



FLORIDA DEPARTMENT OF Environmental Protection

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

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

October 7, 2020

VIA EMAIL: dbeitler@tropical.com

Dean Beitler, Assistant Vice President of HR,
Tropical Shipping USA, LLC
501 Avenue P
Riviera Beach, FL 33404

SUBJECT: Department of Environmental Protection vs Tropical Shipping USA, LLC
OGC File No.: 20-1361
Tropical Shipping USA, LLC.
EPA ID No.: FLR000095737
Palm Beach County

Mr. Beitler,

The State of Florida Department of Environmental Protection ("Department") finds that Tropical Shipping USA, LLC. ("Respondent") was in violation of Section 403 Florida Statutes (F.S.), Chapters 62-710, 62-730, and 62-737, Florida Administrative Code (F.A.C.) and Title 40, Code of Federal Regulations (CFR) Parts 262, 263, 265, 273, and 279 for non-compliance with hazardous waste, universal waste, and used oil standards. 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 \$36,585.00 in civil penalties and \$500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$37,085.00.

In lieu of making cash payment of \$37,085.00 in civil penalties and Department costs, Respondent may elect to off-set the civil penalty amount of \$36,585.00 by implementing a Pollution Prevention (P2) Project, which must be approved by the Department. P2 is a process improvement that reduces the amount of pollution that enters the environment; by conserving resource (including water, raw materials, chemicals, and energy) use, or by minimizing waste generation (including domestic and industrial wastewater, solid and hazardous waste, and air

emissions). A P2 Project must reduce pollution or waste within the process beyond what is required by Federal, state, or local law, in order to be eligible for civil penalty off-set under this Order. If Respondent chooses to implement a P2 project, Respondent shall notify the Department of its election within 15 days of the effective date of this Order.

If Respondent elects to implement a P2 Project, Respondent shall submit a completed P2 Project Plan (Plan) within 30 days of the effective date of this Order. The Plan must be completed using Exhibit A, "P2 Project Plan" template. In the event the Department requires additional information to process the Plan, Respondent shall provide a modified Plan containing the information requested by the Department within 15 days of the date of the request.

If any balance remains after the entire P2 credit is applied to the allowable portion of the civil penalty, Respondent shall pay the difference within 30 days of written notification by the Department to Respondent that the balance is due.

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 at FDEP Southeast District Office, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406 **within 7 days of the mailing date of this Order**. 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, Dean Beitler:

- (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 violations referenced above.

Respondent's Performance

After signing and returning this document to the Department,

1. If elected, Respondent shall commence implementation of the approved P2 Project within 30 days of receiving written approval by the Department and shall submit a P2 Project Final Report within 180 days of the commencement date of the project. Your failure to timely start or complete the P2 Project, or timely provide the Department with the Final Report, will cause the P2 Project option to be forfeited and the balance of the civil penalty which is \$36,585.00 shall be due within 10 days of notice from the Department. Similarly, if Respondent fails to timely notify the Department of intent to implement a P2, the full civil penalty shall be due within 10 days of notice from the Department.
2. Respondent shall pay \$500.00 for Department costs within 30 calendar days of the effective date of this Order.
3. 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.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 Romina Lancellotti at 561-681-6624, or at Romina.Lancellotti@floridadep.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Andreotta", is enclosed in a light blue rectangular box.

Jason Andreotta
Director
Southeast District Office

FOR THE RESPONDENT:

I, _____ [Dean Beitler], **HEREBY ACCEPT THE
TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: _____
[Signature]

Date: _____

Title: _____
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this ____ day of _____, 2020, in _____ County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jason Andreotta
Director
Southeast District Office

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

Final clerked copy furnished to:
Lea Crandall, Agency Clerk (lea.crandall@floridadep.gov)

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.

(Note: Provide the information specified and delete existing text within parentheses)

(Telephone)

(Project Name)							
Annual Resource Consumption Comparison							
Item	Quantity Used (gal/lb/kwh-specify)			Purchasing Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Water							
Chemicals							
Materials							
Energy							
Total Annual Cost Savings =							
Annual Waste Generation Comparison							

Item	Quantity Generated (gal/lb/tons- specify)			Disposal Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Hazardous Waste							
Industrial Wastewater							
Solid Waste							
Air Emissions							
Total Annual Cost Savings =							
Total Annual Avoided Cost Savings =							

<i>Summary of All P2 Projects</i>							
Annual Resource Consumption Comparison							
Item	Quantity Used (gal/lb/kwh-specify)			Purchasing Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Water							
Chemicals							
Materials							
Energy							
Total Annual Cost Savings =							
Annual Waste Generation Comparison							
Item	Quantity Generated (gal/lb/tons- specify)			Disposal Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Hazardous Waste							
Industrial Wastewater							
Solid Waste							
Air Emissions							
Total Annual Cost Savings =							
Total Annual Avoided Cost Savings =							

C. **Project Cost:** (Include per Project the itemized, subtotal and Project total costs. A projected payback period in months or years needs to be included.

Provide a grand total cost for all Projects and an averaged projected payback period, *for multiple Projects. Use list or table format for all.*)

D. **Implementation Schedule:** (Provide a brief discussion of the steps necessary to implement the Projects and expected time frames for completion. A table or list format is preferred. The schedule shall include a list of milestones with dates, or timeframes based on Plan approval date, including Progress and Final Report submittals. Provide a description of any

anticipated problems and options. *The implementation should take no longer than six months to complete.*)

E. Project Reporting:

1. Within 90 days of approval of the Project Plan, the Respondent shall submit a P2 Project Progress Report to the Department that describes the Respondent's progress in implementing the P2 Project and meeting the requirements in the Plan, and includes a list of equipment ordered, purchased, and/or installed.

2. Within 180 days of approval of the Plan, the Respondent shall submit to the Department a P2 Project Final Report that includes the following.

a. A confirmation that the information presented in Sections A-C of the Summary is unchanged, or an updated version with the sections changed appropriately. A statement that the Project(s) was/were implemented successfully. An explanation of any problems encountered and corrections applied.

b. Attached expense reports, receipts, purchasing instruments and other documents itemizing costs expended on preparing and implementing the Project.

3. The Department shall review the Final Report and determine:

a. Whether the project was properly implemented; and

b. Which expenses apply toward pollution prevention credits.

4. A \$1.00 pollution prevention credit for each \$1.00 spent on applicable costs will be applied against the portion of the civil penalty that can be offset.

a. The following costs are allowable to offset the allowable amount of the civil penalty:

i. Preparation of the P2 Project;

ii. Design of the P2 Project;

iii. Installation of equipment for the P2 Project;

iv. Construction of the P2 Project;

v. Testing of the P2 Project;

vi. Training of staff concerning the implementation of the P2 Project; and

vii. Capital equipment needed for the P2 Project.

b. The following costs shall not apply toward P2 credit:

i. Costs incurred in conducting a waste audit;

ii. Maintenance and operation costs involved in implementing the P2 Project;

iii. Monitoring and reporting costs;

iv. Salaries of employees who perform their job duties;

v. Costs expended to bring the facility into compliance with current law, rules and regulations;

vi. Costs associated with a P2 Project that is not implemented;

vii. Costs associated with a P2 Project that has not been approved by the Department; and

viii. Legal costs.

c. If any balance remains after the entire P2 credit is applied to the allowable portion of the civil penalty, Respondent shall pay the difference within 30 days of written notification by the Department to the Respondent that the balance is due.

5. The Department may terminate the P2 Project at any time during the development or implementation of it, if the Respondent fails to comply with the requirements in this document, act in good faith in preparing and implementing the project, or develop and implement the P2 Project in a timely manner. The Respondent may terminate the P2 Project at any time during its development or implementation.