

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Route 99 Northbound Avenue 12 Off-
Ramp in Madera County near Madera,
CA

California Department of Transportation
District 6
1352 W. Olive Avenue
Fresno, CA 93778
ID# CAC002638841

Safety Striping Service, Inc.
6868 Avenue 305
Goshen , CA. 93227
ID# CAL000225165

Flatiron West, Inc.
2100 Goodyear Road
Benicia, CA 94510
ID# CAC002637684

Respondents:

Docket HWCA 20103408

CONSENT ORDER

Health and Safety Code
Section 25187

1. Introduction

1.1. Parties. The California Department of Toxic Substances Control (Department) and the California Department of Transportation, a California state government agency (Respondent CalTrans), Safety Striping Service, Inc., a California Corporation (Respondent SSSI) and Flatiron West, Inc., a Delaware corporation doing business in California (Respondent FWI) (together, "Respondents") enter into this Consent Order and agree as

follows:

1.2. Site. Respondents generated, handled and/or stored hazardous waste several hundred yards east of the State Highway 99 Avenue 12 North Bound Off – Ramp in Madera County, near Madera, California (Site).

1.3 Inspection. On January 16, 2009, the Madera County Department of Environmental Health (Madera DEH) contacted the Department to request assistance with an investigation involving hazardous waste violations at the Site.

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

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

1.6. Hearing. Respondents waive any right to a hearing in this matter.

1.7. Admissions. Respondents do not admit the violations alleged below, except as follows: Respondents admit the facts alleged below for the purposes of any subsequent action brought pursuant to the Hazardous Waste Control Law, Health and Safety Code section 25100 et.seq., within 5 years of the date the violations occurred.

2. Violations Alleged

2.1. Violations: The Department alleges the following violations:

2.1.1. Respondents violated California Health and Safety Code section 25201(a) in that on or about September 2, 2008, Respondents stored five 55-gallon drums containing hazardous waste at the Site 60 days longer than the allowable 90-day accumulation time period without a permit or grant of authorization from the Department.

2.1.2. Respondent SSSI violated California Health and Safety Code section 25201(a) in that on or about January 30, 2009, Respondent SSSI, stored five 55-gallon drums of hazardous waste at their business facility located at 6868 Avenue 305, Goshen, California, for 35 days without a permit or grant of authorization from the Department.

2.1.3. Respondent SSSI violated Health and Safety Code section 25163(a) (1) in that on or about January 30, 2009, Respondent engaged in the unauthorized transportation of five 55-gallon drums containing hazardous waste by a person not holding a valid registration issued by the Department.

2.1.4. Respondent SSSI violated California Code of Regulations, title 22, section 66263.23(b) in that on or about January 30, 2009, SSSI transported five 55-gallon drums containing hazardous waste to their business facility in Goshen, California; a location not permitted or otherwise authorized by the Department to receive and store hazardous waste.

2.1.5. Respondents violated California Code of Regulations, title 22, section 66262.34 (a)(1) and 66265.174 in that on or about September 2, 2008, Respondents left five 55-gallon drums of hazardous waste unattended at the Site for 22 weeks and therefore failed to inspect the areas used to store or transfer the drums to look for leaking or deterioration of the drums.

2.1.6. Respondents violated California Code of Regulations, title 22, section 66262.11, in that on or about September 2, 2008, Respondents failed to make a hazardous waste determination. Initial test results were inconclusive but further testing requested by the Department 22 weeks later confirmed the waste was hazardous.

2.1.7. Respondents violated California Code of Regulations, title 22, section 66262.34(f) in that on or about September 2, 2008, Respondents failed to properly mark or label five 55-gallon drums containing hazardous waste for 150 days.

2.1.8. Respondent SSSI violated California Health and Safety Code, section 25189.2(a) in that on or about January 29, 2009, SSSI, which is not a registered transporter of hazardous waste, signed a hazardous waste manifest (manifest number 005208801) as a registered transporter.

2.1.9. Respondents violated California Health and Safety Code section 25160(b)(1)(D) in that on or about January 29, 2009, Respondents failed to sign hazardous waste manifest number 005208801 and submit a copy to the Department within 30 days.

2.1.10. SSSI violated California Code of Regulations, title 22, section 66263.20(g)(1) in that on or about January 30, 2009, SSSI transported hazardous waste to their business facility located at 6868 Avenue 305, Goshen, CA and failed to obtain the date of delivery and signature of the owner or operator of the designated facility receiving the waste.

2.1.11. SSSI violated Health and Safety Code section 25160 (e) (1) in that on or about January 30, 2009, SSSI failed to sign and submit a completed copy of the hazardous waste manifest to the Department within 30 days of the date the hazardous waste was received.

2.1.12. Respondent SSSI violated California Health and Safety Code section 25189(a) in that on or about January 29, 2009, Respondent made false representations on manifest number 005208801. Respondent misrepresented the transporter by signing the manifest as an authorized hazardous waste transporter.

3. Compliance Terms

3.1. Respondents agree to comply with the following:

3.1.1 Respondents have completed all required corrective action for the alleged violations.

3.1.2 Respondents shall maintain compliance with all applicable

hazardous waste management requirements in the future.

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

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

3.1.5. Liability. Nothing in this Consent 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 Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondents may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.1.6. Government Liabilities. Neither the State of California nor the Department shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents or related parties specified in paragraph 5.3, 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 Respondents or their agents in carrying out activities pursuant to this Consent Order.

3.1.7. 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.

4. PENALTY

4.1. Respondents shall pay the total sum of Thirty-Five Thousand Dollars (\$35,000.00), as specified below:

4.1.1. Respondents shall pay the Department the amount of Thirty-Three Thousand Nine Hundred Eighty-Five Dollars and Fifty Cents (\$33,985.50) in administrative penalties as allocated below:

(a) Respondent CalTrans shall pay the Department a total of \$11,667.

(b) Respondent SSSI shall pay the Department a total of \$11,667.

(c) Respondent FWI shall pay the Department \$10,653.50.

4.1.2. Respondent FWI shall pay Madera DEH the sum of One Thousand Twelve Dollars and Fifty Cents (\$1,012.50) as reimbursement for investigation costs incurred in this matter.

4.2. Payment of the total sum specified in paragraph 4.1 is due within 30 days from the effective date of this Consent Order.

4.3 Respondents' checks for the penalty as allocated in paragraph 4.1.1 above 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, 21st floor
P. O. Box 806

Sacramento, California 95812-0806

A photocopy of the checks shall be sent to:

Mr. Dan Pineschi
Enforcement and Emergency Response Branch
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826

and

Ms. Sonia Feldstein
Office of Legal Counsel
Department of Toxic Substances Control
700 Heinz Avenue, Suite 100
Berkeley, CA 94710-2721

4.4. Respondent FWI's check for Madera DEH costs as set forth in paragraph 4.1.2 above shall be made payable to Madera Department of Environmental Health, and shall be delivered to:

County of Madera Department of Environmental Health
2037 West Cleveland Ave. MS-E
Madera, CA 93637

A photocopy of the check shall be sent to:

Mr. Dan Pineschi
Enforcement and Emergency Response Branch
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826

and

Ms. Sonia Feldstein
Office of Legal Counsel
Department of Toxic Substances Control
700 Heinz Avenue, Suite 100
Berkeley, CA 94710-2721

4.5. 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.

5. OTHER PROVISIONS

5.1. 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.

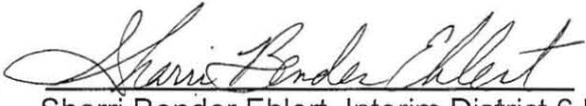
5.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondents to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

5.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondents 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.

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

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

Dated: 11/15/2011



Sharri Bender Ehlert, Interim District 6 Director
Respondent California Department of
Transportation

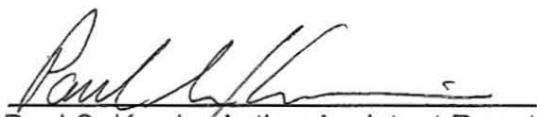
Dated: _____

Richard Grabinski, Vice-President
Respondent Flatiron West, Inc.

Dated: _____

David Preston, President
Respondent Safety Striping Service, Inc.

Dated: 11-23-2011



Paul S. Kewin, Acting Assistant Deputy Director
Enforcement and Emergency Response Program
Department of Toxic Substances Control