

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

American Earth Management, Inc.
dba American Oil Company
13736 – 13740 Saticoy Street
Van Nuys, California 91402

ID No. CAD981427669

Respondent.

Docket HWCA 2010-2588

STIPULATION AND ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and American Earth Management, Inc. dba American Oil Company (Respondent) enter into this Stipulation and Order (Order) and agree as follows:

1. A dispute exists regarding the Enforcement Order issued by the Department on May 3, 2011 (Attached as Exhibit 1).
2. The parties wish to avoid the expense of further litigation and to ensure prompt action to achieve the Schedule for Compliance below.
3. Jurisdiction exists pursuant to Health and Safety Code section 25187.
4. Respondent waives any right to a hearing in this matter.
5. This Order shall constitute full settlement of the violations alleged in the Enforcement Order, but does not limit the Department from taking appropriate enforcement action concerning other violations.
6. 1. By entering into this agreement, the Respondent does not admit any of the violations alleged in the Enforcement Order.
- 6.2. This Order is not, and shall not be construed as an admission of liability on the part of Respondent in this proceeding.

SCHEDULE FOR COMPLIANCE

7. Respondent shall comply with the following:
 - 7.1. Respondent has corrected the alleged violations specified in the Enforcement Order.

7.2. Respondent shall make all payments at the time and in accord with any other conditions set forth in Section 8. Payments below.

7.3. Respondent shall operate hereafter in a manner that shall prevent recurrences of the alleged violations cited in the Enforcement Order.

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

Roberto Kou, Acting Branch Chief
Enforcement & Emergency Response Unit
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

Mukul Agarwal
Supervising Hazardous Substances Scientist I
Enforcement & Emergency Response Unit
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

7.5. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a 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 its obligation to obtain such formal approvals as may be required.

7.6. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

- a. Modify the document as deemed necessary and approve the document as modified; or
- b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised

document incorporating the recommended changes.

7.7. 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.

7.8. 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 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 such Stop Work Order.

7.9. 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, except as provided in this Order. 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.

7.10. 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 may 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.

7.11. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

7.12. 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 specified in paragraph 9.3 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 this Order.

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

7.14. Extension Requests: 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.

7.15. 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.

PAYMENTS

8. Within 30 days of the effective date of this Order, Respondent shall pay the Department a total sum of Thirteen Thousand Dollars (\$13,000), of which \$6,500 is a penalty and \$6,500 is reimbursement of the Department's administrative costs.

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

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

A photocopy of the check shall be sent:

To:

Mukul Agarwal
Supervising Hazardous Substances Scientist I
Enforcement & Emergency Response Unit
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

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

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

9.2. Penalties for Noncompliance: Failure to comply with the terms

of this 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.

9.3 Parties Bound: This 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 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.

9.4. Effective Date: The effective date of this Order is the date it is signed by the Department.

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

Dated: December 5, 2011

Original signed by Brigitte Kay
Respondent

Dated: December 8, 2011

Original signed by Mukul Agarwal
Department of Toxic Substances Control

EXHIBIT 1

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

American Earth Management, Inc.
dba American Oil Company
13736 – 13740 Saticoy Street
Van Nuys, California 91402

ID No. CAD 981427669

Respondent.

Docket HWCA 2010-2588

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 American Earth Management, Inc., dba American Oil Co.(Respondent).

1.2. Site. Respondent accepts, consolidates, transfers, and stores hazardous waste at the following site: 13736 – 13740 Saticoy Street, Van Nuys, CA (Site).

1.3. Permit. The Department authorized Respondent to manage hazardous waste pursuant to a Series C, Standardized Hazardous Waste Facility Permit dated October 19, 2007 and a Hazardous Waste Transporter Registration Number 1601, with Consolidated Transporter Notification issued on May 13, 2010.

1.3.1. The Respondent generates the following hazardous waste: waste oil and oily liquid and solid wastes.

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.

DETERMINATION OF VIOLATIONS

2. The Department has determined that:

2.1. The Respondent violated Health and Safety Code section 25202 (a), in that on or about May 25, 2010, Respondent stored hazardous waste at a point not authorized by the Department. To wit: Two tote bins of absorbent solids with waste oil, one 55-gallon drum of absorbent solids with waste oil, and one tote bin of oil filter containing between two to four (2 – 4) inches of oily liquid were stored outside the dump trailer.

2.2. The Respondent violated Health and Safety Code section 25200.15 (a), California Code of Regulations, title 22, section 66270.30 and its Standardized Hazardous Waste Facility Permit (SHWFP), specifically Part III General Conditions – C, in that on or about May 25, 2010, Respondent installed three tanks inside the permitted 13736 Building without receiving modification approval by the Department. Additionally, Respondent also failed to comply with the procedures for permit modifications set forth in California Code of Regulations, title 22, sections 66270.42 and 66270.42.5.

2.3. The Respondent violated California Code of Regulations, title 22, section 66264.72, California Code of Regulations, title 22, section 66270.30 and SHWFP, Series C, Part III General Conditions, B-2, in that on July 02, 2009 and February 02, 2010, Respondent accepted two different waste codes not authorized by the permit (CWC 343 – Unspecified Organic Liquid and CWC 611 – Contaminated Soil from Site Clean-up) and failed to report manifest discrepancies regarding the two manifested

wastes.

2.4. The Respondent violated Health and Safety Code section 25160 in that on or about May 26, 2010, Respondent failed to comply with the conditions for consolidated manifesting procedure, specifically Health and Safety Code section 25160.2 subdivisions (b)(4) and (D)(5) (Section 25160.2). To wit: Invoices/Receipts from different generators did not match the cumulative total volume of waste on each manifest as required by Section 25160.2.

2.5. The Respondent violated California Code of Regulations, title 22, section 66270.30 and SHWFP, Series C, Part V – Special Conditions, I.2.b, in that on or about May 25, 2010, Respondent failed to have the receiving facility test the used oil for PCBs for each load prior to offloading that load at the facility's receiving tank. To wit: Sixty (60) manifested waste loads (out of 100) showed PCB test results were received by Respondent after the wastes had been offloaded.

2.6. The Respondent violated California Code of Regulations, title 22, section 66273.36 subdivisions (a) and (b)(1), in that on or about May 26, 2010, Respondent failed to initially train personnel who handle or manage universal wastes from offsite sources. To wit: Respondent did not provide documentation that personnel were trained to handle universal waste and the types and hazards associated with the waste that personnel may handle or manage at the Site.

SCHEDULE FOR COMPLIANCE

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

3.1.1. Effective immediately, Respondent shall store consolidated

hazardous waste solids inside the permitted Dump Trailer.

3.1.2. Effective immediately, Respondent shall obtain authorization from the Department prior to any modification to structures or equipment within a permitted unit.

3.1.3. Within 10 days from receipt date, Respondent shall notify the Department of discrepancies observed on the manifest, including incorrect usage of waste codes.

3.1.4. Effective immediately, if Respondent chooses to use the consolidated manifesting procedure, it shall comply with the statutory requirements and conditions regarding consolidated manifesting.

3.1.5. Effective immediately, Respondent shall comply with the SHWFP, Series C, Part V – Special Conditions, I.2.b, to ensure that the waste oil load does not contain PCBs at a concentration of 2 parts per million or greater prior to offloading the waste at the facility's receiving tank.

3.1.6. Within 15 days of receipt date, Respondent shall submit to DTSC all initial training documentation received by each handler of electronic and universal wastes including the types and hazards associated with the waste.

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

Roberto Kou, Acting Branch Chief
Enforcement & Emergency Response Unit
Department of Toxic Substances Control

Mukul Agarwal
Supervising Hazardous Substances Scientist I
Enforcement & Emergency Response Unit
Department of Toxic Substances Control

Debra Schwartz
Senior Staff Counsel
Office of Legal Affairs
Department of Toxic Substances Control

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. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

- a. Modify the document as deemed necessary and approve the document as modified, or
- b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. 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.

3.6. 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.

3.7. 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.

3.8. 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.

3.9. Data and Document Availability. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

3.10. 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.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

3.12. 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.

3.13. 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.

PENALTY

5. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondent's penalty at Sixty Four Thousand Five Hundred Dollars (\$64,500). 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:

Roberto Kou, Acting Branch Chief
Enforcement & Emergency Response Unit
Department of Toxic Substances Control

RIGHT TO A HEARING

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

Date of Issuance: May 3, 2011

Original signed by Roberto Kou
Roberto Kou, Acting Branch Chief
Department of Toxic Substances Control