

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Safety-Kleen Systems, Inc.
6000 88th Street
Sacramento, California 95828

ID No. CA0000084517

Respondent.

Docket HWCA 20135709

CONSENT ORDER

Health and Safety Code
Section 25187

INTRODUCTION

The State Department of Toxic Substances Control (Department) and Safety-Kleen Systems, Inc., a California Corporation (Respondent) enter into this Consent Order and agree as follows:

1.1. Respondent handles, manages, and stores hazardous waste at 6000 88th Street, Sacramento, California 95828 (Site).

1.2. The Department inspected the Site on September 27 and 28, 2012.

1.3. The Department alleges the following violations:

1.3.1. Respondent violated California Code of Regulations (Cal. Code Regs.), title 22, section 66264.195, subsections (d) and (e), in that on or about and prior to September 27, 2012, Respondent failed to document daily inspections of the Underground Storage Fire Suppression Water Tank (USFSWT) in the facility's operating record and failed to develop a schedule and procedure for assessing the condition of the USFSWT.

1.3.2. Respondent violated Cal Code Regs., title 22, section 66264.192, subsections (b) and (i), in that on or about and prior to September 27, 2012, Respondent failed to obtain a tank assessment certification reviewed and certified by an independent, qualified, registered professional engineer (P.E.) in California for the USFSWT, and to obtain a tank assessment certification every five years thereafter up until October 2013.

1.3.3. Respondent violated Cal Code Regs., title 22, subsection 66264.177, subsection (c) in that on or about September 27, 2012, Respondent failed to separate a five-gallon container that held hazardous waste corrosive solid-boric acid and potassium bifluoride by means of a dike, berm, wall, or other device from three (3) hazardous waste containers that contained hazardous wastes (i.e., corrosive liquid-basic inorganic, potassium hydroxide solid, and corrosive liquid-acidic organic, respectively) that were incompatible with that five-gallon container.

1.4. A dispute exists regarding the alleged violations.

1.5. The Parties wish to avoid the expense of litigation and to ensure prompt compliance.

1.6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

1.7. Respondent waives any right to a hearing in this matter.

1.8. 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.

SCHEDULE FOR COMPLIANCE

2. Respondent shall comply with the following:

2.1. The Respondent has corrected the violation alleged in section 1.3.1.

Respondent shall continue to inspect and document the daily inspections of the USFSWT in the facility's operating record as specified in Cal Code Regs., title 22, section 66264.195.

2.2. The Respondent has corrected the violation alleged in section 1.3.2.

Respondent shall manage spills and releases from and to the USFSWT in accordance with any permit issued to the Respondent that governs that tank and California Code of Regulations, title 22 sections 66265.56 and 66265.196.

2.3. The Respondent has corrected the violation alleged in section

1.3.3. Respondent shall continue to separate incompatible hazardous wastes as specified in Cal Code Regs., title 22, section 66264.177, subsection (c).

2.4. Submittals: All submittals from Respondent pursuant to this Consent

Order shall be sent simultaneously to:

Mr. Keith Kihara, Environmental Program Manager I
Enforcement and Emergency Response Division
Hazardous Waste Management Program
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826

and

Ms. Elise Rothschild, Division Chief
Environmental Compliance Division
Sacramento County Environmental Management Department
10590 Armstrong Ave
Mather, California 95655

and shall be signed and certified by a responsible corporate officer or a duly authorized representative.

2.5. Certification: The certification required above, shall be in the following form:

I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.

2.6. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch 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 Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

2.7. 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 Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

2.8. Compliance with Applicable Laws: Respondent 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. Nothing in this Consent Decree shall excuse Respondent from meeting any more stringent requirements that may be imposed by applicable law or by changes in the applicable law.

2.9. 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 Respondent 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.

2.10. 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 Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

2.11. 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 Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent 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.

2.12. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent 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 Respondent 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, Respondent shall comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing

at least six months prior to destroying any documents prepared pursuant to this Consent Order.

2.13. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 6.3, 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 Respondent or its agents in carrying out activities pursuant to this Consent Order.

2.14. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

2.15. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

2.16. 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

3. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$49,238.70, which includes \$43,125.20 as a penalty and \$6,113.50 as reimbursement of the Department's costs incurred in

connection with this matter. Respondent's 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: Mr. Keith Kihara, Environmental Program Manager I
Enforcement and Emergency Response Division
Hazardous Waste Management Program
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826

To: Ann K. B. Carroll, Senior Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, 23rd floor
P. O. Box 806
Sacramento, California 95812-0806

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.

OTHER PROVISIONS

4.1. 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.

4.2. 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.

4.3. 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, 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.

4.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

4.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

4.6. 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.

Respondent

Dated: 7/29/14

Original signed by Eric Gersteberg
Respondent

Department of Toxic Substances Control

Dated: _____

8/7/14

Original signed by Keith Kihara

~~Keith Kihara~~ Environmental Program Manager I
Enforcement and Emergency Response Division
Hazardous Waste Management Program
Department of Toxic Substances Control