

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

General Chemical West LLC
501 Nichols Road
Pittsburg, California 94565

EPA I.D. No. CAD 009 142 290

(Respondent)

Docket No. HWCA: 2008-1610

CONSENT ORDER

Health and Safety Code
Section 25187

INTRODUCTION

The California Department of Toxic Substances Control (Department) and General Chemical West LLC (Respondent) enter into this Consent Order and agree as follows:

1.1. Facility. Respondent operates a chemical manufacturing facility located north of the Port Chicago Highway, 5 miles west of Pittsburg, California. The facility occupies approximately 26 acres along the south shore of Suisun Bay and consists of several chemical plants, warehouses, and support and service buildings. Assessor's parcel numbers for the facility are 99-030-018, 99-030-019, and 99-030-025.

1.2. Generation. Respondent generates hazardous waste including acid wastes, mixed solvent waste and other production waste and waste waters associated with acid/etchants production processes. The Department issued Hazardous Waste Facility Permit No. 06-BRK-09 to Respondent for collection of acidic waste water and

storage of such waste in sumps and aboveground storage tanks. The Department inspected Respondent's facility on May 30, and 31, 2007.

2. Jurisdiction. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and 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.

3. The Department alleges the following violations:

3.1. Respondent violated California Code of Regulations (Cal. Code Regs.), title 22, section 66264.15, subdivision (d), in that on or about May 2007 through July 2007, Respondent failed to record the date and nature of corrective measures including repairs for deficiencies in permitted areas. In at least four instances, Respondent's daily inspection logs omitted details of repairs made in permitted areas.

3.2. Respondent violated Cal. Code Regs., title 22, section 66264.15, subdivision (d), and section 66264.195, subdivision (b) in that on or about May 2007, Respondent failed to record observations in the permitted area. Specifically, Respondent failed to record inspection observations, as is required daily, of portions of the facility's tank and drum containment systems on March 14, 2007.

3.3. Respondent violated California Health and Safety Code, section 25160, subdivision (b)(1) in that on or about March 2007, Respondent failed to include a 300-gallon tote containing a small amount of acid on a hazardous waste manifest used to transport other hazardous waste offsite. Because the tote contained acid it did not meet the Department's definition of an emptied container and should have been identified on a hazardous waste manifest.

3.4. Respondent violated Cal. Code Regs., title 22, section 66264.75 in that Respondent failed to complete and submit the annual hazardous waste report to the Department by March 1, 2007.

4. A dispute exists regarding the alleged violations.
5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.
6. Respondent waives any right to a hearing in this matter.
7. 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.
8. By entering into this Consent Order, Respondent does not admit the violations alleged above, except as follows: Respondent admits the facts alleged above for the purpose of any subsequent action brought pursuant to the Hazardous Waste Control Law section 25100 et seq., within five years of the date the violations occurred.

SCHEDULE FOR COMPLIANCE

9. Based on the submittal dated January 31, 2008, Respondent corrected all violations cited in paragraphs 3.1 – 3.4. In addition, Respondent initiated additional training to minimize the possibility of a reoccurrence of the violations.

9.1. In accordance with Cal. Code Regs., title 22, section 66264.74(a), Respondent shall furnish all records, including plans upon request and shall make records available at all reasonable times for inspection by any authorized representative of the Department.

9.2. Respondent shall comply with all elements of Cal. Code Regs., title 22, section 66264.15(d), including but not limited to recording on the inspection log or summary, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

PAYMENTS

10.1. Respondent agrees to pay to the Department a total of \$14,500, of which \$11,633 is a penalty, and \$2,867 is reimbursement of the Department's costs. Payment shall be made in accordance with paragraphs 10.1 through 10.3.

10.2. Within 30 days of the effective date of this Consent Order, Respondent shall pay \$14,500 to the Department. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number as shown in the heading of this case. The check shall be delivered, together with the attached Payment Voucher, to:

Department of Toxic Substances Control
Accounting Office **Attn: John Goodykoontz**
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Richard Stewart
Senior Scientist
State Oversight and Enforcement Branch
Enforcement and Emergency Response Program
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710

10.3. In the event that Respondent fails to make timely payments as required in section 10.2, Respondent agrees to pay interest on any amounts thereafter paid or collected 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 attorneys' 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 and partners, 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.

Dated: June 22, 2009

Original signed by James Craig
Signature of Respondent's Representative

James Craig, Director of Manufacturing
Typed or Printed Name and Title of Respondent's Representative

Dated: June 25, 2009

Original signed by Richard Stewart
Richard Stewart
Senior Scientist
State Oversight and Enforcement Branch
Enforcement and Emergency Program
Department of Toxic Substances Control