

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

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IN THE MATTER OF:) Docket HWCA: SRPD01/02 SCC-1222
)
Circuit Link, Inc.)
804 Park Avenue, Unit A) CORRECTIVE ACTION
San Jose, CA 95126) CONSENT AGREEMENT
)
EPA ID# CAD 982 351 264)
)
Circuit Link, Inc.) Health and Safety Code
Respondent.) Sections 25187 and 25200.14
)

INTRODUCTION

1. The Department of Toxic Substances Control (DTSC) and Circuit Link, Inc. (Respondent) enter to this Corrective Action Consent Agreement (Consent Agreement) and agree as follows:

1.1. Jurisdiction exists pursuant to Health and Safety Code (HSC) sections 25187 and 25200.14, which authorize DTSC to issue an order to require corrective action when DTSC determines that there is or may be a release of hazardous waste or hazardous waste constituents into the environment from a hazardous waste facility.

1.2. The parties enter into this Consent Agreement to avoid the expense of litigation and to carry out promptly the corrective action described below.

1 contaminants (organic compounds; phenanthrene, benzopyrene,
2 acetone, etc. heavy metals; lead, copper, arsenic, etc.) found
3 during the closure activities.

4 2.2. Based on the information available, DTSC identified
5 the following Solid Waste Management Units (SWMUs): waste
6 treatment area, wet process area, dry process area, staging area,
7 developer room, photo process area, shipping area, hydraulic
8 press area, transformer area, miscellaneous storage area, parking
9 area, and fence area near school.

10 2.3. DTSC concludes that further investigation is needed
11 to determine the nature and extent of hazardous waste or hazardous
12 waste constituents contamination at and from the Facility into the
13 environment, particularly at the above mentioned SWMUs.

14 2.4. The hazardous waste and hazardous waste constituents
15 of concern identified at the Facility are Antimony, Arsenic,
16 Barium, Beryllium, Cadmium, Chromium, Cobalt, Copper, Lead,
17 Mercury, Molybdenum, Nickel, Selenium, Silver, Thallium, Vanadium,
18 and Zinc, pH, Cyanide, Solvents (halogenated and non-halogenated),
19 Volatile Organic Compounds (VOCs), and oils (Semi-Volatile
20 Organics).

21 2.5. The hazardous wastes or hazardous waste constituents
22 have migrated or may migrate from the Facility into the
23 environment through the following pathways: subsurface soils,
24 groundwater, airborne dust particulate matter, and rain surface
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PRELIMINARY ENDANGERMENT ASSESSMENT (PEA)

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2 5. Respondent shall submit to the Department the
3 Current Condition Report within 30 days of the effective date of
4 this Consent Agreement. Respondent agrees to conduct a
5 Preliminary Endangerment Assessment (PEA) for the Facility, and if
6 necessary, further investigation and remediation of any release of
7 hazardous waste at or from the Facility. Respondent shall submit
8 a PEA Workplan and schedule to DTSC within 30 days of the
9 effective date of this Consent Agreement. In addition, the PEA
10 Final Report shall be submitted within 60 days upon completion of
11 field work. The PEA shall be conducted in accordance with
12 Preliminary Endangerment Assessment - Guidance Manual (State of
13 California Environmental Protection Agency - Department of Toxic
14 Substances Control, June 1999).

ADDITIONAL WORK

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17 6. If DTSC determines that further investigation and
18 remediation are necessary at the Facility, DTSC and Respondent
19 will negotiate another Consent Agreement or amend this Consent
20 Agreement or an amendment is not reached within 60 days, DTSC
21 reserves its right to issue an order or take any another action
22 provided for by law. DTSC's costs incurred in negotiating the
23 subsequent consent agreement or the amendment are considered costs
24 incurred pursuant to this Consent Agreement and are payable under
25 this Consent Agreement.
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CALIFORNIA ENVIRONMENTAL QUALITY ACT

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2 7. DTSC must comply with the California Environmental
3 Quality Act (CEQA) insofar as activities required by this Consent
4 Agreement are projects subject to CEQA. Respondent shall provide
5 all information necessary to facilitate any CEQA analysis. DTSC
6 will make an initial determination regarding the applicability of
7 CEQA. If the activities are not exempt from CEQA, DTSC will
8 conduct an Initial Study. Based on the results of the Initial
9 Study, DTSC will determine if a Negative Declaration or an
10 Environmental Impact Report (EIR) should be prepared. DTSC will
11 prepare and process any such Negative Declaration. However,
12 should DTSC determine that an EIR is necessary, such an EIR would
13 be prepared under a separate agreement between DTSC and
14 Respondent.
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DTSC APPROVAL

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17 8.1. Respondent shall revise any workplan, report,
18 specification, or schedule in accordance with DTSC's written
19 comments. Respondent shall submit to DTSC any revised documents
20 by the due date specified by DTSC. Revised submittals are subject
21 to DTSC's approval or disapproval.

22 8.2. Upon receipt of DTSC's written approval, Respondent
23 shall commence work and implement any approved workplan in
24 accordance with the schedule and provisions contained therein.

25 8.3. Any DTSC approved workplan, report, specification,
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1 or schedule required under this Consent Agreement shall be deemed
2 incorporated into this Consent Agreement.

3 8.4. Verbal advice, suggestions, or comments given by
4 DTSC representatives will not constitute an official approval or
5 decision.

6 SUBMITTALS

7 9.1. Beginning with the first full month following the
8 effective date of this Consent Agreement, Respondent shall provide
9 DTSC with quarterly progress reports of corrective action
10 activities conducted pursuant to this Consent Agreement. Progress
11 reports are due on the first (1st) day of the month when reports
12 are due. The progress reports shall conform to the Scope of Work
13 for Progress Reports contained in Attachment 7. DTSC may adjust
14 the frequency of progress reporting to be consistent with
15 site-specific activities.
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17 9.2. Any report or other document submitted by Respondent
18 pursuant to this Consent Agreement shall be signed and certified
19 by the project coordinator, a responsible corporate officer, or a
20 duly authorized representative.

21 9.3. The certification required by paragraph 9.2 above,
22 shall be in the following form:

23 I certify that the information contained in or
24 accompanying this submittal is true, accurate, and
25 complete. As to those portions of this submittal for
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which I cannot personally verify the accuracy, I certify that this submittal and all attachments were prepared at my direction in accordance with procedures designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Signature:

Name: _____

Title: _____

Date: _____

9.4. Respondent shall provide two copies of all documents, including but not limited to, workplans, reports, and correspondence of fifteen (15) pages or longer. Submittals specifically exempted from this copy requirement are all progress reports and correspondence of less than 15 pages, of which one copy is required.

9.5. Unless otherwise specified, all reports, correspondence, approvals, disapprovals, notices, or other submissions relating to this Consent Agreement shall be in writing and shall be sent to the current Project Coordinators.

PROPOSED CONTRACTOR/CONSULTANT

10. All work performed pursuant to this Consent Agreement shall be under the direction and supervision of a professional engineer or registered geologist, registered in California, with expertise in hazardous waste site cleanup. Respondent's

1 contractor or consultant shall have the technical expertise
2 sufficient to fulfill his or her responsibilities. Within
3 fourteen (14) days of the effective date of this Consent
4 Agreement, Respondent shall notify DTSC Project Coordinator in
5 writing of the name, title, and qualifications of the professional
6 engineer or registered geologist and of any contractors or
7 consultants and their personnel to be used in carrying out the
8 terms of this Consent Agreement. DTSC may disapprove of
9 Respondent's contractor and/or consultant.

10 QUALITY ASSURANCE

11 11.1. All sampling and analyses performed by Respondent
12 under this Consent Agreement shall follow applicable DTSC and
13 USEPA guidance for sampling and analysis. Workplans shall contain
14 quality assurance/quality control and chain of custody procedures
15 for all sampling, monitoring, and analytical activities. Any
16 deviations from the approved workplans must be approved by DTSC
17 prior to implementation, must be documented, including reasons for
18 the deviations, and must be reported in the applicable report.

19 11.2. The names, addresses, and telephone numbers of the
20 California State certified analytical laboratories Respondent
21 proposes to use must be specified in the applicable workplans.

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SAMPLING AND DATA/DOCUMENT AVAILABILITY

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2 12.1. Respondent shall submit to DTSC upon request the
3 results of all sampling and/or tests or other data generated by
4 its employees, agents, consultants, or contractors pursuant to
5 this Consent Agreement.

6 12.2. Respondent shall notify DTSC in writing at least
7 seven (7) days prior to beginning each separate phase of field
8 work approved under any workplan required by this Consent
9 Agreement. If Respondent believes it must commence emergency
10 field activities without delay, Respondent may seek emergency
11 telephone authorization from DTSC Project Coordinator or, if the
12 Project Coordinator is unavailable, his/her Branch Chief, to
13 commence such activities immediately.
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15 12.3. At the request of DTSC, Respondent shall provide or
16 allow DTSC or its authorized representative to take split or
17 duplicate samples of all samples collected by Respondent pursuant
18 to this Consent Agreement. Similarly, at the request of
19 Respondent, DTSC shall allow Respondent or its authorized
20 representative to take split or duplicate samples of all samples
21 collected by DTSC under this Consent Agreement.

ACCESS

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23 13. Subject to the Facility's security and safety
24 procedures, Respondent agrees to provide DTSC and its
25 representatives access at all reasonable times to the Facility and
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1 any other property to which access is required for implementation
2 of this Consent Agreement and shall permit such persons to inspect
3 and copy all records, files, photographs, documents, including all
4 sampling and monitoring data, that pertain to work undertaken
5 pursuant to this Consent Agreement and that are within the
6 possession or under the control of Respondent or its contractors
7 or consultants.

8 RECORD PRESERVATION

9 14.1. Respondent shall retain, during the pendency of
10 this Consent Agreement and for a minimum of six (6) years after
11 its termination, all data, records, and documents that relate in
12 any way to the performance of this Consent Agreement or to
13 hazardous waste management and/or disposal at the Facility.
14 Respondent shall notify DTSC in writing ninety (90) days prior to
15 the destruction of any such records, and shall provide DTSC with
16 the opportunity to take possession of any such records. Such
17 written notification shall reference the effective date, caption,
18 and docket number of this Consent Agreement and shall be addressed
19 to:
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21 Stephen W. Lavinger, Chief
22 Southern California Branch
23 Statewide Regulatory Programs Division
24 Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

25 14.2. If Respondent retains or employs any agent,
26 consultant, or contractor for the purpose of carrying out the
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1 terms of this Consent Agreement, Respondent will require any such
2 agents, consultants, or contractors to provide Respondent a copy
3 of all documents produced pursuant to this Consent Agreement.

4 14.3. All documents pertaining to this Consent Agreement
5 shall be stored in a central location at the Facility to afford
6 ease of access by DTSC and its representatives.

7 DISPUTE RESOLUTION

8 15.1. The parties agree to use their best efforts to
9 resolve all disputes informally. The parties agree that the
10 procedures contained in this section are the sole administrative
11 procedures for resolving disputes arising under this Consent
12 Agreement. If Respondent fails to follow the procedures contained
13 in this section, it shall have waived its right to further
14 consideration of the disputed issue.
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16 15.2. If Respondent disagrees with any written decision
17 by DTSC pursuant to this Consent Agreement, Respondent's Project
18 Coordinator shall orally notify DTSC Project Coordinator of the
19 dispute. The Project Coordinators shall attempt to resolve the
20 dispute informally.

21 15.3 If the Project Coordinators cannot resolve the
22 dispute informally, Respondent may pursue the matter formally by
23 placing its objection in writing. Respondent's written objection
24 must be forwarded to Chief, Southern California Branch, Statewide
25 Regulatory Programs Division, Department of Toxic Substances
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1 Control, with a copy to DTSC Project Coordinator. The written
2 objection must be mailed to the Branch Chief within fourteen (14)
3 days of Respondent's receipt of DTSC's written decision.

4 Respondent's written objection must set forth the specific points
5 of the dispute and the basis for Respondent's position.

6 15.4. DTSC and Respondent shall have fourteen (14) days
7 from DTSC's receipt of Respondent's written objection to resolve
8 the dispute through formal discussions. This period may be
9 extended by DTSC for good cause. During such period, Respondent
10 may meet or confer with DTSC to discuss the dispute.

11 15.5. After the formal discussion period, DTSC will
12 provide the Respondent with its written decision on the dispute.
13 DTSC's written decision will reflect any agreements reached during
14 the formal discussion period and be signed by Chief, Southern
15 California Branch, Statewide Regulatory Programs Division,
16 Department of Toxic Substances Control, or his/her designee.
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18 15.6. During the pendency of all dispute resolution
19 procedures set forth above, the time periods for completion of
20 work to be performed under this Consent Agreement that are
21 affected by such dispute shall be extended for a period of time
22 not to exceed the actual time taken to resolve the dispute. The
23 existence of a dispute shall not excuse, toll, or suspend any
24 other compliance obligation or deadline required pursuant to this
25 Consent Agreement.
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RESERVATION OF RIGHTS

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16.1. DTSC reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this Consent Agreement. This Consent Agreement shall not be construed as a covenant not to sue, release, waiver, or limitation on any rights, remedies, powers, or authorities, civil or criminal, that DTSC has under any statutory, regulatory, or common law authority.

16.2. DTSC reserves the right to disapprove of work performed by Respondent pursuant to this Consent Agreement and to request that Respondent perform additional tasks.

16.3. DTSC reserves the right to perform any portion of the work consented to herein or any additional site characterization, feasibility study, and/or remedial actions it deems necessary to protect human health and/or the environment. DTSC may exercise its authority under any applicable state or federal law or regulation to undertake response actions at any time. DTSC reserves its right to seek reimbursement from Respondent for costs incurred by the State of California with respect to such actions. DTSC will notify Respondent in writing as soon as practicable regarding the decision to perform any work described in this section.

1 include DTSC's costs, if any, incurred in the preparation and
2 implementation of this Consent Agreement prior to the effective
3 date of this Consent Agreement.

4 20.2 An estimate of DTSC's costs is attached as
5 Exhibit A showing the amount of \$20,389.00. It is understood by
6 the parties that this amount is only an estimate for those
7 activities shown in Exhibit A, and may differ from the actual
8 costs incurred by DTSC in implementing this Consent Agreement, and
9 does not represent the total costs incurred by DTSC in overseeing
10 all activities required at the Facility under this Consent
11 Agreement. DTSC will provide additional cost estimates for the
12 subsequent phases of work, if required, as the work progresses.

13 20.3 Respondent shall make an advance payment to DTSC in
14 the amount of \$2,500.00 within 30 days of the effective date of
15 this Consent Agreement. If the advance payment exceeds DTSC's
16 complete costs under this Agreement, DTSC will refund the balance
17 within 120 days after the execution of the Acknowledgment of
18 Satisfaction pursuant to Section 25 of this Consent Agreement.

19 20.4 If the advance payment does not exceed DTSC's costs
20 under this Agreement, after the advance payment, DTSC will provide
21 Respondent with a billing statement at least
22 quarterly, which will include the name of the employee,
23 identification of the activity, the amount of time spent on each
24 activity, and the hourly rate charged. If Respondent does not pay
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1 an invoice within 60 days, the amount is subject to interest as
2 provided by HSC section 25360.1.

3 20.5. DTSC will retain all costs records associated with
4 the work performed under this Consent Agreement as required by
5 state law. DTSC will make all documents which support the
6 Department's cost determination available for inspection upon
7 request, as provided by the Public Records Act.

8 20.6. Any dispute concerning costs pursuant to this
9 Consent Agreement is subject to the Dispute Resolution provision
10 of this Consent Agreement. DTSC reserves its right to recover
11 unpaid costs under applicable state and federal laws.

12 20.7. All payments shall be made within 30 days of the
13 date of the billing statement by check payable to the Department
14 of Toxic Substances Control and shall be sent to:
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16 Accounting Unit
17 Department of Toxic Substances Control
18 P. O. Box 806
19 Sacramento, California 95812-0806

20 All checks shall reference the name of the Facility, the
21 Respondent's name and address, and the docket number of this
22 Consent Agreement. Copies of all checks and letters transmitting
23 such checks shall be sent simultaneously to DTSC's Project
24 Coordinator.

24 MODIFICATION

25 21.1. This Consent Agreement may be modified by mutual
26 agreement of the parties. Any agreed modifications shall be in
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1 writing, shall be signed by both parties, shall have as their
2 effective date the date on which they are signed by DTSC, and
3 shall be deemed incorporated into this Consent Agreement.

4 21.2. Any requests for revision of an approved workplan
5 requirement must be in writing. Such requests must be timely and
6 provide justification for any proposed workplan revision. DTSC
7 has no obligation to approve such requests, but if it does so,
8 such approval will be in writing and signed by the Chief, Southern
9 California Branch, Statewide Regulatory Programs Division,
10 Department of Toxic Substances Control, or his or her designee.
11 Any approved workplan modification shall be incorporated by
12 reference into this Consent Agreement.

13 TERMINATION AND SATISFACTION

14 22. The provisions of this Consent Agreement shall be
15 deemed satisfied upon the execution by both parties of an
16 Acknowledgment of Satisfaction (Acknowledgment). DTSC will
17 prepare the Acknowledgment for Respondent's signature. The
18 Acknowledgment will specify that Respondent has demonstrated to
19 the satisfaction of DTSC that the terms of this Consent Agreement
20 including payment of DTSC's costs have been satisfactorily
21 completed. The Acknowledgment will affirm Respondent's continuing
22 obligation to preserve all records after the rest of the Consent
23 Agreement is satisfactorily completed.
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EFFECTIVE DATE

23. The effective date of this Consent Agreement shall be the date on which this Consent Agreement is signed by all the parties. Except as otherwise specified, "days" means calendar days.

SIGNATORIES

24. Each undersigned representative certifies that he or she is fully authorized to enter into this Consent Agreement.

DATE: 6/17/02

Signed by Kevin Lee
Signature of Respondent's
Representative

Kevin Lee, President
Name and Title of Respondent's
Representative

DATE: 6/27/02

Signed by Stephen W. Lavinger
Stephen W. Lavinger, Chief
Southern California Branch
Statewide Regulatory Program Division
Department of Toxic Substances Control

This Corrective Action Consent Agreement posted on DTSC's website does not include all attachments from the original document. If you need copies of a specific document, please contact the DTSC project manager listed in the document.