



Florida Department of Environmental Protection

Southwest District Office
13051 North Telecom Parkway, Suite 101
Temple Terrace, Florida 33637-0926

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

November 22, 2017

January Environmental Services, Inc.
Mr. Cris January, Owner
1920 State Road 60 West
Bartow, FL 33830
Cris@januaryservices.com

SUBJECT: Department of Environmental Protection v. January Environmental Services, Inc.,
OGC File No.: 17-1137
HW Facility ID #FLD982162943
Polk County

Mr. January:

The State of Florida Department of Environmental Protection (“Department”) finds that January Environmental Services, Inc. (“Respondent”) managed used oil in violation of the rules cited in the attached inspection report. 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 \$6,500.00 in civil penalties and \$250.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$ 6,750.00. The civil penalties are apportioned as follows: \$2,000.00 for violation of Rule 62-710.800(4), F.A.C.; \$4,000.00 for violation of CFR 279.54(2); and \$500.00 for violation of 403.121(5), F.S.

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 the Southwest District, 13051 N. Telecom Parkway, Suite 101, Temple Terrace, FL 33637 by **December 15, 2017**.

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, Cris January, President of January Environmental Services, Inc.:

- (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 Respondents' 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) Respondent must pay \$6,750.00 in full by **January 15, 2018**.
- (2) 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 Leslie Pedigo at (813) 470-5870 or at Leslie.Pedigo@FloridaDEP.gov.

Sincerely,


Mary E. Feargan, P.G.
District Director
Southwest District

Draft copy furnished to:

Loren January Dorwart, January Environmental Services, Inc.;
Loren@januaryservices.com

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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 _____, 2017, in Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Mary E. Yeargan
District Director
Southwest 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
 Penalty Assessment Worksheet
 Inspection Report

Final clerked copy furnished to:

Loren January Dorwart, January Environmental Services, Inc.;

Loren@januaryservices.com

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.



**Florida Department of
Environmental Protection
Hazardous Waste Inspection Report**

FACILITY INFORMATION:

Facility Name: January Environmental Services Inc
On-Site Inspection Start Date: 05/23/2017 **On-Site Inspection End Date:** 05/31/2017
ME ID#: 46304 **EPA ID#:** FLD982162943
Facility Street Address: 1920 Hwy 60 W Main St, Bartow, FL 33830-0000
Contact Mailing Address: 1920 Highway 60 West, Bartow, FL 33830
County Name: POLK **Contact Phone:** (863) 534-8478

NOTIFIED AS:

Non-Handler
Used Oil

INSPECTION TYPE:

Routine Inspection for Used Oil Processor facility

INSPECTION PARTICIPANTS:

Principal Inspector: Leslie Pedigo, Inspector
Other Participants: Elizabeth Knauss, Environmental Consultant; Shannon Kennedy, Environmental Specialist II; Cruz Torres, Driver; Loren January, Secretary

LATITUDE / LONGITUDE: Lat 27° 53' 51.5901" / Long 81° 51' 47.2672"

SIC CODE: 4212 - Trans. & utilities - local trucking, without storage

TYPE OF OWNERSHIP: Private

Introduction:

January Environmental Services (January) was inspected to determine the facility's compliance with used oil transporter and transfer facility rules. The facility was originally notified as a small quantity generator on March 25, 1988, under the name Ashland Chemical Company. The 5.18-acre property was sold to January Environmental on October 20, 2004 and the notification was changed to Used Oil Transporter, Transfer Facility, Marketer and Filter Transporter. The company obtained a used oil processor permit (307171-HO-001) on April 16, 2012 due to problems related to storing collected oil more than 35 days. The permit expired April 16, 2017, and January failed to timely file an application to renew the permit. The Department has conducted a number of Hazardous Waste inspections of this facility, most recently on February 20, 2015. Cruz Torres accompanied the inspectors during the facility inspection conducted on May 23, 2017. A follow-up visit was conducted on May 31, 2017; Loren January was available during the second site visit for the paperwork review and to answer additional questions.

Process Description:

January is a used oil, used oil filter and oily waste transporter and processor. The facility does not have full time office employees and there are currently two drivers that work out of this location. The facility picks up waste products from its customers, consolidates and stores the waste and arranges for final treatment and disposal. January does not accept used oil or oily water from other transporters, except for one company that was required to notify as a transporter as it transports more than 55 gallons of self-generated oil at a time. The facility does not collect public used oil.

During the last inspection of the facility conducted on February 20, 2015, it was discovered that January was processing used oil through the use of a centrifuge and a vibratory screen filter. As this was not authorized in the permit, January was required to submit an application for a major permit modification. Submittals were received on October 15, 2015, November 12, 2015 and November 17, 2015. The major permit modification was approved by the Department on February 11, 2016. The facility was required to submit an application for

Inspection Date: 05/23/2017

permit renewal by February 16, 2017; however, the application was not received until April 13, 2017. The Department issued a Request for Additional Information (RAI) on April 21, 2017; a response was due by May 22, 2017; however, an extension was granted until July 3, 2017.

The facility is no longer processing the used oil it receives from customers and has not been for the past several months. During this inspection, the centrifuge had been removed from the treatment system and per Mr. Torres, will be sent to January's Oklahoma facility.

At the time of this inspection, two of the company vehicle operating out of this location were present onsite. A Wastewater Truck was located next to the building. Used Oil Truck #15, which was empty at the time of the inspection, was located at the rail car loading rack. Per Mr. Torres, January uses TIF XL-1A meters to screen used oil for halogen content prior to accepting the used oil from their customers. At the time of the inspection, neither a TIF instrument nor a Dexsil Test Kit was present in Used Oil Truck #15.

In addition to Used Oil Truck #15, one rail car was located at the loading rack. A track pan is located under the rail car loading area. The facility is not currently receiving or shipping used oil via rail. The rail car contained used oil solids as the liquids from this vessel had been placed into Tanker Trailer T-43. January is in the process of getting the solids removed from this railcar. The railcar will be re-certified and will then be sent to January's facility in Oklahoma. A second railcar, which was empty, was sent to January's Oklahoma facility within the past few months.

The facility is currently using six white 24,000-gallon aboveground storage tanks (ASTs) to store used oil. These ASTs are registered with the Department's Storage Tank Program, facility ID # 53/ 9101026. According to the electronic gauge, tank 101 contained 7,741-gallons of liquid, tank 102 contained 22,898-gallons of liquid, tank 103 contained 10,480-gallons of liquid, tank 104 contained 2,566-gallons of liquid, tank 105 contained 1,700-gallons of liquid, and tank 106 contained 22,694-gallons of liquid at the time of the inspection. A green AST has been installed in a separate containment area attached to the existing containment; at the time of the inspection this tank was empty. A second empty green AST and another silver AST were observed laying on their sides in the yard, both are empty. Please note that if any of these ASTs is to be used to store regulated materials they must comply with all regulatory requirements. Regulated tanks are required to be registered 30 days prior to installation, or within 30 days of changing from a waste water or process tank to a regulated used oil storage tank. In addition, a permit modification may be needed if storage capacity is increased. At the time of the inspection the containment around the tank farm was in good repair, did not contain any free liquids, and appeared to be adequate to contain the volume of the tanks.

Three tanker trailers were present at the facility at the time of the inspection. Tankers T-45 and T-120 were both empty. Tanker T-43 contained approximately 5,000-gallons of poor quality oil (high in both sediment and water content) from the railcar. Secondary containment was not provided for Tanker T-43.

Six used oil bins, all empty, were stored in the yard between Tankers T-43 and T-45. Two roll-off containers were located in the yard. The roll-off immediately north of Tanker T-43 contained solids collected from the used oil operations. The last shipment of solids to the landfill in Okeechobee took place in August of 2015. The analytical analysis from the August 2015 shipment, which did not include TCLP for volatiles, documents that the material was not characteristically toxic for any RCRA metals. The second roll-off contained solid waste from the facility: buckets, soil and plant debris.

A number of containers of oily water, used oil and used oil filters were observed in the building. According to Ms. January, some of their clients collect these wastes in drums which are brought back to the facility. Used oil will be pumped out of the drums to the used oil tanks, PCW will be routed to Aqua Clean and used oil filter will be collected until there are enough for a shipment.

Paperwork review included looking at incoming and outgoing bills of lading for 2015 through 2017. All outgoing shipments of used oil are going to Aaron Oil, Saraland, Alabama (EPA ID #ALD983180233). EPA identification numbers of the oil provider or designated facility were typically included on the bill of lading. Used oil filters are being sent to US Foundry in Miami.

Four drivers have worked at this facility in 2015, 2016 and 2017: Leandro Torres, Cruz Torres, Socrates Torres and Lynn Harris. Training records have not been provided as requested during the records review. No verification of training was provided for 2016 or 2017. Daily inspections were present for days when the facility is open and monthly storage tank inspection records are maintained.

Inspection Date: 05/23/2017

New Potential Violations and Areas of Concern:

Violations

Type: Violation
 Rule: **62-710.800(4)**
 Explanation: The permit expired April 16, 2017, and January failed to timely file an application to renew the permit
 Corrective Action: Ensure that all required submittals are made to properly renew the permit.

Type: Violation
 Rule: **62-710.600(2)(c)**
 Explanation: No verification of employee training was provided for 2016 or 2017.
 Corrective Action: Immediately provide documentation that the required training has occurred or immediately provide the required training if it has not occurred and provide the documentation to the Department.

Type: Violation
 Rule: **279.54(c)**
 Explanation: Secondary containment was not provided for the trailer storing used oil.
 Corrective Action: Immediately provide secondary containment for this trailer or remove the oil to a container which has secondary containment.

Photo Attachments:

Tanker T-45 and T-43 are stored in the paved part of the yard.

Stormwater drain next to Trailer T-43 which contains used oil.



Type: Violation
 Rule: **403.161(1)(b)**
 Explanation: Neither a halogen monitoring device or test kit was present in the Used Oil Truck #15.
 Corrective Action: Ensure that all used oil trucks are provided with a halogen monitoring device or test kit.

Inspection Date: 05/23/2017

Conclusion:

The facility is not in compliance with state and federal hazardous waste regulations at the time of the inspection.

Inspection Date: 05/23/2017

1.0 - Pre-Inspection Checklist

Requirements:

The requirements listed in this section provide an opportunity for the Department's inspector to indicate the conditions found at the time of the inspection. A "Not Ok" response to a requirement indicates either a potential violation of the corresponding rule or an area of concern that requires more attention. Both potential violations and areas of concern are discussed further at the end of this inspection report.

| Item No. | Pre-Inspection Review | Yes | No | N/A |
|----------|--|-----|----|-----|
| 1.1 | Has the facility notified with correct status? 262.12 | ✓ | | |
| 1.2 | Has the facility notified of change of status? 62-730.150(2)(b) | ✓ | | |
| 1.3 | Did the facility conduct a waste determination on all wastes generated? 262.11 | ✓ | | |

Inspection Date: 05/23/2017

Signed:

A hazardous waste compliance inspection was conducted on this date, to determine your facility's compliance with applicable portions of Chapters 403 & 376, F.S., and Chapters 62-710, 62-730, 62-737, & 62 -740 Florida Administrative Code (F.A.C.). Portions of the United States Environmental Protection Agency's Title 40 Code of Federal Regulations (C.F.R.) 260 - 279 have been adopted by reference in the state rules under Chapters 62-730 and 62-710, F.A.C.

Leslie Pedigo
PRINCIPAL INSPECTOR NAME

Inspector
PRINCIPAL INSPECTOR TITLE

Leslie Pedigo
PRINCIPAL INSPECTOR SIGNATURE

DEP
ORGANIZATION 07/18/2017
DATE

Elizabeth Knauss
Inspector NAME

Environmental Consultant
Inspector TITLE

FDEP/SWD
ORGANIZATION

Shannon Kennedy
Inspector NAME

Environmental Specialist II
Inspector TITLE

DEP/SWD
ORGANIZATION

Cruz Torres
Representative NAME

Driver
Representative TITLE

January Environmental Services, Inc.
ORGANIZATION

NOTE: By signing this document, the Site Representative only acknowledges receipt of this Inspection Report and is not admitting to the accuracy of any of the items identified by the Department as "Potential Violations" or areas of concern.

Loren January
Representative NAME

Secretary
Representative TITLE

January Environmental Services, Inc.
ORGANIZATION

NOTE: By signing this document, the Site Representative only acknowledges receipt of this Inspection Report and is not admitting to the accuracy of any of the items identified by the Department as "Potential Violations" or areas of concern.

Report Approvers:

Approver: Shannon Kennedy

Inspection Approval Date: 07/18/2017

PENALTY COMPUTATION WORKSHEET

Violator's Name: January Environmental Services, Inc.

Identify Violator's Facility: FLD982162943

Name of Department Staff Responsible for the Penalty Computations: Leslie Pedigo

Date: 10/27/2017

| | Violation Type | Manual Guide | ELRA Schedule | ELRA Amount | Multi Day | Other Adjustment | Total |
|------------------|---|--------------|---------------|-------------|-----------|------------------|------------|
| 1. | 62-710.800(4), FAC – Failure to timely renew permit (Application and fee have been submitted). | UO 91 | 403.121(3)(e) | \$2,000.00 | | | \$2,000.00 |
| 2. | CFR 279.54(c) – Secondary containment not provided for oil trailer storing oil. | UO 102 | 403.121(4)(b) | \$4,000.00 | | | \$4,000.00 |
| 3. | 403.121(5), FS – Violation of specific condition 45 of the facility permit. No halogen monitoring device or test kit was in the pump truck. An unused device was in the laboratory. | UO 125 | 403.121(4)(d) | \$500.00 | | | \$500.00 |
| SUB-TOTAL | | | | | | | \$6,500.00 |
| DEPARTMENT COSTS | | | | | | | 250.00 |

Total Penalties Including Department Costs:

\$6,750.00


 Mary E. Yeagan, P.G.
 Southwest District Director
 Florida Department of Environmental Protection

November 22, 2017
 Date

WORKSHEET
ELRA PENALTY DETERMINATION

FACILITY NAME: January Environmental Services, Inc. Date: July 6, 2017

EPA ID No.: FLD982162943 OGC Case #: 17-1137

403.121(3)(e) For solid waste violations, the department shall assess a penalty of \$2,000 for the unpermitted or unauthorized disposal or storage of solid waste; plus \$1,000 if the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus \$1,000 if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well, plus \$1,000 if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries.

The department shall assess a penalty of \$3,000 for ...; unauthorized burning; ...

The department shall assess a penalty of \$2,000 for failure to construct or maintain a required stormwater system.

403.121(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

- (a) For failure to satisfy financial responsibility requirements or for violation of s. [377.371\(1\)](#), \$5,000.
- (b) For failure to install, maintain, or use a required pollution control system or device, \$4,000.
- (c) For failure to obtain a required permit before construction or modification, \$3,000.
- (d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, \$2,000.
- (e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, \$1,000.
- (f) ... for failure to prepare, submit, maintain, or use required reports or other required documentation, \$500.

403.121(5) ..\$500 for failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified

403.121(6) For each additional day during which a violation occurs, the administrative penalties in subsection (3), subsection (4), and subsection (5) may be assessed per day per violation.

403.121(7) The history of noncompliance of the violator ... resulting in an executed consent order, final order or judgment, ... involving the imposition of \$2,000 or more in penalties shall be taken into consideration in the following manner:

- (a) + 25% -One previous such violation within 5 years prior to the filing of the notice of violation
- (b) +50% Two previous such violations within 5 years prior to the filing of the notice of violation.
- (c) +1% Three or more previous such violations within 5 years prior to the filing of the notice of violation

403.121(8) The direct economic benefit gained by the violator from the violation..., shall be added to the scheduled administrative penalty. The total administrative penalty, ...(still) shall not exceed \$10,000.

403.121(9) The administrative penalties assessed for any particular violation shall not exceed \$5,000 against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds \$5,000, or there are multiday violations. The total administrative penalties shall not exceed \$10,000 per assessment for all violations attributable to a specific person in the notice of violation.

ECONOMIC BENEFIT WORKSHEET

FACILITY NAME: January Environmental Services, Inc. Date: July 6, 2017

EPA ID No.: FLD982162943 OGC Case #: 17-1137

Violation: 279.54(c) – Secondary Containment not provided for a trailer holding used oil

The avoided costs for providing secondary containment are negligible as the facility's storage tanks had the available capacity to hold the used oil in the tank trailer. The facility could have moved the oil stored in one of their six tanks to another tank to hold the material separately. No extra tank capacity or secondary containment capacity was required for the facility to be operating in compliance, therefore the avoided or delayed costs are negligible, and consist of only staff time to switch pumps.

EB = Avoided Costs (1-C) + Delayed Costs (T)

C = Current Corporate Tax Rate = .34 (2017 values)

T = IRS Interest Rate = 3% per year

Violation:

Avoided Costs = Estimated to be less than \$300

Delayed Costs = Estimated to be less than \$300

EB = assessment is not required per guidelines

https://fldeploc.dep.state.fl.us/appdata/rcra_epa/Guidance/Econ_Benefit_Calc_Guide.pdf