



FLORIDA DEPARTMENT OF Environmental Protection

Central District Office
3319 Maguire Blvd., Suite 232
Orlando, Florida 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

July 22, 2024

Mark Beyel, Treasurer
Beyel Brothers, Inc.
550 Cidco Road
Cocoa, FL 32926
Mark.Beyel@Beyel.com

Re: Beyel Brothers, Inc. – Merritt Island
NPDES Stormwater Facility ID No. FLR05G858
Hazardous Waste Facility ID No. FLR000262113
OGC Case #24-0370

Dear Mr. Beyel:

Enclosed is the executed Consent Order to resolve the above referenced case. This copy is for your records.

Should you have any questions or comments, please contact Faith DeVictoria at 407-897-4338 or via e-mail at Faith.DeVictoria@floridadep.gov.

Your cooperation in this matter will be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "AW", is written over a light blue horizontal line.

On behalf of:

Aaron Watkins
Director, Central District

Enclosure: Executed Consent Order with Exhibit 1

cc: FDEP: Lea Crandall, Anitra Spencer, Faith DeVictoria, Wanda Robles
Matt Beyel, Matt.Beyel@Beyel.com
Joey White, Joey.White@Beyel.com
Rory Ryan, RRyan@Ryan-Law.com
Robert Musser, bmusser@portcanaveral.com

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	CENTRAL DISTRICT
)	
v.)	OGC FILE NO. 24-0370
)	EPA ID NO. FLR000262113
BEYEL BROTHERS, INC.)	
_____)	

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and Beyel Brothers, Inc. (“Respondent”) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds but Respondent neither admits nor denies the following:

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 the Florida Resource Recovery and Management Act, Sections 403.702, et seq., Florida Statutes (“F.S.”), and the rules promulgated in Chapters 62-621, 62-710, and 62-730, Florida Administrative Code (“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(9) and 403.703(23), F.S.
3. Respondent is a for-profit Florida corporation which operates a boat building and repairing yard on real property located at 99 Dover Avenue, parcel ID 24-3707-00-753, Merrit Island, Brevard County, Florida (“Facility”). Respondent is the operator of the Facility as defined in Rule 62-730.020, F.A.C.
4. Respondents operated the Facility under Sector R of the National Pollutant Discharge Elimination System (“NPDES”) *Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity*, Number FLR05G858, which became effective on January 25, 2020 and expires on January 24, 2025 (“MSGP”). These activities are exposed to stormwater and the stormwater runoff discharges into the Banana River at outfall 001 Latitude 28° 24’ 31.33” N Longitude 80° 39’ 53.77” W.
5. On September 12, 2023, the Department inspected the Facility in response to a complaint received by the Department and for compliance with its NPDES MSGP.

6. The Department finds that the following violations occurred:

a) Respondent failed to maintain good housekeeping best management practices to manage potential pollutants in violation of 62-621.300(5)(a) F.A.C., and Federal Register, Volume 60, Number 189, pages 51211-51215, published on September 29, 1995. Part XI.R.3.a.(3)(a) Good Housekeeping (i)-(vii). Partial corrective documentation was provided to the Department via email on September 20, 2023. The remaining corrective documentation required is ordered in paragraph 7.

b) Respondent failed to conduct monthly facility inspections in violation of 62-621.300(5)(a), F.A.C. and Federal Register, Volume 60, Number 189, pages 51211-51215, published on September 29, 1995. Part XI.R.3.a.(3)(d) Inspections. Corrective documentation was provided to the Department on January 10, 2024 via email.

c) Respondent failed to provide a waste determination for waste generated from industrial processes at the Facility in violation of Rule 62-730.160(1) (adopting Section 40 Code of Federal Regulations (“C.F.R.”) 262.11 (2014)), F.A.C., and Section 403.727(1)(a), F.S. Corrective documentation was provided to the Department via email on March 12, 2024.

d) Respondent failed to properly label used oil containers at the Facility with the words “Used Oil” in violation of Rules 62-710.210(2) (adopting Section 40 C.F.R. 279.22(c)(1) (2012)) and 62-710.401(6), F.A.C., and Section 403.161(1)(b), F.S. The remaining corrective documentation required is ordered in paragraph 7.

e) Respondents failed to properly label used oil containers at the Facility with the words “Used Oil” and provide secondary containment in violation of Rules 62-710.210(2) (adopting Section 40 C.F.R. 279.22(c)(1) (2012)) and 62-710.401(6), F.A.C., and Section 403.161(1)(b), F.S. The remaining corrective documentation required is ordered in paragraph 7.

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 hazardous waste management and the NPDES MSGP. Respondent shall correct and redress all violations within the time periods stated below and shall comply with all applicable sections in Chapter 62-621, 62-730, F.A.C. and Title 40, Code of Federal Regulations (“C.F.R.”) Parts 260 through 266 and Part 268. All time periods shall run from the effective date of this Order.

a) Respondent shall remove all of the deteriorating vessels labeled 1, 2, and 3 (“Vessels”) in Exhibit 1, stored in the off-site Canaveral Barge Canal, at the northwest of the property perimeter by August 30, 2024. See Exhibit 1 for reference.

b) Respondent shall provide documentation for the removal of the Vessels noted from 7a to the Department by August 30, 2024.

c) Respondent shall modify the existing BMP plan to include an appropriate vessel storage timeline requirement which shall reduce the potential for discharge of pollutants from deteriorating vessels on and off-site and provide documentation of the modification to the Department by August 30, 2024.

d) Respondent shall maintain effective and appropriate Best Management Practices on the property which shall reduce the potential for discharge of pollutants.

e) Respondent shall properly label all used oil containers at the Facility with the words “Used Oil” and provide secondary containment which allows for 110% of the capacity for all used oil containers and provide documentation of correction to the Department by August 30, 2024.

8. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$33,378.00 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. The civil penalties are proportioned as follows: \$24,000.00 for four violations of Part XI.R.3.a.(3)(a); \$750.00 for violation of Part XI.R.3.a.(3)(d); \$2,130.00 for violation of 40 CFR 262.11; \$2,999 for violation of 40 CFR 279.22(c)(1); and \$2,999 for violation of 62-710.401(6) Florida Administrative Code.

9. Respondent agrees to pay the Department stipulated penalties in the amount of \$1,000.00 per day for each and every 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 a number of 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 Central District Office, Department of Environmental Protection, 3319 Maguire Blvd., Ste 232 Orlando, FL 32802 and DEP_CD@FloridaDEP.gov.

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. 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.

15. 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.

16. 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.

17. 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 \$75,000.00 per day per violation, and criminal penalties.

18. 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.

19. 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.

20. 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.

21. 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.

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 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.

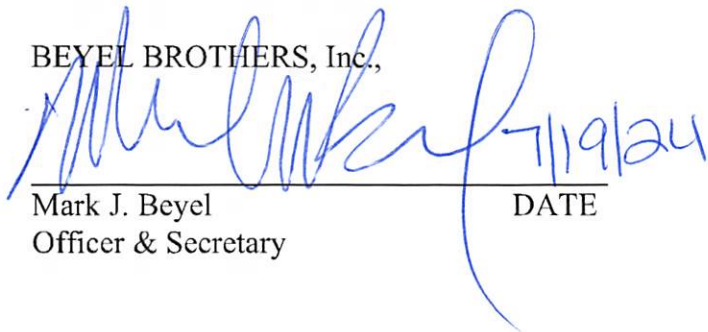
The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000, or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at the address indicated in Paragraph 11. 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.

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

FOR THE RESPONDENT:

BEYEL BROTHERS, Inc.,

 7/19/24

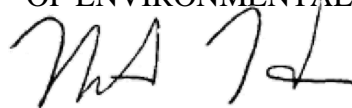
Mark J. Beyel
Officer & Secretary

DATE

----- FOR DEPARTMENT USE ONLY -----

DONE AND ORDERED this 22 day of July, 2024, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



on behalf of

Aaron Watkins
District 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.



July 22, 2024

Clerk

Date

Final clerked copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35

Exhibit 1 - Vessels labeled 1, 2, and 3 stored in the off-site Canaveral Barge Canal, northwest of the property perimeter.

