

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Mr. Thomas E. Arens Jr., Owner  
326 Farragut Avenue  
Vallejo, California, 94590

Arens Environmental Services, Inc.  
P. O. Box 1742  
Benicia, California 94510

ID No. CAR 000 162 701

Respondents.

Docket HWCA 2012-4811

ENFORCEMENT ORDER

Health and Safety Code  
Section 25187

INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to Mr. Thomas E. Arens Jr. and Arens Environmental Services, Inc. (Respondents).

1.2. Site: Respondents transported hazardous waste at the following site: 326 Farragut Avenue, Vallejo, California 94590 (Site).

1.3. Authorization status: The Department had authorized Respondents to manage hazardous waste by Hazardous Waste Transporter Registration # 4006, expired on July 26, 2010. Respondents currently are not holding a Hazardous Waste Hauler Registration from the Department.

1.4. 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.

### DETERMINATION OF VIOLATIONS

2.1. The Department has determined that: Respondents violated California Health and Safety Code, section 25163, subdivision (a)(1) in that from July 26, 2010 through January 10, 2011, Respondents transported hazardous waste without a valid hazardous waste hauler registration.

2.2. Respondents violated California Health and Safety Code, section 25201, subdivision (a) in that in some instances in 2010, Respondents did not comply with the requirements for an exempt transfer facility pursuant to California Code of Regulations, title 22, section 66263.18. To Wit: Respondents as a registered hauler of hazardous waste stored hazardous waste in excess of the ten days without a permit or other grant of authorization from the Department.

2.3. Respondents violated California Health and Safety Code, section 25250.29 in that in some instances in year 2010, Respondents failed to test and analyze used oil shipped out of state.

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### SCHEDULE FOR COMPLIANCE

3. Based on the foregoing Determination of Violation, IT IS HEREBY ORDERED THAT:

3.1. Effective immediately, Respondents shall comply with the conditions of California Health and Safety Code, section 25163, subdivision (a)(1).

3.2. Effective immediately, Respondents shall comply with the conditions of California Health and Safety Code, section 25201, subdivision (a). Respondents shall

comply with the requirements for an exempt transfer facility pursuant to California Code of Regulations, title 22, section 66263.18

3.3. Effective immediately, Respondents shall comply with the conditions of California Health and Safety Code, section 25250.29

3.4. Submittals. All submittals from Respondents pursuant to this Order shall be sent simultaneously to:

Robert Kou, Unit Chief  
Enforcement and Emergency Response Program  
Department of Toxic Substances Control  
9211 Oakdale Avenue  
Chatsworth, California 91311

Jay Cross, Staff Counsel  
Office of Legal Counsel  
Department of Toxic Substances Control  
1001 I Street, MS 23A  
P. O. Box 806  
Sacramento, California 95812-0806

3.5. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondents in writing by the 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 Respondents shall be construed to relieve Respondents of the obligation to obtain such formal approvals as may be required.

3.6. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified, or

b. 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.

3.7. 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.

3.8. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this 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 of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

3.9. 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 Respondents. Notwithstanding compliance with the terms of this Order, Respondents may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.10. 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 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 shall have the authority to 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 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 Order.

3.11. 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 Order. Respondents shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondents shall maintain a central depository of the data, reports, and other documents prepared pursuant to this 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 Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondents shall 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 Order.

3.12. 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 in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondents or its agents in carrying out activities pursuant to the Order.

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

3.14. Extension Request: If Respondents are unable to perform any activity or submit any document within the time required under this Order, 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.

3.15. 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.

#### OTHER PROVISIONS

4.1. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

4.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondents to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such a

failure, 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 Respondents, 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.

4.4. Time Periods. "Days" for purposes of this Order means calendar days.

#### PENALTY

5. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondents' penalty at TWENTY FOUR THOUSAND AND FORTY DOLLARS (\$24,040.00). Payment is due within 30 days from the effective date of the Order. Respondents' check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondents and Docket Number, as shown in the heading of this case. Respondents shall deliver the penalty payment 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:

Mehdi Nobari  
Department of Toxic Substances Control  
9211 Oakdale Avenue  
Chatsworth, California 91311

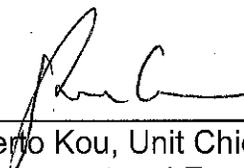
#### RIGHT TO A HEARING

6. Respondents may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondents.

EFFECTIVE DATE

7. This Order is final and effective twenty days from the date of mailing, which is the date of the cover letter transmitting the Order to Respondent, unless Respondents requests a hearing within the twenty-day period.

Date of Issuance April 29, 2013

  
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Roberto Kou, Unit Chief  
Enforcement and Emergency Response  
Division  
Department of Toxic Substances Control  
Chatsworth Office