

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

IN THE MATTER OF:

Lebata, Inc. (Formerly James Lee
Record Processing)
145 W. 154th Street
Gardena, CA 90248
EPA ID# CAD008268799

Respondent.

Docket: SRPD 01/02SCC-1234

FIRST AMENDMENT TO
CORRECTIVE ACTION
CONSENT AGREEMENT

Health and Safety Code
Sections 25187 and 25200.14

On January 22, 2003, the Department of Toxic Substances Control (DTSC) and Lebata, Inc. (Respondent) entered into a Corrective Action Consent Agreement, Docket No. SRPD 01/02SCC-1234, with regard to the former James Lee Record Processing Facility, located at 145 W. 154th Street, Gardena, California, 90248 (Facility). DTSC and Respondent hereby enter into this First Amendment to Corrective Action Consent Agreement (First Amendment) as follows:

1. An Exhibit B, "Additional Scope of Work", as attached hereto, is added to the Corrective Action Consent Agreement to address the remaining corrective action work required at the Facility.
2. An Exhibit C, "Additional Cost Estimate", as attached hereto, is added to the Corrective Action Consent Agreement.
3. Section 20.8 is added to the Corrective Action Consent Agreement to state:

" An estimate of DTSC's costs for oversight activities related to Exhibit B, "Additional Scope of Work", is attached hereto as Exhibit C showing the total amount of \$29,672. It is understood by the parties that the amount shown in Exhibit C is an estimate only and cannot be relied upon as the actual costs incurred by DTSC in preparing and implementing this Consent Agreement."

Except as amended by this First Amendment, the provisions of the Corrective Action Consent Agreement shall remain in full force and effect.

This First Amendment shall take effect upon the date when this First Amendment is executed by both parties.

Date: January 26, 2005

By: Original signed by Randy Callier
Representing Respondent/Owner
Lebata, Inc.

Date: February 1, 2005

By: Original Signed by Stephen Lavinger
Stephen W. Lavinger, Chief
Southern California Branch
Hazardous Waste Management Program
Department of Toxic Substances Control

EXHIBIT B

ADDITIONAL SCOPE OF WORK

INTERIM MEASURES (IM)

1.1. Respondent shall evaluate available data and assess the need for interim measures in addition to those specifically required by this Consent Agreement. Interim measures shall be used whenever possible to control or abate immediate threats to human health and/or the environment, and to prevent and/or minimize the spread of contaminants while long-term corrective action alternatives are being evaluated.

1.2. Within 30 days of the effective date of this Consent Agreement, Respondent shall submit to DTSC a Workplan for the implementation of Interim Measures ("IM Workplan") for the excavation and removal of concrete and any additional subsurface soils. The IM Workplan is subject to approval by DTSC and shall provide for the performance of all Interim Measures necessary to achieve stabilization at the Facility. The IM Workplan shall include a schedule for submittal of an Interim Measures Report (IM Report). The IM Workplan and Interim Measures Report, shall be developed in a manner consistent with the Scope of Work for Interim Measures Implementation contained in Attachment 1.

1.3. If at any time Respondent identifies an immediate or potential threat to human health and/or the environment, discovers new releases of hazardous waste and/or hazardous waste constituents, or discovers new solid waste management units not previously identified, Respondent shall notify DTSC Project Coordinator orally within 48 hours of discovery and notify DTSC in writing within 10 days of discovery summarizing the findings, including the immediacy and magnitude of the potential threat to human health and/or the environment. Within 30 days of receiving DTSC's written request, Respondent shall submit to DTSC an IM Workplan for approval. The IM Workplan shall include a schedule for submittal and implementation of an IM Report, as

well as, to the extent applicable, an IM Operation and Maintenance Plan and IM Plans and Specifications. The IM Workplan, IM Report, IM Operation and Maintenance Plan, and IM Plans and Specifications shall be developed in a manner consistent with the Scope of Work for Interim Measures Implementation contained in as Attachment 1. If DTSC determines that immediate action is required, DTSC Project Coordinator may orally authorize the Respondent to act prior to DTSC's receipt of the IM Workplan.

1.4. If DTSC identifies an immediate or potential threat to human health and/or the environment, discovers new releases of hazardous waste and/or hazardous waste constituents, or discovers new solid waste management units not previously identified, DTSC will notify Respondent in writing. Within 30 days of receiving DTSC's written notification, Respondent shall submit to DTSC for approval an IM Workplan that identifies Interim Measures that will mitigate the threat. The IM Workplan shall include a schedule for submittal and implementation of an IM Report as well as, to the extent applicable, an IM Operation and Maintenance Plan and IM Plans and Specifications. The IM Workplan, IM Report, IM Operation and Maintenance Plan, and IM Plans and Specifications shall be developed in a manner consistent with the Scope of Work for Interim Measures Implementation contained in as Attachment 1. If DTSC determines that immediate action is required, DTSC Project Coordinator may orally authorize Respondent to act prior to receipt of the IM Workplan.

1.5. All IM Workplans shall ensure that the Interim Measures are designed to mitigate current or potential threats to human health and/or the environment, and should, to the extent practicable, be consistent with the objectives of, and contribute to the performance of, any remedy which may be required at the Facility.

1.6. Concurrent with the submission of an IM Workplan, Respondent shall submit to DTSC a Health and Safety Plan in accordance with the Scope of Work for a Health and Safety Plan contained in Attachment 2.

1.7. Concurrent with the submission of an IM Workplan, Respondent shall

submit to DTSC for approval a Community Profile in accordance with Attachment 3. Based on the information provided in the Community Profile, if DTSC determines that there is a high level of community concern about the Facility, DTSC may require Respondent to prepare a Public Participation Plan.

FACILITY INVESTIGATION (FI)

2.1. Within 60 days of completion of the Interim Measures activities, Respondent shall submit to DTSC a Workplan for a Facility Investigation ("FI Workplan"). The FI Workplan is subject to approval by DTSC and shall be developed in a manner consistent with the Scope of Work for a Facility Investigation contained in Attachment 4. DTSC will review the FI Workplan and notify Respondent in writing of DTSC's approval or disapproval.

2.2. The FI Workplan shall detail the methodology to: (1) gather data needed to make decisions on interim measures/ stabilization during the early phases of the RCRA Facility Investigation; (2) identify and characterize all sources of contamination; (3) define the nature, degree and extent of contamination; (4) define the rate of movement and direction of contamination flow; (5) characterize the potential pathways of contaminant migration; (6) identify actual or potential human and/or ecological receptors; and (7) support development of alternatives from which a corrective measure will be selected by DTSC. A specific schedule for implementation of all activities shall be included in the FI Workplan.

2.3. Respondent shall submit a FI Report to DTSC for approval in accordance with DTSC-approved FI Workplan schedule. The FI Report shall be developed in a manner consistent with the Scope of Work for a Facility Investigation contained in Attachment 4. If there is a phased investigation, separate FI Reports and a report that summarizes the findings from all phases of the FI must be submitted to DTSC. DTSC will review the FI Report(s) and notify Respondent in writing of DTSC's approval or

disapproval.

2.4. Concurrent with the submission of a FI Workplan, Respondent shall submit to DTSC a Health and Safety Plan in accordance with Attachment 2. If Workplans for both an IM and FI are required by this Consent Agreement, Respondent may submit a single Health and Safety Plan that addresses the combined IM and FI activities.

2.5. DTSC may require Respondent to prepare a FI Summary Fact Sheet. If required, Respondent shall submit a FI Summary Fact Sheet to DTSC that summarizes the findings from all phases of the FI. The FI Summary Fact Sheet shall be submitted to DTSC in accordance with the schedule contained in the approved FI Workplan. DTSC will review the FI Summary Fact Sheet and notify Respondent in writing of DTSC's approval or disapproval, including any comments and/or modifications. When DTSC approves the FI Summary Fact Sheet, Respondent shall mail the approved FI Summary Fact Sheet to all individuals on a mailing list established pursuant to California Code Regulations, title 22, section 66271.9(c)(1)(D), within 15 calendar days of receipt of written approval.

2.6. Concurrent with the submission of a FI Workplan, Respondent shall submit to DTSC for approval a Community Profile in accordance with Attachment 3. Based on the information provided in the Community Profile and any Supplement to the Community Profile, if DTSC determines that there is a high level of community concern about the Facility, Respondent shall prepare a Public Participation Plan.

RISK ASSESSMENT

3. Based on the information available to DTSC, including, but not limited to, the data collected from the implementation of the FI Workplan, Respondent may be required to conduct a Risk Assessment to evaluate potential human health risk and ecological risk and to establish site-specific action levels and cleanup standards. If DTSC determines that a Risk Assessment is required, Respondent shall submit to

DTSC for approval a Risk Assessment Workplan within 60 days of receipt of DTSC's determination. Respondent shall submit to DTSC for approval a Risk Assessment Report in accordance with DTSC-approved Risk Assessment Workplan schedule.

CORRECTIVE MEASURES STUDY (CMS)

4.1. Respondent shall prepare a Corrective Measures Study (CMS), if contaminant concentrations exceed human health-based or ecologically-based action levels established by the DTSC-approved Risk Assessment Report, if one is required under this Consent Agreement, or if DTSC otherwise determines that the contaminant releases pose a potential threat to human health or the environment.

4.2. Within 30 days of DTSC's approval of the Risk Assessment Report, if one is required under this Consent Agreement, Respondent shall submit a CMS Workplan to DTSC. The CMS Workplan is subject to approval by DTSC and shall be developed in a manner consistent with the Scope of Work for a Corrective Measures Study contained in Attachment 5.

4.3. The CMS Workplan shall detail the methodology for developing and evaluating potential corrective measures to remedy any contamination at the Facility. The CMS Workplan shall identify the potential corrective measures, including any innovative technologies that may be used for the containment, treatment, remediation, and/or disposal of contamination.

4.4. Respondent shall prepare treatability studies for all potential corrective measures that involve treatment except where Respondent can demonstrate to DTSC's satisfaction that they are not needed. The CMS Workplan shall include, at a minimum, a summary of the proposed treatability study including a conceptual design, a schedule for submitting a treatability study workplan, or Respondent's justification for not proposing a treatability study.

4.5. Respondent shall submit a CMS Report to DTSC for approval in accordance

with DTSC-approved CMS Workplan schedule. The CMS Report shall be developed in a manner consistent with the Scope of Work for a Corrective Measures Study contained in Attachment 5. DTSC will review the CMS Report and notify Respondent in writing of DTSC's approval or disapproval.

REMEDY SELECTION

5.1. DTSC will provide the public with an opportunity to review and comment on the final draft of the CMS Report, DTSC's proposed corrective measures for the Facility, and DTSC's justification for selection of such corrective measures. Depending on the level of community concern, DTSC may conduct a public hearing to obtain comments.

5.2. Following the public comment period, DTSC may select final corrective measures or require Respondent to revise the CMS Report and/or perform additional corrective measures studies.

5.3. DTSC will notify Respondent of the final corrective measures selected by DTSC in the Final Decision and Response to Comments. The notification will include DTSC's reasons for selecting the corrective measures.

CORRECTIVE MEASURES IMPLEMENTATION (CMI)

6.1. Within 60 days of Respondent's receipt of notification of DTSC's selection of the corrective measures, Respondent shall submit to DTSC a Corrective Measures Implementation (CMI) Workplan. The CMI Workplan is subject to approval by DTSC and shall be developed in a manner consistent with the Scope of Work for Corrective Measures Implementation contained in Attachment 6.

6.2. Concurrent with the submission of a CMI Workplan, and to the extent applicable, Respondent shall submit to DTSC a Health and Safety Plan in accordance with Attachment 2.

6.3. Concurrent with the submission of a CMI Workplan, and to the extent

applicable, Respondent shall submit to DTSC for approval a Community Profile in accordance with Attachment 3. Based on the information provided in the Community Profile and any Supplement to the Community Profile, if DTSC determines that there is a high level of community concern about the Facility, DTSC may require Respondent to prepare a Public Participation Plan.

6.4. The CMI program shall be designed to facilitate the design, construction, operation, maintenance, and monitoring of corrective measures at the Facility. In accordance with the schedule contained in the approved CMI Workplan, Respondent shall submit to DTSC the documents listed below, to the extent applicable. These documents shall be developed in a manner consistent with the Scope of Work for Corrective Measures Implementation contained in Attachment 6.

- Operation and Maintenance Plan
- Draft Plans and Specifications
- Final Plans and Specifications
- Construction Workplan
- Construction Completion Report
- Corrective Measures Completion Report

6.5. DTSC will review all required CMI documents and notify Respondent in writing of DTSC's approval or disapproval.

6.6. As directed by DTSC, within 90 days of DTSC's approval of all required CMI documents, Respondent shall establish a financial assurance mechanism for Corrective Measures Implementation. The financial assurance mechanisms may include a performance or surety bond, liability insurance, an escrow performance guarantee account, a trust fund, financial test, or corporate guarantee as described in California Code of Regulations, title 22, section 66265.143 or any other mechanism acceptable to DTSC. The mechanism shall be established to allow DTSC access to the funds to undertake Corrective Measures Implementation tasks if Respondent is unable or unwilling to undertake the required actions.

This Corrective Action Consent Agreement posted on DTSC's website does not include all attachments from the original document. If you need copies of a specific document, please contact the DTSC project manager listed in the document.