



# Florida Department of Environmental Protection

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

Rick Scott  
Governor

Carlos Lopez-Cantera  
Lt. Governor

Noah Valenstein  
Secretary

February 19, 2018

VIA EMAIL: [epaul@synergyrecycling.org](mailto:epaul@synergyrecycling.org)

Mr. Elliott Paul, Managing Member

Ricky's Oil & Environmental Services, LLC

P.O. Box 669295

Miami, FL 33166

SUBJECT: Department of Environmental Protection v. Ricky's Oil & Environmental Services, LLC

OGC File No.: 18-0013

EPA ID No.: FLD98101975

Miami-Dade County

Mr. Paul:

The State of Florida Department of Environmental Protection ("Department") finds that Ricky's Oil & Environmental Services, LLC ("Respondent") violated used oil management standards, in violation of Sections 403.721 Florida Statutes and Chapter 62-710, Florida Administrative Code (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 \$2,100.00 in civil penalties and \$500.00 for costs and expenses that the Department has incurred in investigating this matter, which amounts to a total of \$2,600.00.

### **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 FDEP Southeast District Office, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL

33406 by **February 27, 2018**. 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, Elliott Paul:

- (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.

### **Respondent's Performance**

After signing and returning this document to the Department,

- (1) Respondent must pay \$2,600.00 in full by **March 13, 2018**.
- (2) Respondent shall make one-time payment 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.

**DEP vs. Ricky's Oil & Environmental Services, LLC**

**OGC No. 18-0013**

**Page 3 of 5**

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 Norva Blandin at 561-681-6728 or at [norva.blandin@dep.state.fl.us](mailto:norva.blandin@dep.state.fl.us).

Sincerely,



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Jennifer K. Smith  
District Director  
Southeast District Office

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]

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**FOR DEPARTMENT USE ONLY**

DONE AND ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2018, in \_\_\_\_\_ County,  
Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

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Jennifer K. Smith  
District 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.

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Clerk

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Date

Attachments:            Notice of Rights  
                                 Copy of the Warning Letter dated January 3, 2018

Final clerked copy furnished to:  
Lea Crandall, Agency Clerk ([lea.crandall@dep.state.fl.us](mailto: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.



# Florida Department of Environmental Protection

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

Rick Scott  
Governor

Carlos Lopez-Cantera  
Lt. Governor

Noah Valenstein  
Secretary

January 3, 2018

VIA EMAIL: [Epaul@synergyrecycling.org](mailto:Epaul@synergyrecycling.org)

Elliot Paul, Managing Member  
Ricky's Oil & Environmental Services LLC  
7209 NW 66<sup>th</sup> Street  
Miami, FL 33166

VIA EMAIL: [Rsmerkers@synergyrecycling.org](mailto:Rsmerkers@synergyrecycling.org)

Rick Smerkers, General Manager  
Ricky's Oil & Environmental Services LLC  
7209 NW 66<sup>th</sup> Street  
Miami, FL 33166

Re: Warning Letter # WL17-00069HW13SED  
Ricky's Oil & Environmental Services LLC  
7209 NW 66<sup>th</sup> Street  
Miami, FL 33166  
EPA ID # FLD981019755  
Miami-Dade County

Dear Mr. Paul and Mr. Smerkers:

A hazardous waste and used oil compliance evaluation inspection (CEI) was conducted at your facility on August 3, 2017, under the authority of Section 403.091, Florida Statutes (F.S.). During this inspection, possible violations of Chapter 403, F.S., Chapter 62-710, Florida Administrative Code (F.A.C.) were observed.

During the inspection on August 3, 2017, Norva Blandin, Department inspector, notified facility representative Mr. Smerkers, General Manager, that potential violations existed at the facility, and Mr. Smerkers was encouraged to take corrective action within 15 days. The potential violations included were:

Failure to include the EPA ID numbers of used oil generators on the facility's used oil acceptance and delivery record forms; failure to update the contact information of the facility's Emergency Coordinator in the facility's Contingency Plan; failure to notify local emergency authorities of the facility's updated/revised Contingency

Plan; failure to cover the facility's used oil filter roll-off container in a manner that would adequately protect the roll-off container from the elements; and failure to properly label the used oil filter roll-off container with the words "Drained Used Oil Filters."

Violations of Florida Statutes or administrative rules may result in liability for damages and restoration, and the judicial imposition of civil penalties, pursuant to Sections 403.141, 403.161 and 403.727, Florida Statutes.

Please contact Daniel Lopez, at (561) 681-6605, or Norva Blandin, at (561) 681-6728, within **15 days** of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in receiving any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), Florida Statutes. We look forward to your cooperation in completing the investigation and resolving this matter.

Sincerely,



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Jennifer Smith  
District Director  
Southeast District  
Florida Department of Environmental Protection

JS/JA/dl

Attachments: Hazardous Waste Inspection Report dated August 3, 2017

cc: Christopher Ricci, 1408 NE 26<sup>th</sup> Avenue, Fort Lauderdale, FL 33304

ec: Glen Perrigan, DWM via email [Glen.Perrigan@dep.state.fl.us](mailto:Glen.Perrigan@dep.state.fl.us)  
Serge Beregovoy, Miami-Dade DERM via email [beregs@miamidade.gov](mailto:beregs@miamidade.gov)  
Jason Andreotta, SED via email [Jason.Andreotta@dep.state.fl.us](mailto:Jason.Andreotta@dep.state.fl.us)  
Norva Blandin, SED via email [norva.blandin@dep.state.fl.us](mailto:norva.blandin@dep.state.fl.us)