

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

TSM Recovery & Recycling
Company, Inc.
317 Eubank Avenue #2
Wilmington, California 90744

CAD108040858

Respondent.

Docket HWCA 2013-6289

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and TSM Recovery & Recycling (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent transfers photochemical/photo processing waste and used oil/mixed oil for recycling at the following site: 317 Eubank Avenue #2 Wilmington, California 90744 (Site).

1.3. Inspection. The Department conducted a compliance evaluation inspection of the Site on June 11 & 12, 2013.

1.4. Authorization Status. Respondent is a registered transporter of hazardous wastes at the Site.

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 66263.20 (a) and section 66263.20 (e), in that on or about June 11 & 12, 2013, Respondent accepted and transported hazardous waste without a completed and signed manifest from the generator. Respondent accepted and transported at least one hazardous waste load of used oil/hydraulic oil and used paint without a manifest.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Respondent certified through its submittal, dated June 12, 2013 that the

facility has corrected all the alleged violations above.

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.

4.8. 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 sum of \$10,500.

5.2. Payment of the total sum specified in Paragraph 5.1 shall be made in four payments of \$1,000, \$3,400, \$3,100, and \$3,000 each due by February, 14, 2014, February, 14, 2015, February, 14, 2016, and February, 14, 2017 respectively.

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:

Richard Hubbell, Unit Chief
Cypress/San Diego Enforcement Branch
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

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.

6. EFFECTIVE DATE

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

Dated: 2-3-14

ORIGINAL SIGNED

Steve Mitsunaga, President,
TSM Recovery & Recycling

Dated: 2/3/2014

ORIGINAL SIGNED

Richard Hubbell, Unit Chief
Cypress/San Diego Enforcement Branch
Department of Toxic Substances Control