

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Alternative Disposal, Inc.
2674 Via Alicia
Fallbrook, CA 92028

ID No. CAD982525024

Respondent.

Docket TFIS03-06-940543

ENFORCEMENT ORDER

Health and Safety Code
Section 25187

INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to Alternative Disposal, Inc. (Respondent).

1.2. Site. Respondent is a registered transporter of hazardous waste at the following site: 2674 Via Alicia, Fallbrook, CA 92028 (Site).

1.3. Permit/Registration: The Department authorized Respondent to manage hazardous waste by the transporter registration No. 2570, issued on February 4, 2004.

1.4. Jurisdiction. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and 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.

1.5. Exhibits. All exhibits attached to this Order are incorporated herein by this reference.

1.6. Applicable Statutes and Regulations. Copies of the statutes and

regulations applicable to this Order are attached as Exhibit 1.

DETERMINATION OF VIOLATIONS

2. The Department has determined that:

2.1. The Respondent violated Health and Safety Code Section 25154 with reference to California Code of Regulations, title 22, section 66270.1(c), in that Respondent transferred hazardous waste water contaminated with oil and/or gasoline from 55 gallon containers to a tank truck owned and operated by Respondent at an unauthorized location on numerous occasions between March 14, 2000 and November 21, 2002. The transfer occurred at the Jenal Engineering Corporation yard located in Lemon Grove, California. A list of the related hazardous waste manifest numbers is attached as Exhibit 2.

2.2. The Respondent violated Health and Safety Code Section 25189.2 (a) in that Respondent made false statements or representations on at least 127 hazardous waste manifests between March 14, 2000 and November 21, 2002. Among other false statements, Respondent falsely identified itself as “transporter 1” and falsely represented that it received custody of the hazardous wastes directly from the generators’ facility location. A list of the related hazardous waste manifest numbers is attached as Exhibit 2.

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SCHEDULE FOR COMPLIANCE

3. Based on the foregoing Determination of Violations, IT IS HEREBY ORDERED THAT:

3.1.1. Immediately upon receipt of the Order and continuously thereafter, Respondent shall cease the transfer of hazardous waste at a site other than the generator of the hazardous waste or a permitted treatment, storage and disposal facility.

3.2. Submittals. All submittals from Respondent pursuant to this Order shall be sent to:

Phillip Blum, Unit Chief
Southern California Unit
Task Force Investigations Support Branch
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

3.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

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

3.5. Endangerment during Implementation: In the event that the Department

determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

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

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

pursuant to this Order.

3.8. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.9. Extension Request: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

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

OTHER PROVISIONS

4.1. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

4.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondent to costs, 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.

4.3. Parties Bound: This Order shall apply to and be binding upon Respondent,

and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Time Periods. "Days" for purposes of this Order means calendar days.

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

PENALTY

5. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondent's penalty at \$28,000. Payment is due within 30 days from the effective date of the Order. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Respondent shall deliver the penalty payment 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 shall be sent to:

Phillip Blum P.E., Chief
Southern California Unit
Task Force Investigations Support Branch
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

RIGHT TO A HEARING

6. Respondent may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondent.

EFFECTIVE DATE

7. This Order is final and effective twenty days from the date of mailing, which is the date of the cover letter transmitting the Order to Respondent, unless Respondent requests a hearing within the twenty-day period.

Date of Issuance: March 27, 2007

Original signed by Phillip Blum
Phillip Blum, P.E., Unit Chief
Southern California Unit
Task Force Investigations Support Branch
Department of Toxic Substances Control