

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

David H. Fell & Company, Inc.  
6009 Bandini Boulevard.  
Commerce, California, 90040

Respondent.

Docket HWCA 2009 - 2024

CONSENT ORDER

Health and Safety Code  
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and David H. Fell & Company, Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats, stores, and disposes of hazardous waste at the following site: 6009 Bandini Boulevard, Commerce, California 90040.

1.3. Inspection. The Department inspected the Site on January 29 and 30, 2009.

1.4. Authorization Status. The Respondent holds a Standardized Permit Series B and Hazardous Waste Transporter with a Small Load Operation Variance.

1.5. Jurisdiction. 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.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the

terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent admits the violations as alleged in Section 2 below.

## 2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violation: Respondent violated California Code of Regulations, section 66264.16(a)(1)(c) in that on or about January 30, 2009 David H. Fell Inc. emergency personnel included in the Contingency Plan failed to take the required annual refresher training.

## 3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following: Within 30 days from receipt of Summary of Violations, David H. Fell Inc. personnel listed as emergency personnel in the Contingency Plan should attend the required refresher training and provide DTSC with the Certificate of Completion.

3.1.1. Respondent has corrected the violations set forth above.

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

## 4. OTHER PROVISIONS

4.1. 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 such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, 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, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

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

#### 5. PENALTY

5.1. Respondent shall pay the Department the total sum of \$2, 000, of which \$2,000 is a penalty.

5.2. Payment of the total sum specified in paragraph 5.1 is due within 30 days from the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, 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 check(s) shall be sent to:

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

and

James J. Grace, Esq.  
Office of Legal Counsel  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

5.4. 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.

#### 6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: July 3, 2009

Original signed by Larry Fell  
Signature of Respondent's Representative

Larry Fell  
Typed or Print Name and Title of Respondent's Representative

Dated: July 14, 2009

Original signed by Mukul Agarwal  
Mukul Agarwal

Supervising Hazardous Substances Scientist I  
Enforcement and Emergency Response  
Department of Toxic Substances Control