



Cliff Berry, Incorporated
Environmental Services

Dept. of Environmental
Protection
APR 25 2006
Southwest District

April 24, 2006

Ms. Deborah Getzoff
Director Southwest District
Florida Department of Environmental Protection (FDEP)
13051 North Telecom Parkway
Temple Terrace, Florida 33637-0926

RE: Cliff Berry, Inc. - Tampa Facility
EPA ID Number: FLR 000 013 888
Used Oil Processing Facility Permit Number: 76517-HO-002

Dear Ms. Getzoff:

Cliff Berry, Inc. (CBI) has received your Proposed Settlement Letter OGC File No.: 06 - 0807 dated April 7, 2006 concerning the above referenced facility. Specifically, you listed three (3) items that CBI is being fined a total of \$4,250.00 by FDEP Southwest District.

I reviewed your letter with CBI's President. Listed below is each item in order from your letter and our response:

- A. Item No. 1 - Used oil label: \$ 500.00 fine. I described in my letter to you dated March 7, 2006 the steps we have taken regarding this item. We are a nationally known Environmental Services Company. We work very hard and spend a lot of time and money to try and follow all Federal, State and Local environmental rules, laws and regulations. Whenever we have an inspection by Hillsborough County EPC or FDEP Southwest District we go out of our way to correct any and all issues immediately. Therefore, we feel very strongly that this fine is arbitrary, punitive and without merit.
- B. Item No. 2 - Halogen screening: \$ 500.00 fine. Again I described in my letter to you dated March 7, 2006 the steps we have taken regarding this item. Again, we feel that the fine is not justified.
- C. Item No. 3 - Operating prior to FDEP authorization: \$ 3,000.00 fine. I submit the following chronology of events for your review and consideration:

Six copies of the final As-Built drawings were given to Mr. Forswyth Luzey of Hillsborough County EPC in June, 2005 by our Mr. Dan Stone (CBI - Tampa Facility Manager). At that time Mr. Stone asked if he needed to send them to anybody else. Mr. Luzey informed Mr. Stone that His office would take care of distribution.

During the June 29, 2005 inspection, Mr. Dan Stone asked Mr. Al Gephart (FDEP SW District) about the pending final inspection and was told that if someone from the Hillsborough County EPC performed the inspection and was satisfied with the tank farm that they (FDEP SW District) would go along with it, as they (FDEP SW District) were the enforcement side of the "coin". At this time we were advised that all of the storage tanks would have to be painted, including the handrails and walkways prior to final inspection approval, which in no way had anything to do with or would have altered our ability to lawfully and safely operate the tank farm. The interior of the storage tanks and secondary containment had already been coated with an FDEP approved epoxy coating.

Jeff Glas of the Hillsborough County EPC visited the facility on August 17, 2005 to perform the final inspection. He determined that we were in compliance and approved CBI to commence operations. Mr. Dan Stone informed Mr. Glas that CBI would not commence operations until we had written permission, which Mr. Glas provided in a letter dated September 2, 2005, which stated that the facility's status was changed from construction phase to operational phase.

Mr. Neves, Mr. Gephart and Mr. Dregne of the FDEP SW District conducted an inspection of the facility on November 29, 2005. Mr. Dan Stone was told at that time that the FDEP SW District needed to perform a final inspection and had not received the As-Built plans. Mr. Stone informed them that he had submitted the final As-Built plans to the Hillsborough County EPC months before and was told at that time that EPC would take care of distribution of the As-Built plans. Mr. Gephart admitted to Mr. Stone at that time that it was possible that the FDEP SW District may have misplaced the As-Built plans or not received them and that it happens sometimes

At our meeting on March 20, 2006 in the FDEP SW District Office attended by Ms. Elizabeth Knauss, Ms. Jill Seale, Mr. Albert Gephart of the FDEP SW District and Mr. Dan Stone and myself from CBI, Ms. Knauss stated that the FDEP SW District had the authority to reduce the fine by 20 % and that any additional reductions would have to come from FDEP in Tallahassee. At this meeting Mr. Stone and myself explained our case, obviously to no avail.

Since CBI is a nationally known Environmental Services Company who desires to follow all Federal, State and Local rules and regulations, and in light of the above facts, we respectfully request that the FDEP SW District rescind these fines. We feel these fines are grossly unfair, unnecessary and counter productive to government and business working together for the greater good. Thank you in advance for your consideration of our request.

We look forward to a continued close working relationship with all levels of government, including the FDEP SW District.

If you have any questions or need any additional information please contact me at (954) 763-3390 or e-mail me at bparkes@cliffberryinc.com.

Sincerely,



William E. Parkes, Jr.
Manager Regulatory Affairs and Capital Projects

cc: Steve Ray
Jill Seale
~~Albert Gephart~~
Elizabeth Knauss
Bheem Kothur, P.E.

FDEP HWR Section
Environmental Specialist II, FDEP Southwest District
Engineering Specialist IV, FDEP Southwest District
Environmental Manager, FDEP Southwest District
Hazardous Waste Regulation, FDEP Tallahassee

Dept. of Environmental
Protection
APR 25 2006
Southwest District



Jeb Bush
Governor

Department of Environmental Protection

Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926
Telephone: 813-632-7600

Colleen M. Castille
Secretary

April 7, 2006

William E. Parkes, Jr.
Manager, Regulatory Affairs & Capital Projects
P. O. Box 13079
Fort Lauderdale, FL 33316

SUBJECT: Proposed Settlement of Cliff Berry Inc.
FLR 000 013 888 - Hillsborough County
OGC File No.: 06-0807

Dear Mr. Parkes:

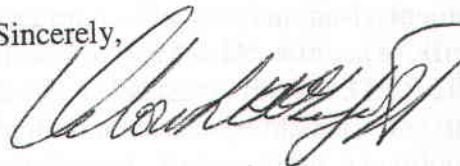
The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter dated February 13, 2006 a copy of which is attached. The Department finds that you are in violation of the rules and statutes cited in the attached Warning Letter. The corrective actions required to bring your facility into compliance have been performed. In order to resolve the matters identified in the attached Warning Letter, you are assessed civil penalties in the amount of \$4,000.00, along with \$250.00 to reimburse the Department costs, for a total of \$4,250.00. The civil penalty in this case includes 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. 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." Payment shall be sent to the Department of Environmental Protection, 13051 North Telecom Parkway, Temple Terrace, Florida 33637.

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 15 days of receipt**, 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 substantial interests are determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,



Deborah A. Getzoff
District Director
Southwest District

FOR THE RESPONDENT:

I, _____ on behalf of Cliff Berry, Inc., **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: _____

Date: _____

.....
FOR DEPARTMENT USE ONLY

DONE AND ENTERED this _____ day of _____, 2006.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Colleen M. Castille
Secretary or Her Designee

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

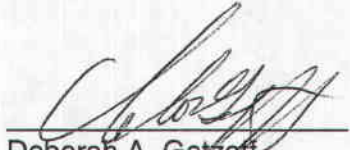
Date

Copies furnished to: Lea Crandall, OGC

PROPOSED PENALTY SUBJECT TO FINAL APPROVAL

Violator's Name: **Cliff Berry Inc.**
Facility ID Number: **FLR 000 013 888**
ComHaz Case ID Number: **289339**
Responsible DEP Staff: **Jill A. Seale, ES II**
Date: **January 30, 2006**

	Violation Type	Manual Guide	Potential for Harm	Extent of Deviation	Penalty	Multi Day	Other	Total
1	62-710.401(6) FAC used oil label	ELRA 403.121(5)	na	na	\$500			\$500
2	62-710.510(1)(g) FAC halogen screening	ELRA 403.121(5)	na	na	\$500			\$500
3	62-710.800(2) FAC operating prior to FDEP authorization.	ELRA 403.121(4)(c)	na	na	\$3,000			\$3,000
								\$4,000
Department Costs								\$250
TOTAL PENALTY								\$4,250


Deborah A. Getzoff
District Director
Southwest District

2/6/06
Date



Jeb Bush
Governor

Department of Environmental Protection

Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926
Telephone: 813-632-7600

Colleen M. Castille
Secretary

February 13, 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dan Stone
Cliff Berry, Inc.
5218 Saint Paul Street
Tampa, FL 33619

Re: Cliff Berry, Inc.
Hillsborough County, FLR 000 013 888
Warning Letter #289339

Dear Mr. Stone:

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. The Waste Program field inspections conducted on June 29, 2005, November 29, 2005, and January 4, 2006 indicate that violations of Florida Statutes and Rules may exist at the above referenced facility. Department of Environmental Protection personnel made observations described in the attached inspection report. Section 10 of the report lists a summary of alleged violations of Department Rules.

Sections 403.161 and 403.727, Florida Statutes (F.S.) provides that it is a violation to fail to comply with rules adopted by the Department. The activities observed during the Department's field inspection and any other activities at your facility that may be contributing to violations of Florida Statutes or Department Rules should cease.

You are requested to contact Jill Seale at (813) 632-7600, extension 399, 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.

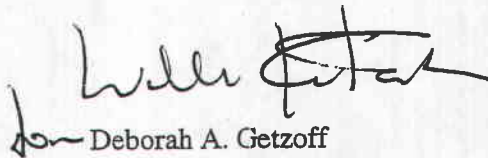
Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), F.S. A penalty will be determined in accordance with the United States Environmental Protection Agency's (EPA) RCRA Civil Penalty Policy, the penalties which would be assessed in this case are \$4,000. Costs and expenses in this case will be a minimum of \$250.

"More Protection, Less Process"

Printed on recycled paper.

If this investigation confirms that your facility is significantly out of compliance, and the case is not resolved through timely entry of a Consent Order, under the Department's agreement with the EPA, a formal referral for judicial action must be made to the Department's Office of General Counsel. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Deborah A. Getzoff", is written over the typed name.

Deborah A. Getzoff
District Director
Southwest District

DAG/jas

Enclosure

cc: Jeff Pallas, US EPA Region IV
Steve Ray, DEP HWR Section
Kelley Boatwright, Hillsborough County SQG Program
Compliance File



Jeb Bush
Governor

Department of Environmental Protection

Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926
Telephone: 813-632-7600

Colleen M. Castille
Secretary

HAZARDOUS WASTE INSPECTION REPORT

1. **INSPECTION TYPE:** ☒ Routine ☐ Complaint ☐ Follow-Up ☐ Permitting ☐ Pre-Arranged

FACILITY NAME Cliff Berry Inc. EPA ID # FLR 000 013 888

STREET ADDRESS 5218 Saint Paul Street, Tampa, FL 33619 COUNTY Hillsborough

PHONE (813)626-6533 DATE 6/29/05, 11/29/05, 1/4/06 TIME 8:45 am

NOTIFIED AS: ☐ N/A

CURRENT STATUS:

- ☐ Non Handler
☐ CESQG (<100 kg/mo.)
☐ SQG (100-1000 kg/mo.)
☐ Generator (>1000 kg/mo.)
☒ Transporter – own waste *Dec 2000*
☐ Transfer Facility
☐ Interim Status TSD Facility
☐ TSD Facility
Unit Type(s):
☐ Exempt Treatment Facility
☒ Used Oil: Transporter/Transfer/Proc.

- ☐ Non Handler
☒ **CESQG (<100 kg/mo.)**
☐ SQG (100-1000 kg/mo.)
☐ Generator (>1000 kg/mo.)
☐ Transporter
☐ Transfer Facility
☐ Interim Status TSD Facility
☐ TSD Facility
Unit Type(s):
☐ Exempt Treatment Facility
☒ Used Oil: Transporter/Transfer/Processor

2. APPLICABLE REGULATIONS:

- ☐ 40 CFR 261.5 ☒ 40 CFR 262
☐ 40 CFR 265 ☐ 40 CFR 266
☒ 40 CFR 279 ☒ 62-710, FAC

- ☐ 40 CFR 263 ☐ 40 CFR 264
☐ 40 CFR 268 ☒ 40 CFR 273
☒ 62-737, FAC ☒ 62-730, FAC

3. RESPONSIBLE OFFICIAL(s):

Dan Stone, Tampa Facility Manager

4. INSPECTION PARTICIPANTS:

Dan Stone, Tampa Facility Manager

Jill A. Seale, Al Gephart, Jim Dregne, Rick
Neves, Danielle Nichols: FDEP

5. **LATITUDE/LONGITUDE:** 27°55'12.3" 82°23'43.3"

6. **SIC Code:** 5093, 4214

7. **PERMIT:** 0076517-HO-002

8. **TYPE OF OWNERSHIP:** Private Federal State County Municipal

"More Protection, Less Process"

Printed on recycled paper.

9. PROCESS DESCRIPTION:

Cliff Berry Inc (CBI) was inspected June 29, 2005, November 29, 2005, and January 4, 2006 to determine its compliance with State and Federal hazardous waste and used oil regulations. Dan Stone, Facility Manager, accompanied the inspectors throughout the inspections.

As of January 30, 2006, this CBI facility is registered with the Department as a used oil transporter, a used oil filter transporter, a used oil transfer facility, and a used oil processor. CBI transports hazardous waste under the CBI Miami facility's EPA ID number. According to Mr. Stone, hazardous waste is not transported to this location. CBI's used oil certification letter from the Department is posted in the lobby.

RECORDS

CBI transports used oil under the Tampa EPA ID number, FLR 000 013 888, and transfers the used oil into aboveground storage tanks at the Tampa facility. Generally, the used oil is then transported to the CBI Miami facility for processing by highway, and occasionally by rail car. No rail cars were inspected during the inspections.

During the Department's January 4, 2006 site-visit, a variety of used oil disposal receipts, documenting the used oil transported under FLR 000 013 888, were reviewed. The inspectors noted fourteen used oil disposal manifests that did not have any documentation of halogen screening, in violation of **62-710.510(1)(g) FAC**.

TABLE 1: No Documentation of Halogen Screening

Manifest #	Truck #	Date	Waste Shipped
45119	PT01	11/21/05	285 gal used oil
45107	PT01	11/16/05	160 gal used oil
45103	SV12	11/1/05	50 gal used oil
37976	SV54	8/10/05	140 gal used oil
45087	SV54	11/15/05	460 gal used oil
38045	PT01	-	515 gal used oil
37922	SV25	7/28/05	280 gal used oil
37825	PT01	6/27/05	615 gal used oil
38010	PT01	8/17/05	420 gal used oil
39176	VT25	10/4/05	371 gal used oil
39177	SV25	10/5/05	348 gal used oil
M3188	VT25	9/19/05	302 gal used oil
37844	PT01	7/8/05	180 gal used oil
M4846	VT25	10/5/05	222 gal used oil

During the Department's June 29, 2005 inspection, it was noted that CBI was not marking the generator's EPA ID numbers on the used oil receipts as required by **62-710.510(1)(b) FAC**. During the Department's January 4, 2006 inspection, the generator's EPA ID numbers were observed on many of the disposal receipts. Mr. Stone stated that employees are now instructed to include generator EPA ID numbers if applicable.

The last annual training of employees appears to be April 17, 2005, when 13 employees attended an 8 Hour Hazardous Waste Operations and Emergency Response training class. These certificates of

completion are kept on-site and reviewed during the inspection. CBI has a "Used Oil Transportation Certification Training Manual" that outlines the used oil regulations. According to Mr. Stone, new employees are required to review this manual and sign a form acknowledging that they reviewed it. These signature pages are apparently kept at the CBI Miami office and were not reviewed during this inspection.

CBI has an "Analysis Plan" that outlines CBI's procedure for conducting halogen tests on used oil prior to transport. According to this plan, CBI drivers will use a TIF Instruments Inc. Model #5050 automatic halogen leak detector to check the halogen content of used oil before it is collected. If the TIF instrument indicates an elevated halogen level, then a Dexil kit will be used to test the load. Mr. Stone stated that the CBI Tampa facility has one halogen detector, and the truck that carries this detector was not on-site during the inspection. When asked how this instrument is calibrated, Mr. Stone stated that he was under the impression that the driver who carries the detector calibrates it every day. When asked if this calibration is documented, Mr. Stone stated that he did not think this was being documented.

Note that in the revised Used Oil Management Florida Administrative Code 62-710 (effective June 2005) all used oil transporters must submit a detailed description of the company's procedure for halogen screening in order to be a Certified Transporter per 62-710.600 FAC.

HOUSEKEEPING

During the June 29, 2005 inspection, the general housekeeping practice in the storage buildings behind the storage tanks was poor.

In the tank farm area, one unlabeled drum was missing a bung. According to Mr. Stone, this drum contained good diesel fuel. One drum was storing used oil and was not labeled. This is a violation of 62-710.401(6) FAC.

USED OIL PROCESSING ISSUES

Initially, CBI/Tampa operated as a Transfer Facility. In planning for future operations, CBI applied for a used oil processor permit in 2003 to allow them to store more than 25,000 gallons of used oil. The permit was issued in April 2004 with the stipulation that upon completion of the construction of the tank farm that CBI would provide "as-built" drawings, apply for a substantial permit modification and pay the \$500 permit modification fee upon which the Department would issue a letter of authorization to operate. Refer to Permit #0076517-HO-002, Specific Conditions, Part I - Standard Requirements, Paragraph 3.

During the June 29, 2005, inspection, Mr. Stone showed the inspectors the new tank farm and explained the intended operations. On November 29, 2005, the site was again visited by Messrs. Neves, Dregne and Gephart. Mr. Stone showed the tank farm and explained the operations. During that visit, it was observed that the tank farm was in full operation. CBI had not submitted the "as-built" drawings nor had they submitted a permit modification and the permit modification fee, all necessary to obtain the Department's approval to begin operations. This is a violation of 62-710.800(2), FAC.

10. SUMMARY OF ALLEGED VIOLATIONS:

- | | |
|----------------------|--|
| 62-710.401(6) FAC | Failure to label a drum storing used oil with the words "Used Oil." |
| 62-710.510(1)(b) FAC | Failure to note generator EPA ID number on manifests. <i>corrected</i> |
| 62-710.510(1)(g) FAC | Failure to document halogen screening on fourteen shipments of used oil. |

62-710.800(2), FAC

Failure to submit as-built drawings.

Failure to submit a permit modification application.

Failure to submit the \$500.00 permit modification fee.

11. RECOMMENDATIONS:

62-710.510(1)(g) FAC

CBI must submit documentation to the Department explaining how halogen screening is performed and documented by CBI drivers. At a minimum, this shall include the process CBI drivers are instructed to follow regarding halogen checks on used oil, how the instrument is calibrated, and how the one TIF Halogen Leak Detector unit is shared between trucks PT01, SV12, SV54 and SV25. If CBI has more than one halogen leak detector, include this description in your response. Provide this information to the Department within 30 days of receipt of this report.

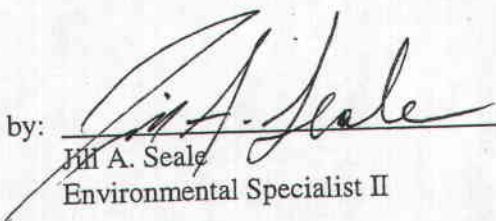
62-710.401(6) FAC

Effective immediately, all containers storing used oil must be clearly marked with the words "Used Oil." Within 30 days of receipt of this report, submit documentation to the Department explaining how this requirement has been met.

62-710.800(2), FAC

The Department received as-built drawings and has reviewed them. The Department's Hazardous Waste Section has not approved the submittal. The Department will issue a letter to CBI requesting revised drawings to be submitted within 30 days of receipt of the letter along with a permit modification application and the \$500 permit modification fee. Upon complying with the Department's request, the facility will be issued a permit modification with the authorization to operate.

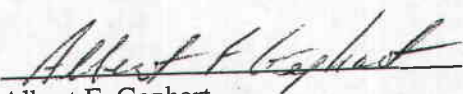
Report prepared by:


Jill A. Seale
Environmental Specialist II

Date

2/8/06

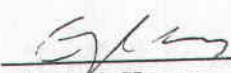
Reviewed by:


Albert F. Gephart
Engineering Specialist IV

Date

2/8/06

Approved by:


Elizabeth Knauss
Environmental Manager

Date

2/8/06