

1 STATE OF CALIFORNIA
2 ENVIRONMENTAL PROTECTION AGENCY
3 DEPARTMENT OF TOXIC SUBSTANCES CONTROL
4

5 In the Matter of:

Docket HWCA **2004-0680**

6
7 City of Los Angeles
8 Department of Water and
9 Power
10 1630 North Main Street
11 Los Angeles, CA 90012

CONSENT ORDER

12 EPA ID No. CAD000633305

Health and Safety Code
Section 25187

13 Respondent.

14 The State Department of Toxic Substances Control
15 (Department) and City of Los Angeles Department of Water and Power
16 (Respondent) enter into this Consent Order and agree as follows:

17 1. Respondent generates, handles, treats, stores and/or
18 disposes hazardous waste at 1630 North Main Street, Los Angeles,
19 California 90012 (Site).

20 2. The Department inspected the Site on April 20, 21, and
21 22, 2004.

22 3. The Department alleges the following violations:

23 3.1. The Respondent violated Health and Safety Code section
24 25189.2 (a), in that on or about April 20, 2004, Respondent made false
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1 representations on the bill of lading and hazardous waste log sheet.
2 The bill of lading, dated October 10, 2003 showed eight drums of non-
3 hazardous oil contaminated soil and debris had PCB concentration of
4 less than 2 parts per million. However, analytical test results
5 showed the above mentioned drums had PCB concentration of 25 parts per
6 million (ppm), which is above hazardous waste levels. In addition,
7 the total quantity of hazardous waste solids in two other bills of
8 lading (dated January 21, 2004 and January 23, 2004 respectively),
9 that were shipped offsite under Manifest #207577617, did not match the
10 total volume quantity of waste stated on Manifest #20757617.

11 3.2. The Respondent violated Health and Safety Code section
12 25202 (a), in that on or about April 20, 2004, Respondent stored PCB
13 contaminated soil and debris, a hazardous waste, at the consolidation
14 site. The waste log sheet and bill of lading, each dated October 10,
15 2003, showed hazardous wastes had been received and stored at the
16 consolidation site from October 10, 2003 through April 16, 2004.

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18 4. The parties wish to avoid the expense of litigation and
19 to ensure prompt compliance.

20 5. Jurisdiction exists pursuant to Health and Safety Code
21 section 25187.

22 6. Respondent waives any right to a hearing in this matter.

23 7. This Consent Order shall constitute full settlement of
24 the violations alleged above, but does not limit the Department from
25 taking appropriate enforcement action concerning other violations.

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1 8. Respondent admits the alleged violations above.

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SCHEDULE FOR COMPLIANCE

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5 9. Respondent shall comply with the following:

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7 9.1. Effective immediately, Respondent shall not
8 misrepresent any application, label, manifest, record, report or other
9 document filed, maintained, or used for purposes of compliance.

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10 9.2. Effective immediately, Respondent shall not store
11 hazardous waste at the consolidation site without a permit or other
12 grant of authorization from the Department.

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14 9.3. Submittals: All submittals from Respondent pursuant to
15 this Consent Order shall be sent to:

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Florence Gharibian, Branch Chief
Statewide Compliance Division - Region 3
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

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20 10. Communications: All approvals and decisions of the
21 Department made regarding such submittals and notifications shall be
22 communicated to Respondent in writing by a Branch Chief, Department of
23 Toxic Substances Control, or his/her designee. No informal advice,
24 guidance, suggestions, or comments by the Department regarding
25 reports, plans, specifications, schedules, or any other writings by
26 Respondent shall be construed to relieve Respondent of its obligation

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1 to obtain such formal approvals as may be required.

2 10.1. Department Review and Approval: If the Department
3 determines that any report, plan, schedule, or other document
4 submitted for approval pursuant to this Consent Order fails to comply
5 with the Order or fails to protect public health or safety or the
6 environment, the Department may return the document to Respondent with
7 recommended changes and a date by which Respondent must submit to the
8 Department a revised document incorporating the recommended changes.

9 10.2. Compliance with Applicable Laws: Respondent shall
10 carry out this Order in compliance with all local, State, and federal
11 requirements, including but not limited to requirements to obtain
12 permits and to assure worker safety.

13 10.3. Endangerment during Implementation: In the event that
14 the Department determines that any circumstances or activity (whether
15 or not pursued in compliance with this Consent Order) are creating an
16 imminent or substantial endangerment to the health or welfare of
17 people on the site or in the surrounding area or to the environment,
18 the Department may order Respondent to stop further implementation for
19 such period of time as needed to abate the endangerment. Any deadline
20 in this Consent Order directly affected by a Stop Work Order under
21 this section shall be extended for the term of such Stop Work Order.

22 10.4. Liability: Nothing in this Consent Order shall
23 constitute or be construed as a satisfaction or release from liability
24 for any conditions or claims arising as a result of past, current, or
25 future operations of Respondent, except as provided in this Consent

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1 Order. Notwithstanding compliance with the terms of this Consent
2 Order, Respondent may be required to take further actions as are
3 necessary to protect public health or welfare or the environment.

4 10.5. Site Access: Access to the Site shall be provided at
5 all reasonable times to employees, contractors, and consultants of the
6 Department, and any agency having jurisdiction. Nothing in this
7 Consent Order is intended to limit in any way the right of entry or
8 inspection that any agency may otherwise have by operation of any law.
9 The Department and its authorized representatives may enter and move
10 freely about all property at the Site at all reasonable times for
11 purposes including but not limited to: inspecting records, operating
12 logs, and contracts relating to the Site; reviewing the progress of
13 Respondent in carrying out the terms of this Consent Order; and
14 conducting such tests as the Department may deem necessary.
15 Respondent shall permit such persons to inspect and copy all records,
16 documents, and other writings, including all sampling and monitoring
17 data, in any way pertaining to work undertaken pursuant to this
18 Consent Order.

19 10.6. Sampling, Data, and Document Availability: Respondent
20 shall permit the Department and its authorized representatives to
21 inspect and copy all sampling, testing, monitoring, and other data
22 generated by Respondent or on Respondent's behalf in any way
23 pertaining to work undertaken pursuant to this Consent Order.
24 Respondent shall allow the Department and its authorized
25 representatives to take duplicates of any samples collected by

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1 Respondent pursuant to this Consent Order. Respondent shall maintain
2 a central depository of the data, reports, and other documents
3 prepared pursuant to this Consent Order. All such data, reports, and
4 other documents shall be preserved by Respondent for a minimum of six
5 years after the conclusion of all activities under this Consent Order.
6 If the Department requests that some or all of these documents be
7 preserved for a longer period of time, Respondent shall either comply
8 with that request, deliver the documents to the Department, or permit
9 the Department to copy the documents prior to destruction. Respondent
10 shall notify the Department in writing at least six months prior to
11 destroying any documents prepared pursuant to this Consent Order.

12 10.7. Government Liabilities: The State of California shall
13 not be liable for injuries or damages to persons or property resulting
14 from acts or omissions by Respondent or related parties specified in
15 paragraph 12.3, in carrying out activities pursuant to this Consent
16 Order, nor shall the State of California be held as a party to any
17 contract entered into by Respondent or its agents in carrying out
18 activities pursuant to this Consent Order.

19 10.8. Incorporation of Plans and Reports: All plans,
20 schedules, and reports that require Department approval and are
21 submitted by Respondent pursuant to this Consent Order are
22 incorporated in this Consent Order upon approval by the Department.

23 10.9. Extension Requests: If Respondent is unable to
24 perform any activity or submit any document within the time required
25 under this Consent Order, the Respondent may, prior to expiration of
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1 the time, request an extension of time in writing. The extension
2 request shall include a justification for the delay.

3 10.10. Extension Approvals: If the Department determines
4 that good cause exists for an extension, it will grant the request and
5 specify in writing a new compliance schedule.

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PAYMENTS

8 11. Within 30 days of the effective date of this Consent
9 Order, Respondent shall pay the Department a total of \$20,020 as a
10 penalty.

11 11.1. Respondent's check shall be made payable to Department
12 of Toxic Substances Control, and shall be delivered together with the
13 attached Payment Voucher to:

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15 Department of Toxic Substances Control
16 Accounting Office
17 1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

18 A photocopy of the check shall be sent:

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To:

20 Florence Gharibian, Branch Chief
21 Statewide Compliance Division
22 Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

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To:

24 Debra Schwartz
25 Office of Legal Counsel and Investigations
26 Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

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If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and

1 subsidiary and parent corporations, and upon the Department and any
2 successor agency that may have responsibility for and jurisdiction
3 over the subject matter of this Consent Order.

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5 12.4. Effective Date: The effective date of this Consent
6 Order is the date it is signed by the Department.

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8 12.5. Integration: This agreement constitutes the entire
9 agreement between the parties and may not be amended, supplemented, or
10 modified, except as provided in this agreement.

11 12.6. Compliance with Waste Discharge Requirements:
12 Respondent shall comply with all applicable waste discharge
13 requirements issued by the State Water Resources Control Board or a
14 California regional water quality control board.

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17 Dated: 7/5/05



Signature of Respondent's
Representative

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20 Dated: _____


Ronald F. Deaton, General Manager

Respondent's Printed Name and
Title

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23 Dated: 7/14/05



Florence Gharibian, Branch Chief
Department of Toxic Substances
Control


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APPROVED AS TO FORM AND LEGALITY
ROCKARD J. DELGADILLO, CITY ATTORNEY

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JUN 30 2005

BY ROBERTA SCHARLIN ZINMAN
Deputy City Attorney

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