

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Envirocon Contracting, Inc.
5940 Lakeshore Drive
Cypress, California 90630

ID No. CAL000338711

Respondent.

Docket HWCA 20113548

CONSENT ORDER

Health and Safety Code
Section 25187

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

1. Respondent generates, handles, transfers and stores hazardous waste at 5940 Lakeshore Drive, Cypress, California 90630 (Site).
2. The Department inspected the Site on April 19, 2011.
3. The Department alleges the following violations:
 - 3.1. Respondent violated Health and Safety Code section 25201, subdivision (a). in that it stored hazardous waste at the Site without authorization from the Department, to wit: Respondent failed to meet the conditions set forth in California Code of Regulations, title 22, section 66263.18 ("Section 66263.18") in that it stored hazardous waste at its Facility for greater than ten (10) days. Failure to comply with Section 66263.18 subjects Respondent to the storage requirements

pursuant to Health and Safety Code section 25201, subdivision (a).

3.2. Respondent violated Health and Safety Code section 25201, subdivision (a) in that on or about April 19, 2011, Respondent stored hazardous waste without a permit or grant of authorization from the Department To Wit: Respondent failed to comply with the conditions set forth in Health and Safety Code section 25123.3, subdivision (b)(3)(A)(ii) in that it commenced operations after January 1, 2005 and stored offsite-generated hazardous waste at its Facility within 500 feet of an elementary school without a permit or grant of authorization from the Department..

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.

SCHEDULE FOR COMPLIANCE

9. Respondent shall comply with the following:

9.1. Respondent agrees to cease any and all management of hazardous waste at the Site. Should Respondent resume management of hazardous waste at the Site, Respondent shall notify the Department 30 days prior to such

management. Further, Respondent shall comply with all statutory and regulatory requirements pertaining to the management of hazardous waste at the Site.

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

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

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

9.4. 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 Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

9.5. Compliance with Applicable Laws: Respondent 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.

9.6. 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 Respondent 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.

9.7. 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 Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

9.8. 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.

9.9. 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.

9.10. 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.

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

9.12. 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.

9.13. 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. Respondent shall pay the Department a total of \$5,000 which is a penalty as follows: the first payment, in the amount of \$2,500, shall be paid on or before 30 days after the effective date of this Order; the second and final payment in the amount of \$2,500 shall be paid on or before 120 days after the effective date of this Order. Respondent's checks 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: Carmelita Lampino, Unit Chief
Enforcement and Emergency Response Program
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

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

The Respondent brought a claim that it was unable to pay the assessed penalty of Twenty-Five Thousand Three Hundred Twenty Dollars (\$25,320). As a result, the Department requested, and Respondent provided, financial documents to substantiate its inability to pay claim. Based on the information provided by Respondent, the Department evaluated Respondent's inability to pay claim, and determined that Respondent is able to pay a Five Thousand Dollar (\$5,000) penalty.

The adjustment of the penalty reflects Respondent's inability to pay claim, and not the merits of the Department's allegations or the seriousness of the violations alleged in the Order.

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

11.1. 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.

11.2. 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.

11.3. 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.

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

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

11.6. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Notices under this paragraph are subject to paragraph 9.2.

Dated: May 30, 2012

Original signed by David Adams

Respondent's Representative

Dated: June 5, 2012

Original signed by Roberto Kou for

Carmelita Lampino, Unit Chief
Enforcement and Emergency Response Program
Department of Toxic Substances Control