

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Evergreen Oil Inc.
6880 Smith Avenue
Newark, California 94560

EPA ID. Numbers:
CAD 980 887 418

Respondent.

Docket HWCA 2010 3348

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Evergreen Oil Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, stores and treats hazardous waste at the following site: 6880 Smith Avenue, Newark, California 94560 (Site).

1.3. Inspection. The Department inspected the Site on October 28 and November 8, 9, and 10, 2010.

1.4. Permit Status. The Department authorized Respondent to store and treat hazardous waste pursuant to a Full Hazardous Waste Facility Permit, issued on December 1, 2004.

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.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1 Respondent violated California Code of Regulations, title 22, sections 66264.15 and 66264.195 in that on or about November 10, 2010, Respondent failed to include/record in its daily inspection log inspection of the newly installed tanks system (new tank farm system started operation on May 5, 2010) northeast of the facility and tanks secondary containment area for tank farm.

2.1.2 Respondent violated Health and Safety Code, section 25250.7, subdivision (a) in that in some instances in year 2010, Respondent contaminated used oil with other hazardous waste other than minimal amounts of vehicle fuel. Specifically, Respondent consolidated drummed used oil, waste antifreeze and break fluid received at the facility in a tanker truck to be transferred to the tank # 502.

2.1.3 Respondent violated California Code of Regulations, title 22, section 66262.20, subdivision (a) in that on or about November 10, 2010, Respondent failed to accurately fill out the manifests used to transport and accept at its facility. Specifically, either some the manifests did not have accurate dates of its transportation and acceptance at the TSD facility or did not have a waste code.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent has corrected the violations cited above. Respondent shall operate hereafter in a manner that shall prevent recurrences of the violations cited herein.

3.2. Respondent shall make all payments at the time(s) and in accord with 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.

4.4. 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 a total sum of \$7,000.00 as 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 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 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:

Mehdi Nobari
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

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 13, 2011

Original signed by Bob Gwaltney
Respondent Signature

Bob Gwaltney
Print Name of Respondent

Dated: July 21, 2011

Original signed by Roberto Kou
Robert Kou, Acting Performance Manager
Chatsworth Branch
Enforcement and Emergency Response Program
Department of Toxic Substances Control