



FLORIDA DEPARTMENT OF Environmental Protection

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

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

February 1, 2023

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

Re: Proposed Consent Order OGC File No. 23-0013
January Environmental Services, Inc.
Facility ID #FLD982162943
Polk County

Dear Mr. January

Enclosed is the proposed Consent Order, OGC File No. 23-0013, regarding the above-referenced facility. Please review, sign, and return the Consent Order by **February 10, 2023**, if in agreement. If not in agreement, please contact the Department immediately. Upon return of the signed Consent Order, I shall execute it and a copy will be sent to you.

The executed Consent Order constitutes final agency action of the Department, which shall be enforceable pursuant to Sections 120.69 and 403.121, Florida Statutes. By countersigning the Consent Order, the Department waives its right to seek judicial imposition of damages, costs and expenses, or civil penalties for the alleged violations. By signing the Consent Order, you, as the Respondent, acknowledges and waives its right to a hearing and appeal of the terms of the Consent Order.

If the signed original Consent Order is not received by the Department by **February 10, 2023**, the Department will assume that you are not interested in the settlement on the above terms, and the matter may be referred to the Office of General Counsel for formal enforcement action. None of your rights or substantial interests are determined by the Consent Order until it is signed and filed with the Department.

Should you have any questions, please contact David Petti at (813) 470-5748 or via email at David.Petti@FloridaDEP.gov. Thank you for your cooperation.

Sincerely,



Kelley M. Boatwright
Southwest District Director
Florida Department of Environmental Protection

ec: Neil Lakhani, Geotech Environmental, Inc.; Neil@geotech-usa.com
Lea Crandall, FDEP/OGC, Lea.Crandall@FloridaDEP.gov
Michell Smith, DEP, Michell.M.Smith@FloridaDEP.gov
Pamala Vazquez, DEP-SWD, Pamala.Vazquez@FloridaDEP.gov
M. Brandon Miller, DEP-SWD, Michael.B.Miller@FloridaDEP.gov
Leslie Pedigo, DEP-SWD, Leslie.Pedigo@FloridaDEP.gov
David Petti, DEP-SWD, David.Petti@FloridaDEP.gov

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	SOUTHWEST DISTRICT
)	
v.)	OGC FILE NO. 23-0013
)	EPA ID NO. FLD982162943
JANUARY ENVIRONMENTAL SERVICES,)	
INC.)	
_____)	

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and January Environmental Services, Inc. (“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 administer and enforce the provisions of the Florida Resource Recovery and Management Act, Sections 403.702, et seq., Florida Statutes (“F.S.”), and the rules promulgated in Chapter 62-710, Florida Administrative Code (“F.A.C.”) and Chapter 62-701, F.A.C. The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is a “person” within the meaning of Sections 403.031(5) and 403.703(23), F.S.
3. Respondent is a for profit corporation registered to do business in Florida which operates a used oil, used oil filter and oily waste transporter and storage facility located on real property located at 1920 Hwy 60 W Main Street, Bartow, Polk County, Florida, 33830, Parcel Number 24-30-01-000000-022010 (“Facility”).
4. Respondent is the owner of the Facility as defined in Rule 62-701.200(31), F.A.C. Respondent was operating the facility under a Used Oil Processing Facility Permit, number 0307171-004-HO/00307171-005-SO issued on December 7, 2017 (“Permit”).

5. On April 12, 2022, the Department conducted an inspection of the Facility and determined that the following violations occurred:

- a) The Annual Used Oil Transporter/Transfer Facility registration had not been timely submitted as required by Rule 62-710.500(1), F.A.C. and Rule 62-710.500(2), F.A.C.
- b) The Annual Used Oil Filter Transporter/Transfer Facility registration had not been timely submitted as required by Rule 62-710.850(3), F.A.C.
- c) The Annual Report by Used Oil and Used Filter Handlers had not been timely submitted as required by Rule 62-710.510(5), F.A.C.
- d) The Permit renewal paperwork had not been timely submitted as required by Rule 62-710.800(4), F.A.C.
- e) Verification of employee training was not available, as required by 62-710.600(2)(c), F.A.C.

6. On October 20, 2022, the Department received notice that Respondent did not intend to renew their Used Oil Processing Facility permit. As such, the Facility is now subject to the facility Closure Conditions of Permit 307171-004-HO/307171-005-SO.

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

ORDERED:

7. Effective immediately, Respondent shall comply with all Department rules regarding used oil management. Respondent shall correct and redress all violations within the time periods stated below and shall comply with all applicable sections in Chapter 62-710, F.A.C. and Title 40, Code of Federal Regulations ("C.F.R.") Part 279.

- a) Within 30 days, all tanks, secondary containment, and ancillary equipment will be emptied, cleaned, and decontaminated. Tanks, piping, and ancillary equipment must be triple rinsed. All removed residues must be managed as hazardous waste unless a waste determination indicates these materials are non-hazardous.

b) Within 30 calendar days of the completion of closure, Respondent shall submit to the Department a Closure Report. The Closure Report must include, but is not limited to, the following:

- i. Environmental sampling data to verify closure activities.
- ii. Decontamination data.
- iii. Copies of manifests or other appropriate shipping documents for all removed hazardous waste and non-hazardous waste residues.
- iv. A description of final closure activities.
- v. A final Closure Activities Report that documents as applicable:
 - (1) An inventory of the tanks, piping and ancillary equipment that has been removed from the Facility.
 - (2) The weight of #1 heavy metal scrap sold.
 - (3) The weight of other scrap sold, by classification.
 - (4) The weight of scrap disposed and how it was disposed.
 - (5) An inventory of the tanks, piping and valves ancillary equipment that is being retained for use by the future property owner.

8. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$20,707.00 in settlement of the matters addressed in this Order. This amount includes \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

9. Respondent agrees to pay the Department stipulated penalties in the amount of \$1,000.00 per day for each day Respondent fails to timely comply with any of the requirements of Paragraph 7 of this Order. A separate stipulated penalty shall be assessed for each violation of this Order, and 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 10, 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 Paragraph 8 of this Order. If the Department is required to file a lawsuit to recover stipulated penalties under this Paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Order in an amount greater than the stipulated penalties due under this Paragraph.

10. 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 several days after this order becomes final, effective and filed with the Clerk of the Department before ability to make online payment is available.

11. Except as otherwise provided, all submittals and payments required by this Order shall be sent to David Petti, Environmental Specialist III, Department of Environmental Protection, Southwest District, 13051 North Telecom Parkway, Suite 101, Temple Terrace, Florida, 33637.

12. 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.

13. Respondent shall use all reasonable efforts to obtain any necessary access to implement the terms of this Order. If necessary, access cannot be obtained, or if obtained, is revoked by owners or entities controlling access to the properties to which access is necessary, Respondent shall notify the Department within five business days of such refusal or revocation. The Department may at any time seek to obtain access as is necessary to implement the terms of this Order. Respondent shall reimburse the Department for any damages, costs, or expenses, including expert and attorney fees, that the Department is ordered to pay, or that the Department incurs in connection with its efforts to obtain access

that is necessary to implement the terms of this Order. Respondent shall pay these sums to the Department or arrange a payment schedule with the Department within 30 days of written demand by the Department.

14. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

15. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines (unless the cause of the contractor's late performance was also beyond the contractor's control) shall be considered circumstances beyond the control of Respondent. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must describe

the provision or provisions extended, the new compliance date or dates, and the additional measures respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this Paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

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. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or the rules administered by the Department that are not specifically resolved by this Order. Nothing herein shall be construed to limit the Department's authority to take any action against Respondent in response to or to recover the costs of responding to conditions at or from the Facility that require Department action to abate an imminent hazard to the public health, welfare, or the environment.

18. 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.

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, F.S., 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, F.S.

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 shall 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, F.S. Failure to comply with the terms of this Order shall constitute a violation of Section 403.161(1)(b), F.S.

23. This Consent Order is a final order of the Department pursuant to Section 120.52(7), F.S., 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, F.S. Upon the timely filing of a petition, this Order will not be effective until further order of the Department.

24. Respondent shall publish the following notice in a newspaper of daily circulation in Polk County, Florida. The notice shall be published one time only within 10 days of the effective date of the Order.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF CONSENT ORDER

The Department of Environmental Protection gives notice of agency action of entering into a Consent Order with JANUARY ENVIRONMENTAL SERVICES, INC. pursuant to Section 120.57(4), Florida Statutes. The Consent Order addresses the failure to comply with the state and federal rules and regulations applicable to used oil transporter and storage facilities at 1920 Hwy 60 W Main Street, Bartow, Florida, 33830. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Southwest District, 13051 North Telecom Parkway, Suite 101, Temple Terrace, Florida, 33637.

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 the following information:

- a) The name and address of each agency affected and each agency's file or identification number, if known;
- b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- c) A statement of when and how the petitioner received notice of the agency decision;
- d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
- f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

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 in Paragraph 12, 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. Before the deadline for filing a petition, a person whose substantial interests are affected by this Order may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in Section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

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

FOR THE RESPONDENT:

Cris January
President

DATE

DONE AND ORDERED this ____ day of _____ 2023, in _____, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Kelley M. Boatwright
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

Copies furnished to:

David Petti, DEP-SWD, david.petti@floridadep.gov
M. Brandon Miller, DEP-SWD, michael.b.miller@floridadep.gov
Pamala Vazquez, DEP-SWD, pamala.vazquez@floridadep.gov
Michell Smith, DEP, michell.m.smith@floridadep.gov
Lea Crandall, Agency Clerk, DEP, leah.crandall@floridadep.gov