

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Emulsions Control Inc.
Pepper Oil Co.
2300 Tidelands Avenue
National City, CA 91950

ID No. CAT000613547

Emulsions Control Inc.
925 Hale Place #A7
Chula Vista, CA 91914

Pepper Oil Co.
2300 Tidelands Avenue
National City, CA 91950

Respondents.

Docket HWCA 2012-6209

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Emulsions Control, Inc. (Respondent ECI) and Pepper Oil Company (Respondent POCO) (together, Respondents) enter into this Consent Order and agree as follows:

1. Respondents handle and store what the Department contends are hazardous wastes at 2300 Tidelands Avenue, National City, CA 91950 (Site). Respondent POCO leases the facility from the San Diego Unified Port District. The Site is regulated by the local San Diego County, Certified Unified Program Agency (CUPA) as a hazardous waste generator and required to have a Business Plan.

2. The Department inspected the Site on March 28, 2012 and April 4, 2012.

3. The Department alleges the following violations:

3.1. Respondents violated California Health & Safety Code section 25201(a) in that on or about March 28, 2012, Respondents accepted and stored hazardous waste, ESP-LAB and spent acid materials, without a permit or authorization from the Department.

3.2. Respondents violated California Health & Safety Code section 25201(a) in that on or before March 28, 2012, Respondents treated hazardous waste without authorization, or permit from the Department. Respondents treated spent materials by heating, filtering and/or adjusting its viscosity prior to its use in the manufacturing of demulsifiers. In addition, Respondents treated spent material residuals by adding absorbent materials.

3.3. Respondents violated California Code of Regulations, title 22, sections 66262.11(b) and section 66262.11(c) in that on or about March 28, 2012, Respondents failed to make a hazardous waste determination of the spent materials received and the spent material residuals generated during the manufacturing of the demulsifiers.

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

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

6. Respondents waive any right to a hearing in this matter.

7. Respondents admit the alleged violations as stated in Section 3.

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, if they occurred.

SCHEDULE FOR COMPLIANCE

9. Respondents shall comply with the following:

9.1. Respondents have corrected the alleged violations set forth above.

9.2. Respondents shall not accept, store and treat hazardous waste without a permit or authorization from the Department.

9.3. Submittals: All submittals from Respondents pursuant to this Consent Order shall be sent simultaneously to:

Debra Schwartz, Senior Staff Counsel
Office of Legal Affairs
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, CA 91311

Jose Alfredo Rios, Unit Chief
Enforcement & Emergency Response Division
Department of Toxic Substances Control
2375 Northside Drive, Suite 100
San Diego, CA 92108

9.4. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondents 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 Respondents shall be construed to relieve Respondents of its obligation to obtain such formal approvals as may be required.

9.5. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondents with recommended changes and a date by which Respondents must submit to the Department a revised document incorporating the recommended changes.

9.6. Compliance with Applicable Laws: Respondents 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.

9.7. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent 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 Respondents to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

9.8. 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.

9.9. 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 Respondents in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondents 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.

9.10. Sampling, Data, and Document Availability: Respondents shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondents or on Respondents' behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondents shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondents pursuant to this Consent Order. Respondents 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 Respondents 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, Respondents shall either comply with that

request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondents shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

9.11. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents 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 Respondents or its agents in carrying out activities pursuant to this Consent Order.

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

9.13. Extension Requests: If Respondents are unable to perform any activity or submit any document within the time required under this Consent Order, the Respondents may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

9.14. 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

10. Respondents shall pay the Department a total penalty of \$70,000.00 dollars. The penalty shall be paid in twelve payments as follows. Respondent shall

submit the first payment of \$5,835 on or before May 25, 2014. The second payment of \$5,835 shall be submitted on or before June 25, 2014. The remaining ten payments, each one in the amount of \$5,833, shall be submitted on or before the 25th day of each consecutive month for the remaining ten months thereafter. In the event that any payment is not received by the dates specified above, the entire remaining balance shall become immediately due and payable. Respondents' 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, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To:

Alfredo Rios, Unit Chief
Enforcement & Emergency Response Division
Department of Toxic Substances Control
2375 Northside Drive, Suite 100
San Diego, CA 92108

If Respondents fails 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.

OTHER PROVISIONS

10.1. 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.

10.2. 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.

10.3. 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.

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

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

Date: 5.6.14 _____
Original Signed
David Pepper Jr., President (vice)
Pepper Oil Company

Date: 5-8-14 _____
Original Signed
Dr. Samuel Delchad, President
Emulsions Control, Inc.

Date: May 23, 2014 _____
Original Signed
Carmelita Lampino, Branch Chief
Department of Toxic Substances Control
Cypress/San Diego Enforcement Branch