



Florida Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr.
Secretary

August 29, 2012

ELECTRONIC MAIL
thagan@howcousa.com

Mr. Tim Hagan, Owner
HOWCO Environmental Services
3701 Central Avenue
St. Petersburg, FL 33713

OCD-HW-12-319

Lake County-HW
HOWCO Environmental Services- FLD101828689
Short Form Consent Order Letter

Dear Mr. Hagan,

A hazardous waste compliance inspection was conducted at your facility on March 21, 2012. The inspection was conducted under the authority of Section 403.091, Florida Statutes, and Chapter 403, Part IV, Florida Statutes. The inspection was designed to determine the compliance status of your facility with 40 CFR 260-268 and 279, adopted in Florida Administrative Code Chapters 62-730 and 62-737.

The Department has reviewed the submittals provided by HOWCO Environmental Services concerning corrective actions and has the following comments:

- a) Contingency Plan: The Department maintains that HOWCO Environmental Services violated this regulation.
- b) Analysis Plan: The Department maintains that HOWCO Environmental Services violated this regulation.
- c) Oil Shipment Records: The Department maintains that HOWCO Environmental Services violated this regulation.
- d) Display Valid Registration: The Department maintains that HOWCO Environmental Services violated this regulation.
- e) Comply with Permit: The Department maintains that HOWCO Environmental Services violated this regulation.

Enclosed is a Short Form Consent Order for your review and a Penalty Computation Worksheet that shows the factors used to determine the penalty amount. The penalty amount was calculated in accordance with Section 403.121, Florida Statutes, the U.S. EPA RCRA Civil Penalty Policy, dated September 2004, and the Department's Guidelines for Characterizing RCRA Violations. A copy of each document is available upon request.

If the Consent Order is acceptable, please sign and return within 10 days. If it is not acceptable, please let us know why within 10 days. If you have questions concerning this matter, please e-mail Danielle Owens at Danielle.D.Owens@dep.state.fl.us or call her at (407) 897-4307. Your response should be mailed to Danielle Owens at the letterhead address above.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Prather".

Jeff Prather
Director, Central District

JP/ddo

Enclosures:

1. Short Form Consent Order
2. Penalty Computation Worksheet



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Mr. Tim Hagan Sr., President/CEO
HOWCO Environmental Services
3701 Central Avenue
St. Petersburg, FL 33713

OCD-HW-12-319

SUBJECT: Department of Environmental Protection v. HOWCO Environmental Services
OGC File No.: 12-1412
March 21, 2012 RCRA Inspection
FLD101828689

Mr. Hagan:

The State of Florida Department of Environmental Protection (“Department”) finds that HOWCO Environmental Services (“Respondent”) violated Department rules regarding maintaining a copy of the current contingency plan [40 CFR 279.52(b)], maintaining a written analysis plan [40 CFR 297.55], maintaining the current year’s used oil shipment records [40 CFR 279.56(a)], displaying a valid registration [Rule 62-710.500(4), F.A.C.], and complying with the permit [Rule 62-710.800(2), F.A.C] in violation of Rule 62-730, F.A.C. 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 \$6,000.00 in civil penalties and \$500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$6,500.00. The civil penalties are apportioned as follows: \$1,000.00 for violation of 40 CFR 279.52(b); \$2,000.00 for violation of 40 CFR 279.55; \$500.00 for violation of 40 CFR 279.56(a); \$500 for violation of Rule 62-710.500(4), F.A.C.; and \$2,000.00 for violation of Rule 62-710.800(2), F.A.C.

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 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803 within 20 days of receipt. 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, Timothy Hagan Sr., President/CEO of HOWCO Environmental Services

- (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 violation(s) referenced above. The Respondent has informed the Department that Respondent is accepting this offer to resolve the parties' dispute expeditiously, without incurring the delay and expense associated with litigation. Respondent also disputes and does not admit the allegations contained in the Department's warning letter and other correspondence regarding this case.

Respondent's Performance

After signing and returning this document to the Department,

- (1) Respondent must pay \$6,500.00 in full by October 1, 2012.
- (2) The payment must: (a) be in the form of a cashier's check or money order; (b) be payable to the "Department of Environmental Protection"; (c) include the OGC Number assigned above, 12-1412, and the notation "Ecosystem Management and Restoration Trust Fund"; and (d) be sent to 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803.

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.

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 Danielle Owens at 407-897-4307 or at Danielle.D.Owens@dep.state.fl.us.

Sincerely,



Jeff Prather
Director
Central District

FOR THE RESPONDENT:

I, _____ [Type or Print Name], **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 _____, 2012, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jeff Prather
Director
Central District

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@dep.state.fl.us)

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.

PENALTY COMPUTATION WORKSHEET

Facility's Name: HOWCO Environmental Services

EPA ID #: FLD101828689

Facility Address: 24133 State Road 40, Astor, FL 32102

Staff Responsible for Penalty Computations: Danielle D. Owens

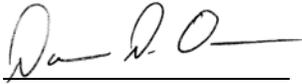
Date: 08/13/12

	Violation Type	Manual Guide	Potential for Harm	Extent of Deviation	Matrix Range	Total
a.	279.52(b) Contingency Plan	UO-112	ELRA 403.121(4)(e)		\$1,000	\$1,000
b.	279.55 Analysis Plan	UO-125	ELRA 403.121(4)(d)		\$2,000	\$2,000
c.	279.56(a)Used Oil Shipment Records	UO-41	ELRA 403.121(4)(f)		\$500	\$500
d.	62-710.500(4) Display Valid Registration	UO-27	ELRA 403.121(4)(f)		\$500	\$500
e.	62-710.800(2) Comply with Permit	UO-87	ELRA 403.121(3)(e)		\$2,000	\$2,000

Multiday penalties were not selected as it was not possible to determine the number of days out of compliance at this time. Economic benefit not calculated for these violations.

TOTAL PENALTY AMOUNT FOR ALL VIOLATIONS: \$6,000.00

Prepared by:



Danielle D. Owens
Environmental Specialist

August 29, 2012

Date



Jeff Prather
Director, Central District

August 29, 2012

Date