



Jack Long, Director
Southeast District Office

MAY 18 2010

Florida Department of Environmental Protection

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

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

CERTIFIED MAIL #7003 2260 0007 1983 9649

RETURN RECEIPT REQUESTED

Cliff Berry, II, President
Cliff Berry, Inc.
P.O. Box 13079
Ft. Lauderdale, FL 33316

Subject: Proposed Settlement in case of the Department of Environmental Protection vs.
Cliff Berry Inc - Miami Terminal, OGC #10-1658

Dear Mr. Berry:

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter dated April 12, 2010, 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 matter identified in the attached Warning Letter, the Department has calculated civil penalties in the amount of \$2,700.00 along with \$250.00 to reimburse the Department costs, for a total of \$2,950.00. The civil penalties are apportioned as follows: \$1,199.00 for 40 CFR 279.54(b); \$600.00 for 40 CFR 279.54(c); and \$901.00 for 40 CFR 279.52(b)(2) & (3).

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." Payments shall be sent to the Department of Environmental Protection, 400 N. Congress Ave., Ste 200, West Palm Beach, FL, 33401.

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 20 days of the mailing date, 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

"More Protection. Less Process."

www.dep.state.fl.us

substantial interests are determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,



Jack Long
District Director
Southeast District

5-18-2010

Date

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 _____, 2010.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jack Long
District Director
Southeast District

Date

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, Agency Clerk
Mail Station 35

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 Department's Consent Order identification number and the county in which the subject matter or activity is located; (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 Consent Order; (d) A statement of when and how the petitioner received notice of the Consent Order; (e) A statement of all material facts disputed by petitioner, if any; (f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order; (g) A statement of which rules or statutes the petitioner contends require reversal or modification of the Consent 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 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.

EXHIBIT A

I, Larry A. Doyle, the Executive Vice-President of Cliff Berry, Inc., named as Respondent in the Consent Order attached herein, hereby certify and represent to the State of Florida Department of Environmental Protection that the undersigned executed the Consent Order for and on behalf of said corporation and that in so executing said instrument, the undersigned was duly authorized to do so in his named capacity as officer and by so executing does hereby bind said corporation to the terms of said instrument as therein set forth.

Larry A. Doyle
Executive Vice-President

Dated: _____



Jack Long, Director
Southeast District Office

Florida Department of Environmental Protection

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

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

APR 12 2010

CERTIFIED MAIL# 1009096000031239427
RETURN RECEIPT REQUESTED

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

Subject: Warning Letter #WL10-00441HW13SED
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. A hazardous waste compliance evaluation inspection conducted on December 10, 2009, 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 ("Department") personnel observed possible violations regarding hazardous waste management. The observations of the Department are in the attached inspection report.


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. The operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of penalties up to \$50,000.00 per violation per day pursuant to Section 403.727, Florida Statutes.

You are requested to contact Ms. Karen Kantor at the address above or 561/681-6670 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. However, we must be given the names and positions of any persons you intend to bring to the meeting and we must have the information at least five days before the meeting.

If after further investigation, the Department determines that the violations occurred, this matter may be resolved through entry of a Consent Order which will include a compliance schedule and an appropriate penalty. In accordance with Section 403.121, Florida Statutes, the U.S. EPA RCRA Civil Penalty Policy, and the Department's Guidelines for Characterizing RCRA and Used Oil Violations, the penalty proposed in the case is \$18,199 plus \$500 for costs and expenses.

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,



Jack Long
District Director
Southeast District

2-12-2010

Date


JL/JWL/KK/KK

Attachments: Hazardous Waste Inspection Report
Penalty Justification Worksheets

cc: Electronic Archboard/OCULUS
Bheem Kothur, DEP
Hardeep Anand, Miami-Dade DERM
William E. Parkes, Jr., Cliff Berry, Inc., P.O. Box 13079, Ft. Lauderdale, FL 33316

581439 (100/pkg Rev 02)

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK



WACHOVIA
CASHIER'S CHECK

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

64-7002
2611

1602127035

0000286

WACHOVIA

05/27/2010

Pay To The
Order Of

Florida Dept. of Environmental Protection

\$

\$2,950.00

*TWO THOUSAND NINE HUNDRED FIFTY DOLLARS AND 00 CENTS

Wachovia Bank, a division of Wells Fargo Bank, N. A.

Cliff Berry Incorporated

Remitter

Authorized Signature

Dollars



MP

⑈ 1602127035⑈ ⑆ 261170025⑆ 5079900000916⑈

SR 6/3/10

Karen
Kantrow



RECEIVED

JUN 03 2010

DEPT of ENV PROTECTION
WEST PALM BEACH

Copy for your File
File COPY \$

DATE: 4/29/2010

PROGRAM: WASTE - HAZ WASTE

MEETING SUBJECT: ALIF BERRY INC - Miami Terminal

MEETING ROOM: _____

NO. OF PARTICIPANTS: _____

TELEPHONE: _____

VOICE POINT: _____

[illegible]