

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Evergreen Environmental Services
6880 Smith Avenue
Newark, California 94560

ID No. CAD982413262

Respondent.

Docket HWCA 2011-4210

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

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

1.2. Site. Respondent is a registered transporter and generator of hazardous waste and at the following site: 6880 Smith Avenue, Newark, California, 94560 (Site)

1.3. Inspection. The Department conducted a complaint investigation on August 16, 2011 at the following address: 1097 W Palm Avenue, Suite 100, El Cajon, California, 92020.

1.4. Authorization Status. Respondent is authorized to transport hazardous waste (Registration No. 242).

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 violations:

2.1.1. Respondent violated California Code of Regulations, title 22, section 66263.23 (b) in that on or about May 12, 2011, Respondent transported hazardous waste to a facility not authorized to receive the waste. Respondent transported two 55-gallon metal drums containing crushed fluorescent lamps on Uniform Hazardous Waste Manifest No. 008378195JJK to Lights Out Disposal Company, Inc., a facility not authorized by the Department to receive hazardous waste.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Respondent shall not deliver hazardous waste to a facility not authorized by the Department to receive waste.

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.

4.4. 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 the total penalty in the amount of \$ 8,000.00 dollars. Of the total penalty due, \$6,000.00 dollars is monetary fine and \$2,000.00 dollars shall be a credit for attending and completing California Compliance School.

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:

Alfredo Rios, Supervising Hazardous Substances Scientist I
Emergency Response and Enforcement Program
Department of Toxic Substances Control
9174 Sky Park Court Suite 150
San Diego, CA 92123.

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.

5.5. Respondent hereby agrees to send two employees to a specified California Compliance School (Modules I-IV of the Hazardous Waste Generator Course). Attendance must be completed and the Respondent must submit a Certificate of Satisfactory Completion issued by the California Compliance School to the Department within 180 days of the date of this Order. In recognition of this educational investment, Respondent has received a credit of \$2,000.00, if the employee(s) satisfactorily completes the specified modules. If Respondent fails to submit the certificate as required, the penalty is due and payable within 30 days after the 180-day period expires.

6. EFFECTIVE DATE

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

Dated: 7/12/2012

Original signed by Christopher Goff

~~Christopher Goff~~
VP Environmental Services
Evergreen Environmental Services

Dated: 7/12/2012

Original signed by Alfredo Rios

~~Alfredo Rios~~
Supervising HSS I
Enforcement & Emergency Response
Department of Toxic Substances Control