

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

The former Impressions Polishing &
Plating, Inc. Facility
1223 North Batavia Street
Orange, California 92867

1223 Batavia Street LLC
1223 North Batavia Street
Orange, California 92867

Mr. Benjamin Donel, an Individual
6003 Compton Avenue
Los Angeles, CA 90001

EPA ID NO. CAD981983968

Respondents.

Docket HWCA 2009-2019

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and 1223 Batavia Street LLC and Benjamin Donel, an Individual (together, "Respondents") enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondents generate hazardous waste at the following site: 1223 Batavia Street LLC, Orange California 92867 (Site).

1.3. Inspection. The Department inspected the Site on March 19, 2009.

1.4. Generator. Respondents generate the following hazardous waste: soil contaminated with hazardous waste level of Nickel.

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement

issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondents waive any and all rights to a hearing in this matter.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violation:

2.1.1 Respondents violated Health & Safety Code, section 25201(a), in that on or about March 19, 2009, Respondent stored hazardous waste in containers for over 90 days without authorization from the Department. To wit: Respondents failed to meet the conditions set forth in California Code of Regulations, title 22, section 66262.34 (a), in that Respondents accumulated three 55-gallon drums (D5SS, D8SS and D10SS) of excavated soil contaminated with hazardous levels of nickel since August 4, 2008; in addition, all three drums failed to meet the conditions set forth in California Code of Regulations, title 22, section 66262.34 (f) regarding the labeling requirements.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondents shall comply with the following:

3.1.1. Respondents have corrected the violation set forth above.

3.1.2. Respondents shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondents, except as provided in this Order.

Notwithstanding compliance with the terms of this Order, Respondents may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondents to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondents and their officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.4. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondents shall pay the Department the total sum of \$15,000 with \$10,000 as a penalty and \$5,000 as reimbursement of Department's administrative costs..

5.2. Payment of the total sum specified in paragraph 5.1 shall be submitted as follows: Respondents shall make an initial payment, in the amount of \$3,750, on or before March 15, 2010. Respondents shall submit the second payment, in the amount of \$3,750, on or before June 15, 2010. Respondents shall submit the third payment, in

the amount of \$3,750, on or before September 15, 2010 and the fourth and final payment, in the amount of \$3,750 on or before December 15, 2010. In the event that any payment is not received by the dates specified above, the entire remaining balance shall become due and payable immediately. .

5.3. Respondents' checks shall be made payable to Department of Toxic Substances Control, shall identify the Respondents and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

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

A photocopy of the check(s) shall be sent to:

Carmelita E. Lampino, Unit Chief
Enforcement and Emergency Response Program
Chatsworth/Cypress Branch
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

5.4. If Respondents fail to make payment as provided above, Respondents agree 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.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: _____

Benjamin Donel, Representative
1223 Batavia Street LLC

Dated: _____

Benjamin Donel, An Individual

Dated: _____

Carmelita E. Lampino, Unit Chief
Enforcement and Emergency Response
Program
Chatsworth/Cypress Branch
Department of Toxic Substances Control