or facility maintenance shed is located center of facility along the side of west wall. This area is used for heavy equipment and truck repairs. Inspector observed a spot of antifreeze spill and several used oil spilled areas. The shop had one 30-gallon parts washer that contained diesel fuel. Next to the parts washer, three 5-gallon buckets and two non-measurable (approximately 10-gallon & 30 gallon) buckets were placed without proper closure. These buckets were unlabeled but filled with used oil.

In the asphalt production area, what a place where appeared to be control area located between baghouse and supply oil tank, there was a heavy equipment system with a motor pump, heater, and control panel installed approximately 1 ft. above the ground. A strong evidence of notable oil leakage on the pump area was found, two unlabeled 5-gallon buckets were placed underneath the pump. Both buckets were full of oil and were overflowing.

A 5,000-gallon black used oil supplier tank labeled #3 was located south of control area. Inspector observed leakage originating at the pipe fitting near tank labeled #3 and a 5-gallon unlabeled capture bucket beneath the leak filled with oily water.

Another 5,000-gallon used oil tank within secondary containment was located little further south than observed 5,000-gallon black used oil supplier tank labeled #3. There was an oil pipe connected between these two 5000 gallon tanks. Inspector observed additional leakage originating at the pipe fitting near secondary containment and three unlabeled 5-gallon capture buckets filled with oily water

Oil tanker truck labeled 947 was located on opposite side of asphalt production area along the west fenced wall. There was evidence showing oil leaking from the top of oil tanker, which created a small puddle beneath the tanker. Behind the tanker truck there were five 5-gallon buckets and one black 55-gallon drum, all containing oily water.

South to the asphalt batcher and conveyor belt, inspectors observed approximately 2 x 5 ft. paved pit filled with oily liquid inside.

Also, at the east entrance along the fence line, there was pile of oily rags left on the ground.

During the records review, the facility could not provide recent used oil acceptance log and parts washer disposal log. The facility has provided copies of manifest for the time between July, 2014 and January, 2015. However; the facility couldn't provide any disposal records for after January 23, 2015.

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

### **Violations**

Type:	Violation
Rule:	279.22(c)(1)
Explanation:	<p>In the mechanics maintenance area, buckets storing used oil were not properly labeled. This violation was observed at the facility's previous inspection on July 28, 2014.</p> <p>Used oil generators are required to label containers and tanks storing used oil and fill pipes to underground storage tanks containing used oil with the words "Used Oil." The labeling on container, tank or fill pipe should be legible and clearly visible by approaching individuals. The facility should inspect their shop, maintenance areas, or any areas where used oil would be generated or stored looking for containers holding used oil to ensure that all containers, tanks, or fill pipes are properly marked.</p>

Inspection Date: 12/16/2015

Corrective Action: In the mechanics maintenance area please label buckets storing used oil.

Please provide photos demonstrating return to compliance.

This item was corrected by submittal of proper documentation and photos on 3/10/2016.

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Type: Violation

Rule: 279.22(d)

Explanation: The facility failed to clean up and properly managed releases of used oil.

At the time of inspection, there were several areas around the facility where used oil had impacted the ground.

Corrective Action: Please address all areas impacted by leaks, drips, and spills from equipment and overflowing capture containers.

Please remove all buckets of oily water.

Please pump out the pit in front of conveyor belt.

Please address spill under tanker labeled 947 and remove the five 5-gallon buckets and one black 55-gallon drum of oily water behind the same tanker.

Please remove pile of oily rags next the back gate and properly dispose it.

Please establish a container for dirty oil dry.

Please Provide a copy of receipts for proper disposal.

Please provide photos demonstrating return to compliance for all requests mentioned above.

These items were corrected by submittal of proper documentation and photos on 2/23/2016, 3/10/2016, and 3/18/2016.

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Type: Violation

Rule: 279.65(a)

Explanation: At the time of the inspection, the facility could not provide recent records for the used oil it was accepting for burning. The 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.

The facility had provided manifest records prior to January 2015. However, no records were available after this period. This violation was observed at the facility's previous inspection on July 28, 2014.

Corrective Action: Please provide the Department with records the facility has pertaining to the used oil that has been accepted in the year 2015.

Inspection Date: 12/16/2015

Please establish a used oil acceptance log and provide copies demonstrating return to compliance.

This item was corrected by submittal of proper documentation on 2/18/2016 and 3/18/2016.

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**Conclusion:**

Overall, H & J Asphalt Inc. was not operating in compliance with state and federal hazardous waste regulations. The facility was given 21 days to correct all requested non-compliance items.

Inspection Date: 12/16/2015

**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.

Juchan Choi

**PRINCIPAL INSPECTOR NAME**

Inspector

**PRINCIPAL INSPECTOR TITLE***Juchan Choi***PRINCIPAL INSPECTOR SIGNATURE**

FDEP

**ORGANIZATION**

4/5/2016

**DATE****Supervisor:** Karen Kantor**Inspection Approval Date:** 04/08/2016

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.