



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 West Government Street, Suite 308
Pensacola, FL 32502

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

July 26, 2024

Kenneth J. Retif, Manager
Retif Oil & Fuel, LLC
1840 Jutland Dr.
Harvey, LA 70058
kretif@retif.com

RE: Executed Consent Order; DEP vs. Retif Oil & Fuel, LLC, OGC File No. 24-0002, Santa Rosa County

Dear Mr. Retif:

Enclosed is the executed Consent Order (Order), which addresses the deposition of motor fuel in aboveground storage tanks that were not properly registered and were without a valid placard located at Summit Landscape Supply, Facility ID #9819376, 5301 Woodbine Road, Pace, Florida.

Please note the requirements of the Order for which you are responsible and fulfill all pertinent actions accordingly. Unless otherwise noted, all deadlines for completing requirements and actions in the Order are to be calculated from its executed date, which is the date the Order was filed with the Department Clerk, as noted on the signature page.

Your cooperation in resolving this matter is greatly appreciated. If you have any questions, please contact Ms. Sara Merritt at Sara.Merritt@floridadep.gov or by phone at (850) 595-0589.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth Mullins Orr".

on behalf of

Elizabeth Mullins Orr
Director
Northwest District

EMO/sm

Enclosure: Executed Consent Order

Ec: Jordan Retif, Retif Oil & Fuel, General Counsel, jretif@retif.com
Michele Miller, Retif Oil & Fuel, mmiller@retif.com
Dennis Fitzgerald, Retif Oil & Fuel, dfitzgerald@retif.com
Ryen Morgan-Ring, Office of General Counsel, ryen.morganring@floridadep.gov
Lea Crandall, Office of General Counsel, Lea.Crandall@dep.state.fl.us

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION,)	NORTHWEST DISTRICT
)	
Complainant,)	
)	
v.)	OGC FILE NO. 24-0002
)	
RETIF OIL & FUEL, LLC,)	
)	
Respondent,)	
_____)	

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and Retif Oil & Fuel, LLC (“Respondent”) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapters 376 and 403, Florida Statutes (“Fla. Stat.”), and the rules promulgated and authorized in Title 62, Florida Administrative Code (“Fla. Admin. Code”). The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is a Foreign Limited Liability Corporation authorized to do business in the state of Florida and is a “person” within the meaning of Sections 376.301(29) and 403.031(9), Fla. Stat.
3. Respondent is an active fuel licensed wholesaler, carrier, importer and exporter with the State of Florida Department of Revenue, License Number 15661573.
4. The Property located at 5301 Woodbine Road, Pace, Florida, 32571, contained three aboveground storage tank systems (“Systems”), each consisting of an aboveground storage tank and dispenser. On December 21, 2022, the Systems were registered with the Department, and Facility Identification Number 57-9819376 was assigned to the Property. Each storage tank at the Property is an enclosed stationary container with a volume in excess of 550 gallons in size that contained vehicular fuel. The tanks, which were constructed of double-walled steel, were installed at the Property on or about June 1, 2018.

5. The Property and the aboveground systems constitute a “Facility” within the meaning of Section 376.301(18), Fla. Stat.

6. On April 17, 2023, the Facility owner paid the delinquent registration fees and received a valid registration placard from the Department.

7. The Department finds that the Respondent, from June 1, 2018, through February 21, 2023, deposited motor fuel in regulated storage tanks that did not have a valid registration placard, in violation of Rule 62-762.401(5), Fla. Admin. Code., Section 403.161 Fla. Stat. and Section 376.3077, Fla. Stat.

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

ORDERED:

8. Respondent shall comply with the following corrective actions within the stated time periods:

- a) **Commencing immediately and hence forth**, Respondent shall comply with all Department rules, statutes, and/or regulations regarding aboveground storage tank systems, including all applicable rules in Chapter 62-762, Fla. Admin. Code, and shall correct and redress all the violations contained herein within the time periods outlined herein;
- b) **Commencing immediately and hence forth**, Respondent shall not deposit any motor fuel into a storage tank required to be registered pursuant to this 62-762 Fla. Admin. Code unless a valid registration placard is displayed in plain view as required by paragraph 62-762.401(4)(i), Fla. Admin. Code
- c) **Within 60 days of the effective date of this Order**, Respondent shall complete and submit to the Department the attached form listing all the sites within the State of Florida that currently have a regulated storage tank that is owned by the Respondent and where the Respondent has supplied motor fuel and identify which regulated storage tanks are not registered or do not have a valid placard.
- d) **Within 90 days of the effective date of the Order**, based on the list provided in paragraph 8.c) of this order that identifies regulated storage tanks that have not been registered or do not have a valid placard, Respondent must ensure that a

Storage Tank Registration Form has been submitted to the Department and the facility has been issued a valid placard.

- e) **Within 60 days of the effective date of this Order**, Respondent shall create, at its expense, a handout that will outline the petroleum storage tank requirements for the State of Florida, which shall include but is not limited to; storage tank registration, financial responsibility, component operability and integrity testing, and tank maintenance. The handout shall clearly identify the party, fuel hauler, tank owner, facility owner, or tank operator, responsible for compliance with each requirement. This handout shall be submitted to the Department for review within 60 days of the effective date of this order. After review, any comments provided by the Department shall be addressed by Respondent and resubmitted to the Department for additional review and comment within 30 days, which shall repeat until final approval is granted. Once approved, Respondent shall provide a copy of the handout to each client prior to Respondent providing a regulated service or a regulated petroleum storage tank.

9. **Within 30 days of the effective date of this Order**, Respondent shall pay the Department \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

10. **Within 30 days of written demand by the Department**, Respondent shall pay the Department \$48,000.00 in settlement of the regulatory matters addressed in this Order.

11. The Department will defer enforcement of up to \$24,000.00 of the \$48,000.00 regulatory penalties assessed in Paragraph 10 of this Order, provided Respondents comply with Paragraphs 8.c)-e) of this order. Should Respondents fail to comply with any requirement set forth in Paragraphs 8.c)-e) of this Order, then the entire amount of the \$48,000.00 in regulatory penalties assessed in Paragraph 10 of this Order, shall become due within thirty (30) days of the date of written demand by the Department.

12. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph 8 of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment, and shall do so as further described in paragraph 13, below. Nothing in this

paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any stipulated penalties assessed under this paragraph shall be in addition to the civil penalties agreed to in paragraphs 9-11 of this Order.

13. 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 becomes final, effective and filed with the Clerk of the Department before ability to make online payment is available.

14. Except as otherwise provided, all submittals and payments required by this Order shall be sent to: The Florida Department of Environmental Protection, Northwest District, 160 W. Government Street, Suite 308, Pensacola, Florida 32502, and shall include the notation "OGC No. 24-0002."

15. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

16. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for alleged violations up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

17. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

18. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

19. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$15,000.00 per day per violation, and criminal penalties.

20. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, Fla. Stat., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, Fla. Stat.

21. 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.

22. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, Fla. Stat. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), Fla. Stat.

23. This Consent Order is a final order of the Department pursuant to section 120.52(7), Fla. Stat., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Fla. Stat. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

Persons who are not parties to this Consent 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, Fla. Stat. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Consent Order means that the Department's final action may be different from the position it has taken in the Consent Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Consent 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 Consent Order;
- d) A statement of when and how the petitioner received notice of the Consent 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 Consent Order;
- g) A statement of the 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.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, 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 Florida Department of Environmental Protection, Northwest District, 160 W. Government Street, Suite 308, Pensacola, Florida 32502. 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, Fla. Stat. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Fla. Stat. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Fla. Stat. and Rule 62-110.106(12), Fla. Admin. Code.

24. Rules referenced in this Order are available at <http://www.dep.state.fl.us/legal/Rules/rulelist.htm>.


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FOR THE RESPONDENT:

By: 
Print Name: Jordan Retif
Date: 7/24/24
Print Title: General Counsel

DONE AND ORDERED this 26th day of July, 2024, in Pensacola, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

 on behalf of

Elizabeth Mullins Orr
Director
Northwest District

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



Clerk

July 26, 2024

Date

Enclosures: Form - Retif Regulated Tanks in Florida

Copies furnished to:
Lea Crandall, Agency Clerk, Lea.Crandall@dep.state.fl.us

