BEFORE THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION,

IN THE OFFICE OF THE SOUTHWEST DISTRICT

Petitioner,

vs.

OGC CASE NO. 23-1768

SENTURK MARKETING INC.,

Respondent.

FINAL ORDER

Certified Mail No.: 7011 3500 0000 3205 3150

BY THE DEPARTMENT:

On April 18, 2024, the Department of Environmental Protection ("Department") issued a Notice of Violation, Orders for Corrective Action, and Administrative Penalty Assessment ("Notice") to Respondent, pursuant to the authority of Section 403.121(2), Florida Statutes. A copy of the Notice is attached and incorporated herein as Exhibit A. Respondent received the Notice on May 23, 2024. A copy of the certified return receipt is attached and incorporated herein as Exhibit B.

The Notice informed Respondent that unless a request for hearing was filed with the Department within 20 days of receipt, the Orders for Corrective Action contained therein would become final. No responsive pleading or request for hearing has been made by Respondent. Therefore, pursuant to Section 403.121(2)(c), Florida Statutes, the Findings of Fact and Conclusions of Law contained in the Notice are deemed admitted and have become binding and final. The Orders for Corrective Action have likewise become final and effective, pursuant to Section 403.121(2)(c), Florida Statutes.

Specifically, the Orders for Corrective Action (see Exhibit A) contain the following directions to the Respondent:

20. Respondent shall forthwith comply with all Department rules regarding construction of docking structures. Respondent shall correct and redress all violations in the time periods required below and shall comply with all applicable rules in Fla. Admin. Code Chapter 62-330.

21. **Within 30 days** of the effective date of this Order, Respondent shall properly remove the docking structure in accordance with all the requirements of Fla. Admin. Code Chapter 62-330.

22. Within 30 days of the effective date of this Order, Respondent shall make payment to the Department for the administrative penalties in the amount of \$4,500.00. Payment shall be made by cashier's check, money order or online payment. Cashier's check or money order shall be made payable to the "State of Florida Department of Environmental Protection" and shall include thereon the OGC Case number assigned to this case and the notation "Water Quality Assurance Trust Fund." The payment shall be sent to 13051 N. Telecom Parkway, Suite 101, Temple Terrace, FL, 33637. 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.

23. In addition to the administrative penalties, **within 30 days** of the effective date of this Order, Respondent shall pay \$500.00 to the Department for costs and expenses. Payment shall be made by cashier's check or money order. Cashier's check or money order shall be made payable to the "State of Florida Department of Environmental Protection" and shall include thereon the notations "OGC Case No. 23-1768" and "Water Quality Assurance Trust Fund." The payment shall be sent to the State of Florida Department of Environmental Protection, 13051 N. Telecom Parkway, Suite 101, Temple Terrace, FL., 33637. Online payments by e-check can be made by going to the DEP Business Portal at: http://www.fldepportal.com/go/pay/. It will

2

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.

Having considered the Notice of Violation, Orders for Corrective Action, and Administrative Penalty Assessment and Respondent's failure to timely file a responsive pleading to request a hearing, it is, therefore,

ORDERED by the State of Florida Department of Environmental Protection that the foregoing Orders for Corrective Action are hereby approved and adopted into as the Final Order of the Department in the above-styled matter.

Respondent shall comply with the Orders for Corrective Action within the time frames specified above, all of which <u>commence</u> on the effective date of this Final Order. The effective date of this Final Order is the date on which it is filed with the designated Department clerk (see below).

Any party to this Final Order has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by filing a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Agency Clerk of the Department, Office of General Counsel, 3900 Commonwealth Blvd., MS-35, Tallahassee, Florida 32399-3000 or via electronic correspondence at <u>Agency_Clerk@floridadep.gov</u>; <u>and</u> by filing a copy of the Notice of Appeal with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days of the effective date of this Final Order.

3

DONE AND ORDERED this 8th day of November, 2024, in Hillsborough,

Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Killes M

Kelley M. Boatwright Southwest District Director

Filed, on this date, pursuant to Section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk

<u>11/8/2024</u> Date

Note: This is the effective date of the Final Order.

Copies furnished to:

Lea Crandall, Agency Clerk Mail Station 35

BEFORE THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION,

IN THE OFFICE OF THE SOUTHWEST DISTRICT

Petitioner,

v.

OGC FILE NO.: 23-1768

SENTURK MARKETING INC.,

Respondent.

____/

NOTICE OF VIOLATION AND ORDERS FOR CORRECTIVE ACTION AND ADMINISTRATIVE PENALTY ASSESSMENT

TO:

Senturk Marketing Inc c/o Vedat Senturk 696 Rosewood Way Lake Mary, FL 32746

7008 2810 0001 9562 1374:

Pursuant to the authority of Section 403.121(2), Florida Statutes ("Fla. Stat.") the State of

Florida Department of Environmental Protection ("Department") gives notice to Senturk

Marketing Inc. ("Respondent") of the following findings of fact and conclusions of law

with respect to violations of Chapters 403, and 373, Fla. Stat., and Chapter 62-330,

Florida Administrative Code ("Fla. Admin. Code").

FINDINGS OF FACT PARAGRAPHS APPLICABLE TO ALL COUNTS

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 Chapters 403, 376, 373, Fla. Stat. and the rules promulgated thereunder in Fla Admin. Code Title 62.

2. Respondent is a corporation that owns and operates a gas station and commercial fueling dock plant located at 6920 14th St W, Bradenton Fl, Property ID No. 6665000003, Section 26, Township35S, Range17E, Manatee County, Florida ("Property"). The Department has assigned Environmental Resource Permit Site No. 132001 to the Property. A location map depicting the Property is attached hereto and incorporated herein as Exhibit A.

3. Respondent has owned the Property since December 12, 2008.

4. The Property is adjacent to Bowlees Creek, a Class II Waterbody. Bowlees Creek is a navigable waterway whose bottom is held in trust by the State of Florida Board of Trustees of the Internal Improvement Trust Fund.

5. Respondent operates a 4-slip commercial fuel docking facility at the Property ("Docking Facility"). The Docking Facility has a sovereign submerged land lease BOT No. 410028083 ("Lease"). The Lease authorizes the operation of a 4-slip commercial fuel docking facility adjacent to the Property. The Docking Facility also has an Environmental Resource Permit ("ERP") No. 41-013200-001 for the construction and operation of a 788 square feet commercial dock.

6. On December 1, 2022, the Department conducted a compliance inspection of the Docking Facility. The inspection revealed that Respondent constructed and maintains an approximately 165 square feet floating dock structure addition to the Docking Facility without ERP authorization, in violation of Rule 62-330.020, Fla. Admin. Code.^{1 2}

7. On December 20, 2022, the Department issued a written Compliance Assistance Offer (CAO) letter to Respondent to resolve the violation. Respondent did not appear at the meeting scheduled to discuss the CAO.

8. On April 24, 2023, a Warning Letter ("Letter") was issued to the Respondent for the construction of the additional floating dock structure, however Respondent failed to respond to the Warning Letter.

9. On June 2, 2023, Department staff conducted a follow-up site visit and observed the floating dock structure remained. Despite multiple attempts by Department staff, Respondent failed to apply for a permit for the floating dock structure or remove it.

10. As of the date of this Notice, the Respondent has failed to resolve the outstanding compliance violations.

¹ After reviewing historic aerials and Department records, Department required the floating structure be removed in 2018 and received documentation of removal on November 21, 2018, however based on aerials, it appears Respondent reinstalled the floating structure sometime in 2019.

² A Title Determination was completed and determined the docking structure addition is not located on or over sovereign submerged lands.

<u>COUNT I</u>

UNAUTHORIZED DOCKING STRUCTURE ADDITION

11. The facts in paragraph 1 through 10 are realleged and incorporated herein.

12. Respondent constructed and is operating a floating dock structure, measuring approximately 165 square feet within Bowlees Creek, without authorization from the Department.

COUNT II

COSTS AND EXPENSES INCURRED

13. The Department has incurred expenses to date while investigating this matter in the amount of not less than \$500.00.

CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with regard to the

requirements of Chapter 403, 376, 373, Fla. Stat and Fla. Admin. Code Title 62. Based on the foregoing facts, the Department has made the following conclusions of law:

14. Respondent is a " person" within the meaning of Sections 373.019(15), Fla.

Stat.

15. Bowlees Creek is a "surface water" within the meaning of section 373.019(21), Fla. Stat.

16. Pursuant to sections 373.430 and 403.161, Fla. Stat., it is a violation to fail to obtain a permit required by this part or by rule or regulation adopted pursuant thereto.

17. The facts in Count I constitute a violation of Rule 62-330.020, Fla. Admin. Code, which requires a permit prior to construction or alteration of any project in, on, or over surface waters or wetlands. The facts in Count I also constitute a violation of sections 373.430 and 403.161, Fla. Stat., for failure to comply with Department rules. The violation in Count I requires the assessment of an administrative penalty under section 403.121(4)(c) Fla. Stat. of \$4,500.00 for failure to obtain a required permit before construction of a project within a Class II surface water.

18. The costs and expenses related in Count II are reasonable costs and expenses incurred by the State while investigating this matter, which are recoverable pursuant to section 403.141(1) Fla. Stat.

19. The Department is imposing an administrative penalty of less than or equal to \$50,000 in this Notice of Violation as calculated in accordance with section 403.121, Fla. Stat.

ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondent, must do in order to correct and redress the violations alleged in this Notice. Page 6 of 12 Notice of Violation – Senturk Marketing Inc. OGC File No. 23-1768

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondent files a timely petition for a formal hearing or informal proceeding, pursuant to Section 403.121, F.S. (See Notice of Rights.) If Respondent fails to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's Order pursuant to Sections 120.69, 403.121 and 403.131, Fla. Stat.

Pursuant to the authority of sections 403.061(8) and 403.121, Fla. Stat., the Department proposes to adopt in its Final Order in this case the following specific corrective actions that will redress the alleged violations:

20. Respondent shall forthwith comply with all Department rules regarding construction of docking structures. Respondent shall correct and redress all violations in the time periods required below and shall comply with all applicable rules in Fla. Admin. Code Chapter 62-330.

21. **Within 30 days** of the effective date of this Order, Respondent shall properly remove the docking structure in accordance with all the requirements of Fla. Admin. Code Chapter 62-330.

22. **Within 30 days** of the effective date of this Order, Respondent shall make payment to the Department for the administrative penalties in the amount of \$4,500.00. Payment shall be made by cashier's check, money order or online payment. Cashier's check or money order shall be made payable to the "State of Florida Department of Environmental Protection" and shall include thereon the OGC Case number assigned to Page 7 of **12** Notice of Violation – Senturk Marketing Inc. OGC File No. 23-1768

this case and the notation "Water Quality Assurance Trust Fund." The payment shall be sent to 13051 N. Telecom Parkway, Suite 101, Temple Terrace, FL, 33637. Online payments by e-check can be made by going to the DEP Business Portal at: <u>http://www.fldepportal.com/go/pay/</u>. 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.

23. In addition to the administrative penalties, **within 30 days** of the effective date of this Order, Respondent shall pay \$500.00 to the Department for costs and expenses. Payment shall be made by cashier's check or money order. Cashier's check or money order shall be made payable to the "State of Florida Department of Environmental Protection" and shall include thereon the notations "OGC Case No. 23-1768" and "Water Quality Assurance Trust Fund." The payment shall be sent to the State of Florida Department of Environmental Protection, 13051 N. Telecom Parkway, Suite 101, Temple Terrace, FL., 33637 . 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.

NOTICE OF RIGHTS

Respondent's rights to negotiate, litigate, or transfer this action are set forth below.

Right to Negotiate

24. This matter may be resolved if the Department and Respondent enters into a Consent Order, in accordance with Section 120.57(4), Fla. Stat., upon such terms and conditions as may be mutually agreeable.

Right to Request a Hearing

25. Respondent has the right to a formal administrative hearing pursuant to Sections 120.569, 120.57(1), and 403.121(2), Fla. Stat., if Respondent disputes issues of material fact raised by this Notice of Violation, Orders for Corrective Action, and Administrative Penalty Assessment ("Notice"). At a formal hearing, Respondent will have the opportunity to be represented by counsel or other qualified representative, to present evidence and argument on all issues involved, and to conduct crossexamination and submit rebuttal evidence.

26. Respondent has the right to an informal administrative proceeding pursuant to Sections 120.569 and 120.57(2), Fla. Stat., if Respondent does not dispute issues of material fact raised by this Notice. If an informal proceeding is held, Respondent will have the opportunity to be represented by counsel or other qualified representative, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

27. If Respondent desires a formal hearing or an informal proceeding, Respondent must file a written responsive pleading entitled "Petition for Administrative Proceeding" within 20 days of receipt of this Notice. The petition must Page **9** of **12** Notice of Violation – Senturk Marketing Inc. OGC File No. 23-1768

be in the form required by Fla. Admin. Code Rule 28-106.2015 and include the following:

- (a) The name, address, and telephone number, and facsimile number
 (if any) of each petitioner if the respondent is not represented by an attorney or qualified representative;
- (b) The name, address, telephone number, and facsimile number of the attorney or qualified representative of respondent, if any, upon whom service of pleadings and other papers shall be made;
- (c) A statement of when respondent received the Notice;
- (d) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate; and
- (e) The notation "OGC Case No. 23-1768 shall be included in the request.

A request for hearing is filed when it is <u>received</u> by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000 or <u>received</u> via electronic correspondence at <u>Agency_Clerk@floridadep.gov</u>.

Right to Request Mediation

28. If Respondent timely files a request challenging the Notice in accordance with Section 403.121(2)(e) Florida Statute, the Respondent has the right to mediate the issues raised in the Notice. If requested, a mediator will be appointed to assist the Department and Respondent to reach a resolution of some or all of the issues. The mediator is chosen from a list of mediators provided by the FCRC Consensus Center

("FCRC"). The FCRC will provide up to 8 hours of free mediation services to the Respondent. A mediator cannot require the parties to settle the case. If mediation is unsuccessful, both parties retain their full rights to litigate the issues before an administrative law judge. The Respondent must select the mediator and notify the FCRC within 15 days of receipt of the list of mediators. The mediation process does not interrupt the time frames of the administrative proceedings and the mediation must be completed at least 15 days before the date of the final hearing.

29. The written request to appoint a mediator must be made within 10 days after receipt of the Initial Order from the administrative law judge appointed to hear the case. The request must be received by the FCRC Consensus Center, Attn. Chris Pedersen, 296 Champions Way, UCC6140, Tallahassee, Florida, 32306-2641, cpedersen@fsu.edu. Once the request is timely received, the FCRC will provide the parties with a list of mediators and the necessary information as required by Section 403.121(2)(e) Florida Statutes.

Right to Opt Out of the Administrative Proceeding

30. If Respondent does not wish to contest the issues before an administrative law judge, Respondent may file a notice with the Department opting out of the administrative process. Respondent must file its written opt out notice within 20 days after service of the Notice. The written notice to opt out is filed when it is <u>received</u> by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000 or <u>received</u> via electronic correspondence at

Page 11 of 12 Notice of Violation – Senturk Marketing Inc. OGC File No. 23-1768

<u>Agency_Clerk@floridadep.gov</u>.

31. Once the Respondent opts out of the administrative process, the Department may sue the Respondent for injunctive relief, damages, costs and expenses and civil penalties. If the Respondent opts out of the administrative process, the Department may ask the judge to assess civil penalties in excess of the amounts in this Notice up to \$15,000.00 per day per violation. The election to opt out of the administrative process is permanent and once the election is made the administrative process cannot be restarted.

Waivers

32. Respondent will waive the right to a formal hearing or an informal proceeding if either

- a. a request for a formal hearing or informal proceeding is not filed with the Department within 20 days of receipt of this Notice, or
- b. a notice opting out of the administrative proceeding is not filed with the Department within 20 days of receipt of this Notice.

These time limits may be varied only by written consent of the Department.

General Provisions

33. The findings of fact and conclusions of law of this Notice together with the Orders for Corrective Action will be adopted by the Department in a Final Order if Respondent fails to timely file a request for a formal hearing or informal proceeding, pursuant to Section 403.121, Fla. Stat. A Final Order will constitute a full and final adjudication of the matters alleged in this Notice. 34. If Respondent fails to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Sections 120.69, 403.121 and 403.131, Fla. Stat. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$15,000 per day for each day that Respondent has failed to comply with the Final Order.

35. Copies of Department rules referenced in this Notice may be examined at any Department Office or may be obtained by written request to the person listed on the last page of this Notice.

DATED this <u>18th</u> day of <u>April</u>, 2024.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Kelley M. Bating

Kelley M. Boatwright Southwest District Director

Copies furnished to: Kirk White, OGC

Exhibit A OGC No.





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

December 20, 2022

Vedat Senturk Senturk Marketing Inc 6920 14th St W Bradenton, FL 34207 v.senturk@yahoo.com **Exhibit B** OGC File No.

Re: Compliance Assistance Offer Senturk Marketing Inc ERP No. 132001 / BOT No. 410028083 Manatee County

Dear Mr. Senturk

The Florida Department of Environmental Protection (Department) conducted an inspection at your facility on December 1, 2022. During this inspection, potential non-compliance was noted. The purpose of this letter is to offer compliance assistance as a means of resolving these matter(s).

Specifically, potential non-compliance with the requirements of Section 403 and Section 373, Florida Statutes, and Chapter 18-21 and Chapter 62-330, Florida Administrative Code, was observed. Please see the attached inspection report for a full account of Department observations and recommendations.

We request you review the items(s) of concern noted and respond inwriting within 15 days of receipt of this Compliance Assistance Offer. Your response should include one of the following:

- 1. Describe what has been done to resolve the non-compliance issue or provide a schedule describing how/when the issue will be addressed.
- 2. Provide the requested information, or information that mitigates the concerns or demonstrates them to be invalid, or
- 3. Arrange for the case manager to visit your site to discuss the item(s) of concern.

It is the Department's desire that you are able to adequately address the aforementioned issues so that this matter can be closed. Your failure to respond promptly may result in the initiation of formal enforcement proceedings.

Senturk Marketing Inc ERP No.: ERP_132001 Compliance Assistance Offer Page 2 of 2

Please address your response and any questions to Stephanie Valentin Rivera of the Southwest District Office at (813) 470-5918 or via e-mail at <u>Stephanie.ValentinRivera@FloridaDEP.gov</u>. We look forward to your cooperation with this matter.

Sincerely, Hannel Justin of

Hannah Westervelt Environmental Manager Compliance Assurance Program Southwest District Florida Department of Environmental Protection

Enclosures: Inspection Report

Cc:

Stephanie Valentin Rivera, DEP/SWD, <u>Stephanie.ValentinRivera@FloridaDEP.gov</u> Hannah Westervelt, DEP/SWD, <u>Hannah.Westervelt@FloridaDEP.gov</u>



FLORIDA DEPARTMENT OF Environmental Protection

Ron DeSantis Governor

Jeanette Nuñez Lt. Governor

Shawn Hamilton Secretary

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

April 24, 2023

Vedat Senturk Senturk Marketing Inc 6920 14th St W Bradenton, FL 34207 v.senturk@yahoo.com Exhibit C

OGC File No.

Re: Warning Letter # WL23-27SLERP41SWD ERP Site No. ERP _132001 / BOT No. 410028083 Manatee County

Dear Mr. Senturk,

The Florida Department of Environmental Protection (Department) conducted an inspection at your property on December 1, 2022. During this inspection, possible violations Section 403 and Section 373, Florida Statutes, and Chapter 18-21 and Chapter 62-330, Florida Administrative Code, was observed.

Department personnel noted the following:

• An additional unauthorized docking structure was constructed outside of the State Lands Lease boundaries.

On December 20, 2022 a written Compliance Assistance Offer Letter (CAO) was issued to you as part of an agency investigation preliminary to agency action in accordance with section 120.57(5), Florida Statutes. To date, there has been no resolution of the items noted above.

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 403.121, 403.141 and 403.161, Florida Statutes.

Please contact Hannah Westervelt, at (813) 470- 5752, 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.

Senturk Marketing Inc ERP No. 132001 / BOT No. 410028083 Warning Letter Page 2 of 2

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,

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

cc: Hannah Westervelt; DEP-SWD; <u>Hannah.Westervelt@floridaDEP.gov</u>
 Kelley Boatwright; DEP-SWD; <u>Kelley.M.Boatwright@FloridaDEP.gov</u>
 Pamala Vasquez: DEP-SWD; <u>Pamala.Vasquez@FloridaDEP.gov</u>
 Stephanie Valentin-Rivera; DEP-SWD; <u>Stephanie.ValentinRivera@FloridaDEP.gov</u>

