

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Royal Citrus Company
3075 10th Street
Riverside, California 92507
ID No. CAL000095287

Docket HWCA 2007-1602

CONSENT ORDER

Health and Safety Code
Section 25187

Royal Citrus Company
3084 10th Street
Riverside, California 92507
ID No. CAL000095287

M. Lewis Cardey Jr , an Individual
c/o Frank J. Delany, Esq.
The Law Offices of Frank J. Delany
3801 University Avenue, Suite 260
Riverside, California 92501

Respondents

The State Department of Toxic Substances Control (Department) and Royal Citrus Company and M. Lewis Cardey Jr. (together "Respondents") enter into this Consent Order and agree as follows:

1. Respondents generate, handle, treat, store, and/or dispose of hazardous waste at 3075 10th Street, Riverside, California (Site).

2. The Department inspected the Site on December 18, 2007.

3. The Department alleges the following violations:

3.1. Respondents violated Health and Safety Code section 25201(a), in that on or about December 18, 2007, Respondents stored hazardous waste over 90 days without a permit or grant of authorization from the Department, and Respondents failed to meet the conditions set forth in California Code of Regulations, title 22, section 66262.34, subsections (a),(f)(1),(f)(2) and (f)(3)(A)(B)(C), and section 66264.173(a). Respondents failed to clearly mark and make visible for inspection on each container the following: date upon which each period of accumulation begins, date 90-day storage period began, composition and physical state of the waste, statement calling attention to the particular hazardous properties of the waste e.g., flammable, reactive, and name and address of the producer of the waste; and failed to keep containers holding hazardous waste closed during storage.

3.2. Respondents violated California Code of Regulations, title 22, section 66262.11, in that on or about December 18, 2007, Respondents failed to determine if the generated waste is hazardous.

3.3. Respondents violated Health and Safety Code sections 25201(a) and 25189(d), in that on or about December 18, 2007, Respondents disposed hazardous waste into the ground.

4. The parties wish to avoid the expense of litigation and to ensure prompt compliance
5. Jurisdiction exists pursuant to Health and Safety Code section 25187
6. Respondents waive 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. Respondents admit the violations alleged above.

SCHEDULE FOR COMPLIANCE

9. Respondents shall comply with the following:
 - 9.1 Based on the information provided by Respondents in their April 16, 2008 submittal, the Department has determined that the violations alleged above have been corrected.
 - 9.2. Submittals: All submittals from Respondents 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 Respondents in writing by a Unit 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

Respondents shall be construed to relieve Respondents of their 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 Respondents with recommended changes and a date by which Respondents must submit to the Department a revised document incorporating the recommended changes.

9.5. Compliance with Applicable Laws: Respondents 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 Respondents 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 Respondents, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondents 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 Respondents in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondents 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: Respondents shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondents or on Respondents' behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondents shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondents pursuant to this Consent Order. Respondents 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 Respondents 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, Respondents shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondents 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 Respondents 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 Respondents or their 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 Respondents pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

9.12. Extension Requests: If Respondents are unable to perform any activity or submit any document within the time required under this Consent Order, the Respondents 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. Respondents shall pay the Department a total of \$39,600, of which \$30,000 is a penalty and \$9,600 is reimbursement of the Department's costs as follows:

Respondents shall submit the first payment, in the amount of \$9,600 on or before October 15, 2009 and then quarterly payments, each in the amount of \$6,000 thereafter with the final payment, in the amount of \$6,000 to be submitted on or before January 15, 2011. Respondents' check 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 E. Lampino, Unit Chief
Enforcement and Emergency Response Program
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

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 Respondents 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 Respondents and their 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 Consent Order.

Dated: Aug 2 2009

M Lewis Cardey Jr
Royal Citrus Company, a California Corporation
By: M Lewis Cardey Jr., President

Dated: Aug 2 2009

M Lewis Cardey Jr
M. Lewis Cardey Jr, An Individual

Dated: 9/10/09

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