



# Florida Department of Environmental Protection

**FILE COPY**

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Southeast District Office  
400 North Congress Avenue, Suite 200  
West Palm Beach, Florida 33401-2913

Michael W. Sole  
Secretary

APR 28 2008

DHL 27036024956

Mr. Chris Ricci, President  
Ricky's Oil Service, Inc  
2017 NW 182<sup>nd</sup> Ave.  
Pembroke Pines, FL 33029

Miami-Dade County  
HW- Ricky's Oil Service, Inc.

Ricky's Oil Service, Inc.  
P.O. Box 669295  
Miami, FL 32166-9430

RE: Proposed Settlement by Short Form Consent Order in case of DEP vs. Ricky's Oil Service, Inc. OGC Number: 08-0256

Dear Mr. Ricci and Ricky's Oil Service:

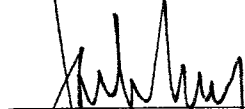
The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Notice of Violation dated March 19, 2008, a copy of which is attached. Corrective actions required to bring your facility into compliance have been performed. In order to resolve the matter identified in the Warning Letter, you are assessed civil penalties in the amount of \$2,150.00 along with \$500.00 to reimburse the Department costs, for a total of \$2,650.00. The civil penalty originally calculated in this case consists of one violation of 2,000.00 or more.

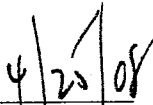
The Department acknowledges that the payment of these civil penalties by you does not constitute an admission of liability. This payment must be made payable to the Department of Environmental Protection by cashier's check or money order and shall include the OGC File Number assigned above and the notation "Ecosystems Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, 400 N. Congress Ave., Suite 200, West Palm Beach, Florida 33401 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 Section 120.69 and 403.121, Florida Statutes.

If you do not sign and return this letter to the Department at the Southeast District office within 20 days of receiving it, the Department will assume that you are not interested in settling this matter on the above-described terms and will proceed accordingly. This letter determines none of your rights or substantial interests unless you sign it and it is filed with the Department Clerk.

Sincerely,

  
\_\_\_\_\_  
Jack Long  
District Director  
Southeast District

  
\_\_\_\_\_  
Date

  
JL/JL/KK/kw

*(This Space Intentionally Left Blank)*

---

**I ACCEPT THE TERMS OF THIS SETTLEMENT OFFER IDENTIFIED ABOVE.**

Ricky's Oil Service, Inc.

For the Department:

---

Mr. Chris Ricci  
Owner/Operator

Date

---

Jack Long  
District Director  
Southeast District

Date

Entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2008 in West Palm Beach,  
Florida.

**FILING AND ACKNOWLEDGMENT**  
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 Violation dated March 19, 2008

cc: DEP Files, West Palm Beach/Archboard  
Michael Redig via Oculus  
Lea Crandall, OGC MS # 35  
Roberto Abrahante, DERM

## 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. It must 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.

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,

IN THE OFFICE OF THE  
SOUTHEAST DISTRICT

Complainant,

v.

OGC File No. 08-0256

CHRISTOPHER RICCI and RICKY'S OIL SERVICE, INC.,

Respondents.

---

NOTICE OF VIOLATION, ORDERS FOR CORRECTIVE ACTION,  
AND ADMINISTRATIVE PENALTY ASSESSMENT

Certified Receipt Return No.:  
7006 2150 0000 3045 5338

Certified Receipt Return No.:  
7006 2150 0000 3045 5345

To: Mr. Christopher Ricci, President  
2017 NW 182<sup>nd</sup> Ave.  
Pembroke Pines, Florida 33029

Ricky's Oil Service, Inc.  
P.O. Box 669295  
Miami, Florida 32166 - 9430

Pursuant to the authority of Section 403.121(2), Florida Statutes ("Fla. Stat."), the State of Florida Department of Environmental Protection ("Department") gives notice to Mr. Christopher Ricci and Ricky's Oil Service, Inc., ("collectively referred to as Respondents") of the following findings of fact and conclusions of law with respect to violations of Chapters 376 and 403, Fla. Stat., and Chapter 62-710, Florida Administrative Code ("Fla. Admin. Code").

FINDINGS OF FACT  
PARAGRAPHS APPLICABLE TO ALL COUNTS

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, Fla. Stat., and the rules promulgated thereunder in Florida Administrative Code Title 62. To ensure consistency between the state and federal used oil programs, the text of relevant provisions of 40 Code of Federal Regulations ("C.F.R.") Part 279, has been adopted by reference in Chapter 62-710, Fla. Admin. Code.

2. Respondent Ricky's Oil Service, Inc., ("Ricky's") is an active Florida for-profit business, organized under the laws of the state of Florida on or about November 16, 1983. Ricky's Oil Service, Inc. operates as a used oil and used oil filter transporter and transfer facility, a used oil processing facility, a used oil first claimant, and a used oil marketer on a parcel of real property located at 7209 NW 66<sup>th</sup> Street, Miami, Miami-Dade County, Florida, 33012 ("Facility").

3. Respondent Christopher Ricci ("Ricci") is a natural person who is the President and on-site manager of Ricky's Oil Service, Inc., and is responsible for managing the facility's overall operations, including environmental compliance issues.

4. Respondents operate a used oil transport and processing facility known as "Ricky's Oil Service" on the parcel of real property located at 7209 NW 66<sup>th</sup> Street, Miami, Miami-Dade County, Florida, 33012.

5. Respondent Ricky's Oil Service, Inc. holds the record title to the real property located at 7209 NW 66<sup>th</sup> Street, Miami, Miami-Dade County, Florida, 33012 and has owned the property since approximately January 1990.

6. On November 25, 2007, Respondents allowed their Used Oil Processor permit (61835-HO-002) to expire. The Department did not receive the facility's permit renewal application on or before November 25, 2007, or any indication from the facility that they had ceased operation.

#### COUNT I

7. From November 25, 2007 to November 27, 2007, Respondents continued to operate a used oil processing facility at a time when its most current permit had expired. Ricky's did not submit the facility's permit renewal up to 60 days prior to the expiration date. The facility operated a used oil processing facility without a permit for three days.

#### COUNT II

8. The Department has incurred expenses to date while investigating this matter in the amount of not less than \$500.00.

#### CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with regard to the requirements of Chapters 376 and 403, Fla. Stat., and Fla. Admin. Code Title 62. Based on the foregoing facts the Department has made the following conclusions of law:

9. Respondents are each a "person" as defined in Sections 376.301(28), 403.031(5), and 403.75(3), Fla. Stat.
10. Respondents' used oil processing facility operating under the name "Ricky's Oil Service" includes the handling, management, transfer, transport, processing of solid wastes, including used oil and used oil filters. Furthermore, used oil and used oil filters are considered "pollutants" within the meaning of Section 376.301(36), Fla. Stat.
11. Respondents are "processors" of used oil within the meaning of Fla. Admin. Code Rule 62-710.210 (3)(adopting 40 C.F.R. Part 279.1).
12. The Department is imposing an administrative penalty of less than or equal to \$10,000.00 in this Notice of Violation as calculated in accordance with Section 403.121, Fla. Stat.
13. The facts in Count I constitute a violation of Fla. Admin. Code Rule 62-710.800(4) which requires that the permit renewal application be submitted to the Department at least 60 days prior to the date of expiration of the existing permit in accordance with Fla. Admin. Code Rule 62-4.090. The facts constitute a violation of Section 403.121(4)(c) which prohibits the operation of a facility before obtaining the required permit. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.
14. The violation in Count I requires the assessment of administrative penalties under Section 403.121(4)(c), Fla. Stat., of \$3,000.00 for failure to obtain a required permit before construction or modification. Pursuant to Section 403.121(6), Fla. Stat., the Department is assessing the penalty for the three days that the Respondent failed to submit a permit renewal, as alleged in Count I, for a total of \$9,000.00 in administrative penalties.
15. The administrative penalties assessed for Count I and Count II total \$9,500.00.
16. The costs and expenses related in Count II are reasonable costs and expenses incurred by the Department while investigating this matter, which are recoverable pursuant to Section 403.141(1) Fla. Stat.

ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondents, must do in order to correct and redress the violations alleged in this Notice.

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondents either file a timely petition for a formal hearing or informal proceeding, pursuant to Section 403.121(2)(c), Fla. Stat., or file written notice with the Department opting out of this administrative process, pursuant to 403.121(2)(c), Fla. Stat. If Respondents fail to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's Order pursuant to Sections 120.69, 403.121, and 403.131, Fla. Stat.

Pursuant to the authority of Sections 403.061(8) and 403.121, Fla. Stat., the Department proposes to adopt in its Final Order in this case the following specific corrective actions that will redress the alleged violations:

17. The corrective actions identified in this section apply to each Respondent. Liability between Christopher Ricci and Ricky's Oil Service, Inc., is joint and several. Respondents will be referred to collectively in the sections below.

18. Respondents shall forthwith comply with all Department rules regarding solid waste and used oil management. Respondents shall correct and redress all violations in the time periods required below and shall comply with all applicable rules in Fla. Admin. Code Rule 62-710.800(4) and Fla. Admin. Code Chapters 62-710 and 40 Code of Federal Regulations Part 279.

19. Within 10 days of the effective date of this Order, Respondents shall pay \$9,000.00 to the Department for the administrative penalties imposed above. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of Environmental Protection" and shall include thereon the notations "OGC Case No. 08-0256" and "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to the State of Florida Department of Environmental Protection, Southeast District, 400 N. Congress Ave., Ste.200, West Palm Beach, Florida, 33401.

20. In addition to the administrative penalties, within 10 days of the effective date of this Order, Respondents shall pay \$500.00 to the Department for costs and expenses. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of Environmental Protection" and shall include thereon



the notations "OGC Case No. 08-0256" and "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to the State of Florida Department of Environmental Protection, Southeast District, 400 N. Congress Ave., Ste. 200, West Palm Beach, Florida, 33401.

#### NOTICE OF RIGHTS

Respondents' rights to negotiate, litigate or transfer this action are set forth below.

##### *Right to Negotiate*

21. This matter may be resolved if the Department and Respondents enter into a Consent Order, in accordance with Section 120.57(4), Fla. Stat., upon such terms and conditions as may be mutually agreeable.

##### *Right to Request a Hearing*

22. Respondents have the right to a formal administrative hearing pursuant to Sections 120.569, 120.57(1), and 403.121(2), Fla. Stat., if Respondents dispute issues of material fact raised by this Notice of Violation, Orders for Corrective Action, and Administrative Penalty Assessment ("Notice"). At a formal hearing, Respondents will have the opportunity to be represented by counsel or other qualified representative, to present evidence and argument on all issues involved, and to conduct cross-examination and submit rebuttal evidence.

23. Respondents have the right to an informal administrative proceeding pursuant to Sections 120.569 and 120.57(2), Fla. Stat., if Respondents do not dispute issues of material fact raised by this Notice. If an informal proceeding is held, Respondents will have the opportunity to be represented by counsel or other qualified representative, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

24. If Respondents desire a formal hearing or an informal proceeding, Respondents must file a written responsive pleading entitled "Petition for Administrative Proceeding" within 20 days of receipt of this Notice. The petition must be in the form required by Fla. Admin. Code Rule 28-106.2015 and include the following:

- (a) The Department's Notice identification number and the county in which the subject matter or activity is located;
- (b) The name, address, and telephone number, and facsimile number (if any) of each petitioner;

- (c) The name, address, telephone number, and facsimile number of the attorney or qualified representative of respondent, if any, upon whom service of pleadings and other papers shall be made;
- (d) A statement of when petitioner received the Notice; and
- (e) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.

A petition is filed when it is received by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida, 32399-3000. The Department will not entertain a request for extension of time to file a Petition for Administrative Proceeding.

*Right to Mediation*

25. If Respondents timely file a petition challenging the Notice, the Respondents have the right to mediate the issues raised in the Notice. If requested, a mediator will be appointed to assist the Department and Respondents reach a resolution of some or all of the issues. The mediator is chosen from a list of mediators provided by the Florida Conflict Resolution Consortium ("FCRC"). The FCRC will provide up to eight hours of free mediation services to the Respondents. A mediator cannot require the parties to settle the case. If mediation is unsuccessful, both parties retain their full rights to litigate the issues before an administrative law judge. The Respondents must select the mediator and notify the FCRC within 15 days of receipt of the list of mediators. The mediation process does not interrupt the time frames of the administrative proceedings and the mediation must be completed at least 15 days before the date of the final hearing.

26. The written request to appoint a mediator must be made within 10 days after receipt of the Initial Order from the administrative law judge appointed to hear the case. The request must be received by the Florida Conflict Resolution Consortium, Morgan Building, Suite 236, 2035 East Paul Dirac Drive, Tallahassee, Florida, 32310, (850) 644-6320, [flacrc@fsu.edu](mailto:flacrc@fsu.edu). Once the request is timely received, the FCRC will provide the parties with a list of mediators and the necessary information.

*Right to Opt Out of the Administrative Proceeding*

27. If Respondents do not wish to contest the issues before an administrative law judge, Respondents may file a notice with the Department opting out of the administrative process. Respondents must file its written opt

out notice within 20 days after service of the Notice. The written notice to opt out is filed when it is received by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000.

28. Once the Respondents opt out of the administrative process, the Department may sue the Respondents for injunctive relief, damages, costs and expenses, and civil penalties. If the Respondents opt out of the administrative process, the Department may ask the judge to assess civil penalties in excess of the amounts in this Notice up to \$10,000.00 per day per violation. The election to opt out of the administrative process is permanent and once the election is made the administrative process cannot be restarted.

*Waivers*

29. Respondents will waive the right to a formal hearing or an informal proceeding if either:

- a. a petition for a formal hearing or informal proceeding is not filed with the Department within 20 days of receipt of this Notice, or
- b. a notice opting out of the administrative proceeding is not filed with the Department within 20 days of receipt of this Notice.

These time limits may be varied only by written consent of the Department.

*General Provisions*

30. The Findings of Fact and Conclusions of Law of this Notice together with the Orders for Corrective Action will be adopted by the Department in a Final Order if Respondents fail to timely file a petition for a formal hearing or informal proceeding, pursuant to Section 403.121, Fla. Stat. A Final Order will constitute a full and final adjudication of the matters alleged in this Notice.


31. If Respondents fail to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Sections 120.69, 376.303, 403.121 and 403.131, Fla. Stat. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$10,000 per day for each day that Respondents have failed to comply with the Final Order.

Ricky's Oil Service, Inc.  
OGC # 08-0256

32. Copies of Department rules referenced in this Notice may be examined at any Department Office or may be obtained by written request to the District Office.

DATED this 6 day of March, 2008.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
\_\_\_\_\_  
Jack Long  
District Director  
Southeast District

3/6/08  
\_\_\_\_\_  
Date

Copies furnished to:  
Lea Crandall, Agency Clerk MS #35  
Michael Redig, via Oculus