

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Augustine Metals Inc.
2021 West Placentia Lane
Colton, California 92324

EPA ID No. CAD 983661935

Respondent.

Docket No. HWCA 2006-1158

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Augustine Metals Inc. (Respondent) enter into this Consent Order and agree as follows:

1. Site. Respondent generates and handles hazardous waste at 2021 West Placentia Lane, Colton California 92324 (Site).

2. The Department inspected the Site on May 3, 2006 and June 22, 2006.

3. Based on the inspections conducted, the Department alleges the following violations:

3.1.1. Respondent violated California Code of Regulations, title 22, section 66262.34(a) (2) in that on or about May 3, 2006, Respondent had containers of hazardous waste that were not labeled.

3.1.2. Respondent violated California Code of Regulations, title 22, section 66262.34(f)(1) in that on or about June 22, 2006, Respondent failed to write the accumulation start date on the hazardous waste label.

3.1.3. Respondent violated California Code of Regulations, title 22,

section 66266.81(a)(8) in that on or about May 3, 2006, Respondent failed to properly manage damaged spent lead acid batteries as hazardous waste.

3.1.4. Respondent violated California Code of Regulations, title 22, section 66265.173(a) in that on or about May 3, 2006, and on or about June 22, 2006, Respondent failed to keep containers of hazardous waste closed, except when adding or removing hazardous waste.

3.1.5. Respondent violated California Code of Regulations, title 22, section 66265.51(a), in that on or about May 3, 2006, Respondent failed to have a Contingency Plan for fires, explosions, or sudden releases of hazardous waste.

3.1.6. Respondent violated California Code of Regulations, title 22, section 66265.16(a) (1) in that on or about May 3, 2006, Respondent failed to have and provide upon request, personnel training records. The records must include introductory and refresher courses for every one who handles hazardous waste.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

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

9. Respondent does not admit the violations.

SCHEDULE FOR COMPLIANCE

10.1. Respondent shall comply with the following:

10.1.1. The violations described in section 3.1.1 through 3.1.6 have been corrected. Respondent has returned to compliance.

10.1. 2. Respondent hereby agrees to send two of its employees to the California Compliance School Modules I through IV. Attendance must be completed and Respondent must submit a Certificate of Satisfactory Completion to the Department within 185 days of the effective date of this Consent Order. If Respondent fails to submit the Certificate of Satisfactory Completion as required, the penalty of \$5,000 referenced in paragraph 11.1 of this Consent Order, is due and payable within 30 days after the expiration of the 185-day period. The 185-day period may be extended by the Department upon written request demonstrating good cause from Respondent.

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

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

10.3. 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 Consent 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 Consent 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 Consent Order.

10.4 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 Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent 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 Consent 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 Consent Order.

10.5. 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 12.3, in carrying out activities pursuant to this Consent 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 Consent Order.

10.6. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent 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.

10.7. 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

11.0. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$6,000 of which \$4,000 is a penalty and \$2,000 is for administrative costs. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall identify the Respondent and Docket No. HWCA 2006-1158. Respondent shall deliver the penalty payments 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 shall be sent to:

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

11.1. If Respondent fails to submit the Certificate of Satisfactory Completion as required and specified in paragraph 10.1.2 of this Consent Order, a penalty of \$5,000 is due and payable within 30 days after the expiration of the 185-day period allowed for completion of the course and submittal of the Certificate.

11.2. 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 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 Consent Order.

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

12.5. 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: May 29, 2007

Original signed by Lynne Augustine
Lynn Augustine, President
Augustine Metals Inc.
2021 W. Placentia Lane, Colton

Dated: June 4, 2007

Original signed by Carmelita E. Lampino
Carmelita E. Lampino, Unit Chief
Enforcement and Emergency
Response Program
Cypress Branch
Department of Toxic Substances Control