



Florida Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

Via email: john.eller@beyel.com
joe.beyel@beyel.com

Joe Beyel, President
Beyel Brothers, Inc.
12 Dover Ave
Merritt Island, FL 32952

OCD-MM-10-001

Re: Multimedia Warning Letter

Dear Mr. Beyel:

On September 4, 2008, the Department conducted a multimedia inspection of Beyel Brothers Inc. located at 12 Dover Ave, Merritt Island. Follow-up inspections were conducted on March 12, 2009 and May 28, 2009. Results of the compliance inspections were summarized in the attached Warning letter dated March 19, 2009.

As of today, this enforcement case remains open. Please contact me by telephone at (407) 893-3303 or by e-mail at Lisa.Kelley@dep.state.fl.us within 10 days of receipt of this letter to schedule an informal conference concerning resolution of the non-compliance issues identified in the previous Warning Letter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations continue to exist and to discuss the proposed penalties associated with non-compliance.

This Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. The Department looks forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,

Lisa A. Kelley
Multimedia Coordinator
Date: January 6, 2010

Attachment: Penalty Calculation Worksheet
March 19, 2009 Warning Letter and inspection report

cc: ddenig@portcanaveral.com

PENALTY COMPUTATION WORKSHEET

Violator's Name: Beyel Brothers, Inc.

Identify Violator's Facility: 12 Dover Ave., Merritt Island, FL

Staff Responsible for Penalty Computations: John Harris, Terry Riordan, Leo Anglero, Jessica Kleinfelter

Revision Date: January 5, 2010

	Violation Type	Manual Guide	Potential for Harm	Extent of Deviation	Matrix Range	Adjustments	Total
Hazardous Waste							
1.	40 CFR 262.11 Determination	RCRA PG 5/2008	Moderate	Major	\$10,315-6,448		\$10,315
2.	403.708(1), F.S. Improper Discharge	UO PG 5/2008	Moderate	Major	\$4,599-3,200		\$4,599
3.	40 CFR 279.22(c) Labeling	UO PG 5/2008	Minor	Major	\$1,199-600		\$1,199
4.	40 CFR 279.22(d) Discharge Response	UO PG 5/2008	Moderate	Major	\$4,599-3,200		\$4,599
5.	R. 62-710.401(6), Fla. Admin. Code Secondary Cont.	UO PG 5/2008	Minor	Major	\$1,199-600		\$1,199
Stormwater							
6.	Unauthorized Stormwater (>1 acre site)		Major	Moderate	\$7,999		\$7,999
7.	Economic Benefit (cost of permits)					\$420	\$420
NPDES Stormwater							
8.	Failure to obtain a required permit.		Moderate	Major	\$4,599-3,200		\$4,599

Total penalty amount for all violations	\$34,929.00
Costs and expenses incurred by the Department	\$1,000.00
TOTAL	\$35,929.00

Prepared by:



Lisa Kelley, Multimedia Coordinator

January 5, 2010

* All penalties calculated are intended for settlement purposes and may increase up to the Florida Statute maximum of \$50,000 per day per violation should litigation be necessary.

HAZARDOUS WASTE WORKSHEET
RANKING SYSTEM FOR POTENTIAL FOR HARM

FACILITY NAME: Beyel Brothers Crane and Rigging Revised Date: July 6, 2009

EPA ID No.: Non-Notifier

	Violation	Description	Nature of Waste	Amount of Waste	Release	People	Total Points
1.	262.11	Determination	4	2	6	2	14
2.	403.708(1)	Improper Discharge	4	2	6	2	14
3.	279.22(c)	Labeling	4	2	1	2	9
4.	279.22(d)	Discharge Response	4	2	6	2	14
5.	62-710.401(6)	Secondary Containment	4	2	1	2	9

SCORING SYSTEM

NATURE OF WASTE	AMOUNT OF WASTE	RECEPTORS	
		Discharge	Affected Population
8 - High hazard wastes	8 - > 25 drums	6 - Actual Discharge	4 - > 1,000
	5 - 6-25 drums	4 - Potential for discharge	3 - 100 - 1,000
4 - typical hazardous waste	2 - < 6 drums		2 - 10 - 100
		1 - No discharge	1 - <10

MAJOR POTENTIAL FOR HARM: 19-24

MODERATE POTENTIAL FOR HARM: 13-18

MINOR POTENTIAL FOR HARM: 8-12

ONLY VIOLATIONS IN WHICH A "POTENTIAL FOR HARM" SCORE IS REQUIRED ARE LISTED ON THIS PAGE.

STORMWATER VIOLATIONS

FACILITIES UNDER CONSTRUCTION OR CONSTRUCTED WITHOUT A PERMIT

POTENTIAL FOR HARM:

MAJOR:

1. FAILURE OF A STORMWATER MANAGEMENT SYSTEM OR FAILURE TO USE EROSION OR SEDIMENTATION CONTROLS RESULTING IN OVER 10,000 SQ. FT. OF IMPACT IN WATERS IN (OR OF) THE STATE OR JURISDICTIONAL WETLANDS, OR ANY IMPACT INTO AN OUTSTANDING FLORIDA WATER (OFW), CLASS I WATERS, CLASS II WATERS, AQUATIC PRESERVES OR SWIM WATER BODIES WITH APPROVED PLANS.
2. CONSTRUCTION THAT RESULTS IN A DISCHARGE OF STORMWATER FROM A SITE GREATER THAN ONE (1) ACRE OF TOTAL AREA OR GREATER THAN 0.5 ACRE OF IMPERVIOUS AREA WITHOUT A STORMWATER MANAGEMENT SYSTEM.

MODERATE:

1. FAILURE OF A STORMWATER MANAGEMENT SYSTEM OR FAILURE TO USE EROSION OR SEDIMENTATION CONTROLS RESULTING IN 2,000 TO 10,000 SQ. FT. OF IMPACT IN WATERS IN (OR OF) THE STATE OR JURISDICTIONAL WETLANDS (OTHER THAN AN OFW, CLASS I WATERS, CLASS II WATERS, AQUATIC PRESERVES OR SWIM WATER BODIES WITH APPROVED PLANS).
2. CONSTRUCTION THAT RESULTS IN A DISCHARGE OF STORMWATER FROM A SITE LESS THAN ONE (1) ACRE OF TOTAL AREA OR LESS THAN 0.5 ACRE OF IMPERVIOUS AREA WITHOUT A STORMWATER MANAGEMENT SYSTEM.
3. CONSTRUCTION OF A NEW STORMWATER MANAGEMENT SYSTEM FOR A SITE GREATER THAN ONE (1) ACRE OF TOTAL AREA OR GREATER THAN 0.5 ACRE OF IMPERVIOUS AREA.

MINOR:

1. FAILURE OF A STORMWATER MANAGEMENT SYSTEM OR FAILURE TO USE EROSION OR SEDIMENTATION CONTROLS RESULTING IN LESS THAN 2,000 SQ. FT. OF IMPACT IN WATERS IN (OR OF) THE STATE OR JURISDICTIONAL WETLANDS (OTHER THAN AN OFW, CLASS I WATERS, CLASS II WATERS, AQUATIC PRESERVES OR SWIM WATER BODIES WITH APPROVED PLANS).
2. CONSTRUCTION OF A NEW STORMWATER MANAGEMENT SYSTEM FOR A SITE LESS THAN ONE (1) ACRE OF TOTAL AREA OR LESS THAN 0.5 ACRE OF IMPERVIOUS AREA.

EXTENT OF DEVIATION:

MAJOR:

1. CONSTRUCTION THAT RESULTS IN THE DISCHARGE OF STORMWATER OR CONSTRUCTION OF A NEW STORMWATER MANAGEMENT SYSTEM WITHOUT A DEPARTMENT APPROVED PERMIT, WHICH FAILS TO QUALIFY FOR AN EXEMPTION FROM PERMIT REQUIREMENTS AND IS NOT PERMITTABLE AS CONSTRUCTED.
2. VIOLATION OCCURS AFTER PRIOR NOTICE FROM THE DEPARTMENT.

MODERATE:

1. CONSTRUCTION THAT RESULTS IN THE DISCHARGE OF STORMWATER OR CONSTRUCTION OF A NEW STORMWATER MANAGEMENT SYSTEM WITHOUT A DEPARTMENT APPROVED PERMIT, WHICH FAILS TO QUALIFY FOR AN EXEMPTION OF PERMIT REQUIREMENTS AND IS PERMITTABLE.
2. FAILURE TO IMPLEMENT EROSION AND SEDIMENT CONTROL BEST MANAGEMENT PRACTICES (BMPS) DURING CONSTRUCTION TO RETAIN SEDIMENTS ON-SITE.

MINOR: (NO MINOR CATEGORIES)



Florida Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

Via email: SuperiorMarine@bellsouth.net

Mr. Doug Moore & Mr. Danny Beyel, Owners
12 Dover Ave.
Merritt Island, FL 32952

OCD-MM-09-001

Multimedia Inspection of 12 Dover Avenue

- Superior Marine & Boat Yard, Inc.
- Beyel Brothers, Inc.

Dear Mr. Moore & Mr. Beyel:

On September 4, 2008, the Department conducted a multimedia inspection of 12 Dover Avenue, Merritt Island, FL. A follow-up inspection was conducted on March 12, 2009. These inspections were designed to determine compliance with State and Federal Environmental Regulations in the area of Hazardous Waste, Industrial Wastewater, NPDES Stormwater, and the Environmental Resources Program as authorized and implemented in Chapter 403, Florida Statutes and Title 62, Florida Administrative Code.

Results of the compliance inspection are summarized below; please see the attached inspection report for more details.

- **Superior Marine & Boat Yard;** Out of compliance with Stormwater regulations.
- **Beyel Brothers, Inc.;** Out of compliance with Stormwater, Hazardous Waste, and Industrial Wastewater regulations.

Please contact Lisa Kelley, Multimedia Coordinator, by telephone at (407) 893-3303 or by e-mail at Lisa.Kelley@dep.state.fl.us within 10 days of receipt of this letter to schedule an informal conference concerning resolution of the non-compliance issues. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred and whether any penalties are appropriate.

This Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. The Department looks forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,

Vivian F. Garfein
Director, Central District
Date: March 19, 2009

Attachment: Inspection reports

cc: Diane Denig, Canveral Port Authority. ddenig@portcanveral.com
Jeremy Rogus, Brevard County Environmental Health. Jeremy.Rogus@doh.state.fl.us

Superior Marine & Boat Yard, Brevard County, FL

I. Hazardous Waste:

John Harris, FDEP Environmental Specialist; John.Harris@dep.state.fl.us, (407) 894-7555
Superior Marine, Inc. (SMI) leases its property jointly with Beyel Brothers Crane and Rigging (Beyel Brothers) from the Cape Canaveral Port Authority. SMI rents boat storage space and also conducts off-site boat repair for the Coast Guard. SMI also leases space to Able Oil of Brevard (Able). Department information relating to Able may be found in the hazardous waste section.

SMI employs six people and has been operating at this location for approximately five years. SMI is connected to a septic system and city drinking water. The Department's hazardous waste section has not conducted any previous inspections at this facility. Mr. Doug Moore hosted the inspection.

Findings

The facility consists of an open, unpaved yard storage area, an office trailer, and maintenance shed.

Boats are stored in the open yard. In addition to boats, Department personnel also observed much debris and material in the yard, including metal, empty drums and tanks, and derelict vehicles. A tank for used oil is operated by Able and is kept in the yard.

The maintenance shed was reviewed. One parts washer is used. Used parts washer fluid is disposed to Able's used oil tank.

Areas of concern

Minor spills of used oil were noted. Spills of used oil should be cleaned up and the impacted dirt containerized for proper disposal.

II. Industrial Wastewater: Tom Powers, Environmental Specialist; (321) 255-4605 or (407) 893-3313; Tom.Powers@dep.state.fl.us

This inspection was an initial visit of the facility. Department records indicate the facility has not obtained a permit for industrial waste processes.

In compliance

This portion of the inspection focused on compliance with industrial wastewater processes. The facility site inspection and subsequent documentation review indicated that the facility is in compliance.

III. Stormwater: The Department's Central District staff conducted a stormwater inspection of the property. Additionally, the National Pollutant Discharge Elimination System (NPDES) stormwater program was notified of a potential stormwater discharge associated with industrial activity.

Central District Stormwater Program: Leo Anglero, (407) 893-3312; Leo.Anglero@dep.state.fl.us

Out of Compliance: Inspectors found inadequate stormwater management on the property. It appears the property exceeds the thresholds requiring a permitted stormwater management system. Those thresholds are:

- 4,000 square feet or more of impervious or semi-impervious surface area subject to vehicular traffic, or
- 5,000 square feet or more of building area or other impervious area not subject to vehicular traffic. (Reference: 40C-42.022, F.A.C.)

Corrective Actions: Within 30 days of the date of the warning letter, submit calculations of impervious or semi-impervious surface area subject to vehicular traffic. If the calculations show the project site meets or exceeds thresholds requiring a permit, then you must apply for such a permit. The application must propose a system that provides reasonable assurance of compliance with Rules 40C-4, 40C-40, 40C-41C and 40C-42, F.A.C. For guidance, contact Leo Anglero (contact info listed above).

NPDES Stormwater: Jessica Kleinfelter; (850) 245-7589; Jessica.Kleinfelter@dep.state.fl.us

Out of Compliance: The facility is reasonably expected to be a source of water pollution. This requires an appropriate and currently valid NPDES stormwater permit issued by the Department. Without a permit, such activities are prohibited (reference: 62-620.300, F.A.C. and 403.088, F.S.).

The failure to comply with the above laws and obtain an NPDES stormwater permit can result in assessment of:

- 1) Damages and administrative penalties (reference: 403.121, F.S.)
- 2) Damages and civil penalties (reference: 403.161(2), F.S.)
- 3) Criminal prosecution punishable by a fine of \$10,000.00 and six months in jail (reference: 403.161(5), F.S.).

Corrective Action

Within 30 days of the date of the warning letter, submit a Stormwater Pollution Prevention Plan (SWPPP), Notice of Intent (NOI), and \$500.00 application fee to the Department. Permit information and SWPPP guidance can be obtained from the Department's website at www.dep.state.fl.us/water/stormwater/npdes/industrial4.htm

IV. Other - Referrals were made to the following:

1. ***Brevard County Tax Office:***

Alisha Metcalf (321) 455-1413 ext 226, The County has no Business Tax Receipt on file for Superior Marine & Boatyard Inc.

2. ***Brevard County Environmental Health:***

Jeremy Rogus (321) 633-2100, Superior Marine & Boatyard has an active annual operating permit for a septic tank. The facility may be subject to annual inspections by Brevard County Environmental Health.

Beyel Brothers, Brevard County, FL

- I. **Hazardous Waste:** John Harris, Environmental Specialist; (407) 894-7555; John.Harris@dep.state.fl.us. Beyel Brothers Crane and Rigging (Beyel Brothers) leases its property jointly with Superior Marine, Inc. from the Cape Canaveral Port Authority. Beyel Brothers provides crane, rigging, heavy hauling and marine services for various industrial sectors, including power generation and distribution, military, and heavy civil construction. The location is used to refurbish and conduct repairs on barges and tug boats owned by Beyel Brothers and used as a materials storage area. Beyel Brothers employs from three to fifteen people at any one time for the operations conducted at this site. They have operated at this location for approximately five years. Mr. Dan Beyel hosted the site inspection.

Findings:

The site is located on the south shore of Canaveral Barge Canal, which connects to the Banana River. The site consists of storage sheds, an access area to the canal, and a yard. According to Mr. Beyel, one to two boats are refurbished per year. This includes pressure washing and removing bottom paint. This issue is addressed under the Department's Industrial Wastewater program (see below).

During the inspection, Seamark III was actively being refurbished in the access area. No tarp or other Best Management Practice (BMP) was observed to be in place. Petroleum impacted soil was observed beneath the boat [40 CFR 279.22(d)].

Running along the east edge of the property are several sheds, trailer boxes, and covered areas which are all used for storage. Observed in these storage units were many containers of liquid paints, spray paints, oils, acids, sealants, solvents, epoxy resins, degreasers, and unknown liquids. The containers varied in size from one quart to 55 gallons. Most were severely corroded and in poor condition [40 CFR 262.11]. Some were on bare ground. Some were labeled "flammable".

Two 5-gallon buckets containing hydraulic oil were observed to be open, unlabeled, and without secondary containment. [40 CFR 279.22(c); R. 62-710.401(6), Fla. Admin. Code]

The yard is used as storage. Much equipment and material, including empty tanks, was observed in the yard. Due to the potential to impact stormwater runoff, this issue will be addressed by the Department's NPDES program.

A follow-up inspection was conducted by John Harris and Lisa Kelley on March 12, 2009. Otto Marchica was present during the inspection. The containers observed during the September 2008 inspection were still present. Mr. Marchica stated that while the containers contained product chemicals, some were not usable anymore. Mr. Marchica was directed to complete an inventory of the chemicals on-site and determine what is usable and what is not. Mr. Marchica agreed to forward a copy of the materials determined to be waste to the Department prior to their disposal.

During the inspection, the Seamark III was being sandblasted and brought to bare metal. Mr. Marchica stated that Black Beauty is used as the blast media. Spent blast media is allowed to collect on the ground. While tarps had been placed on the ground, spent blast media had been deposited off the covered areas and on the bare ground [40 CFR 262.11; R. 403.708(1), Fla. Stat.].

Within 30 days from the date of this letter, submit copies of the past three years waste manifests.

Summary of Noncompliance Items and Corrective Actions:

1) **Regulation: 40 CFR 262.11 - Determination**

- a) Beyel Brothers is maintaining many containers of unknown contents.
- b) Beyel Brothers deposited spent blast media on bare ground.

Corrective Action:

- a) Within 30 days of the date of the warning letter, complete an inventory of all containers on-site including a determination of the contents. The results should be submitted to the Department with an explanation, including laboratory analysis where applicable, of how the determinations were conducted. Determinations conducted without adequate or appropriate supporting information or documentation will not be accepted. Those materials which are unusable must be properly disposed of. Containers in poor condition cannot be used to store material as this presents a threat of release to the environment. Materials maintained in containers with compromised integrity must be transferred to containers with adequate integrity.
- b) Beyel Brothers must analyze the spent blast material. The analysis must include cadmium, chromium, lead, arsenic, selenium, and barium. The results of the analysis must be forwarded to the Department within 30 days of receipt of this letter.

2) **Regulation: R. 403.708(1), Fla. Stat. – Improper Disposal**

Beyel Brothers allowed spent blast media to discharge onto bare ground.

Corrective Action: Beyel Brothers must operate in a manner that does not allow spent blast material to discharge to the bare ground.

3) **Regulation: 40 CFR 279.22(c) – Used Oil Labeling**

Beyel Brothers failed to properly label two 5-gallon buckets of used hydraulic oil.

Corrective Action: Beyel Brothers must label all containers of used motor and hydraulic oil with the words “Used Oil”.

4) **Regulation: 40 CFR 279.22(d) – Used Oil Discharge**

Beyel Brothers failed to respond to discharges of used oil.

Corrective Action: Effective immediately, Beyel Brothers must stop all discharges of used oil. Impacted soils must be excavated and properly disposed.

5) **Regulation: R. 62-710.401(6), Fla. Admin. Code**

Beyel Brothers failed to close and provide secondary containment for two 5-gallon buckets of used hydraulic oil.

Corrective Action: Beyel Brothers must maintain used oil in containers with secondary containment that can hold 110% of the volume of the containers. Beyel Brothers must maintain containers of used oil closed.

II. **Industrial Wastewater:**

Tom Powers, FDEP Environmental Specialist; Tom.Powers@dep.state.fl.us, (321) 255-4605 or (407) 893-3313.

Sources: This inspection was an initial visit of the facility. Beyel Brothers Inc. generates process wastewater from vessel repairing and refurbishing. This includes cleaning, scraping and sand blasting both the interior and exterior parts of the vessels.

Summary of Noncompliance Items and Corrective Actions:

Florida Statutes, Chapter 403.161

Wastewater generated from cleaning, scraping and sand blasting both the interior and exterior parts of the vessel has the potential to discharge from the embankment to the Barge Canal (Class III Surface waters of the State).

Corrective Action: Prior to the next scheduled vessel repair that includes cleaning, scraping and sand blasting, you are required to contact the Department to schedule an inspection to observe this activity. Following the inspection, the Department will determine if reasonable assurance is being implemented to contain the discharge. If the Department feels that reasonable assurance is not being implemented to contain the discharge, you will be required to obtain authorization from the Industrial Waste Permitting Section in Orlando.

III. Stormwater: The Department's Central District staff conducted a stormwater inspection of the property. Additionally, the National Pollutant Discharge Elimination System (NPDES) stormwater program was notified of a potential stormwater discharge associated with industrial activity.

Central District Stormwater Program: Leo Anglero, (407) 893-3312; Leo.Anglero@dep.state.fl.us

Out of Compliance: Inspectors found inadequate stormwater management on the property. It appears the property exceeds the thresholds requiring a permitted stormwater management system. Those thresholds are:

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Corrective Actions: Within 30 days of the date of the warning letter, submit calculations of impervious or semi-impervious surface area subject to vehicular traffic. If the calculations show the project site meets or exceeds thresholds requiring a permit, then you must apply for such a permit. The application must propose a system that provides reasonable assurance of compliance with Rules 40C-4, 40C-40, 40C-41C and 40C-42, F.A.C. For guidance, contact Leo Anglero (contact info listed above).

NPDES Stormwater: Jessica Kleinfelter; (850) 245-7589; Jessica.Kleinfelter@dep.state.fl.us

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The failure to comply with the above laws and obtain an NPDES stormwater permit can result in assessment of:

- 1) Damages and administrative penalties (reference: 403.121, F.S.)
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Corrective Action

Within 30 days of the date of the warning letter, submit a Stormwater Pollution Prevention Plan (SWPPP), Notice of Intent (NOI), and \$500.00 application fee to the Department. Permit information and SWPPP guidance can be obtained from the Department's website at www.dep.state.fl.us/water/stormwater/npdes/industrial4.htm

IV. Other - Referrals were made to the following:

1. **Brevard County Tax Office:** Alisha Metcalf, (321) 455-1413 ext 226.
The County has no Business Tax Receipt on file for Beyel Brothers, Inc located at 12 Dover Avenue.
2. **Brevard County Environmental Health:** Jeremy Rogus, (321) 633-2100.
Beyel Brothers has no permanent restroom facilities. Per Jeremy Rogus, portalets are not approved for long term use.