



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Charlie Crist
Governor

Jill Kottkamp
Lt. Governor

Michael W. Sole
Secretary

FEB 27 2009

SHORT FORM CONSENT ORDER

Humberto Lorenzo
H & J Asphalt, Inc.
4310 N.W. 35th Avenue
Miami, FL 33142

CERTIFIED MAIL NO.: 7005 1160 0003 8785 7510
RETURN RECEIPT REQUESTED

SUBJECT: Proposed Settlement of Department of Environmental Protection vs. *H & J Asphalt, Inc.* - H & J Asphalt - FLR05A725
OGC File No.: 09-0145-13-RO

RECEIVED

MAR 06 2009

Dear Mr. Lorenzo:

DEPT of ENV PROTECTION
WEST PALM BEACH

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter dated September 8, 2008, a copy of which is attached. The corrective actions required to bring your facility into compliance have been performed. The Department finds that you are in violation of the rules and statutes cited in the attached Warning Letter. In order to resolve the matters identified in the attached Warning Letter, you are assessed civil penalties in the amount of \$3,799.00, in addition to \$150.00 for Department expenses, for a total of \$3,949.00.

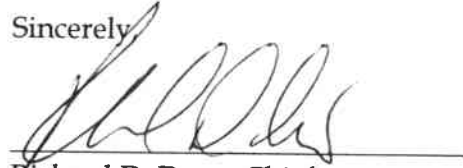
The civil penalties are apportioned as follows: \$3,799.00 for violation of Section 403.161(1)(b), Florida Statutes and Rule 62-621.300(5)(a), Florida Administrative Code.

The Department acknowledges that your payment of these civil penalties 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, 2600 Blair Stone Road, MS 2500, Tallahassee, Florida 32399-2400, within 30 days of your signing this letter.

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 address indicated above by **March 31, 2009**, 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,



Richard D. Drew, Chief
Bureau of Water Facilities Regulation

FOR THE RESPONDENTS:

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

By: _____

Date: _____

.....
FOR DEPARTMENT USE ONLY

DONE AND ENTERED this _____ day of _____, 200__.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Richard D. Drew, Chief
Bureau of Water Facilities Regulation

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

Encl: Warning Letter

cc: File (SAIC)

Tim Powell, DEP Southeast District

Karen Kantor, DEP Southeast District

NOTICE OF RIGHTS

Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

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September 8, 2008

Humberto Lorenzo
H & J Asphalt, Inc.
4310 NW 35th Avenue
Miami, FL 33142

CERTIFIED MAIL NO.: 7007 0220 0000 4522 8142
RETURN RECEIPT REQUESTED

Subject: Warning Letter No.: NPDES-SW-13-00537
File No.: FLR05A725
Potential Violation / NPDES stormwater permitting program

Dear Mr. Lorenzo:

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.

An inspection of the H & J Asphalt facility / site was performed on Monday, July 28, 2008 at 9:40 AM to assure compliance with the state of Florida's federally approved National Pollutant Discharge Elimination System (NPDES) stormwater permitting program. Representatives from Science Applications International Corporation (SAIC) conducted the inspection, on behalf of the Department of Environmental Protection (Department). During the inspection, the inspector(s) observed conditions that indicate you are not in compliance with your NPDES stormwater permit.

Department records reflect that a "Notice of Intent to use Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity" was filed for your facility / site. Upon inspection of your facility / site, the inspector(s) noted:

1. Vehicle wash and rinse water was observed flowing into a storm drain on-site which appeared to connect to the Miami-Dade County Municipal Separate Storm Sewer System (MS4). Oily residue was noted on and around the storm drain grate.
2. Vehicles were washed in an area under the batch plant, which was exposed to stormwater. The wash water was not contained or properly disposed, but was allowed to flow into the Miami-Dade County MS4.
3. The dispenser nozzle of the diesel tank was stored outside containment and was dripping during the inspection.
4. Heavy oil stains were noted on the pavement near the maintenance area.
5. Oil and oil absorbent were noted on the pavement around the used oil tank and around the pile of scrap machinery / parts.

6. Open 5-gallon buckets, one partially filled with machine oil near the welding shed, one partially filled with tack oil under the stationary tanker transfer valve, and one completely full of tack oil under the transfer valve of an empty tank were noted. Tack oil residue was noted on the pavement around the bucket under the stationary tanker transfer valve.
7. The Facility has not conducted Analytical Monitoring for the required parameters in Year 2 of permit coverage (2007) or Annual Compliance Monitoring.
8. The facility has not conducted Quarterly Visual Monitoring.
9. The Stormwater Pollution Prevention Plan (SWPPP) did not contain the following: a summary of existing sampling data; summary of potential pollutant sources and pollutants/ pollutant parameters from loading/ unloading, outdoor storage activities, outdoor manufacturing/ processing activities, dust/ particulate generating processes, and waste disposal activities; good housekeeping, best management practices for specific areas of the facility, including raw material stockpiles, material handling areas, storage areas, liquid storage tanks, material handling areas, and loading/ unloading areas; and records of inspections (monthly inspections are not conducted or documented).
10. The Multi-Sector Generic Permit (MSGP) only authorizes the discharge of stormwater associated with industrial activities. The discharge of wash water is a non stormwater discharge and is therefore not authorized under the MSGP. In accordance with the MSGP, "operators of such discharges must obtain coverage under a separate NPDES permit if discharged to waters of the United States or through a MS4." Please contact Tim Powell at the Department's Southeast District office for the permitting requirements of the above mentioned industrial wastewater discharge. Mr. Powell can be reached at (561) 681-6684 or tim.powell@dep.state.fl.us.

Failure to comply with a permit issued by the Department is a violation of Section 403.161(1)(b), Florida Statutes (F.S.), which can result in the assessment of damages and administrative penalties under Section 403.121, F.S.; damages and civil penalties under Section 403.161(2), F.S.; or criminal prosecution punishable by a fine of \$10,000.00 and six months in jail under Section 403.161(5), F.S.

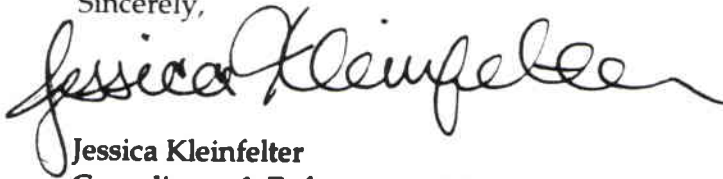
Department representatives wish to discuss this matter with you and resolve any existing violations of law in an amicable manner. **You are requested to contact B.J. Hayes at (850) 523-1447 within seven days of receipt of this Warning Letter to arrange a meeting to discuss this matter.**

The Department is interested in reviewing any facts you may provide 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 and is preliminary to agency action in accordance with Section 120.69, F. S. The Department looks forward to your cooperation in completing the investigation and resolving this matter.

Mr. Lorenzo
Page Three
September 8, 2008

Sincerely,

A handwritten signature in cursive script, reading "Jessica Kleinfelter". The signature is written in dark ink and is positioned above the printed name and contact information.

Jessica Kleinfelter
Compliance & Enforcement Manager
NPDES Stormwater Section
(850) 245-7589
jessica.kleinfelter@dep.state.fl.us

JK/ hw

Encl: Compliance Inspection Report

cc: File (SAIC)

Tim Powell, DEP Southeast District

Karen Kantor, DEP Southeast District



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

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April 6, 2009

Humberto Lorenzo
H & J Asphalt, Inc.
4310 N.W. 35th Avenue
Miami, FL 33142

SUBJECT: H & J Asphalt – FLR05A725
OGC File No.: 09-0145-13-RO

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APR 09 2009

DEPT of ENV PROTECTION
WEST PALM BEACH

Dear Mr. Lorenzo:

You previously received a Short Form Consent Order dated February 27, 2009 from the Florida Department of Environmental Protection. The issues outlined in the Consent Order are now resolved. Your assistance in resolving this matter is appreciated.

It should be noted that this letter does not constitute a determination of compliance with other state, local or federal requirements.

If you have any questions concerning this matter or the NPDES stormwater permitting program in general, please feel free to contact me. You also may access our Web page at www.dep.state.fl.us/water/stormwater/npdes/index.htm.

Sincerely,

Jessica Kleinfelter
Compliance & Enforcement Manager
NPDES Stormwater Section
(850) 245-7589
jessica.kleinfelter@dep.state.fl.us

JK/bjh

cc: File (SAIC)
Tim Powell, FL DEP SE District
Karen Kantor, FL DEP SE District

More Protection. Less Process™
www.dep.state.fl.us