

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Evergreen Oil, Inc.
Evergreen Environmental Services
6880 Smith Avenue
Newark, California 94560

EPA ID. Numbers:
CAD 980 887 418 (Facility)
CAD 982 413 262 (Transporter)

Respondents.

Docket HWCA 2012 4849

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Evergreen Oil, Inc. and Evergreen Environmental Services (Respondents) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondents generate, transport, store and treat hazardous waste at the following site: 6880 Smith Avenue, Newark, California 94560 (Site).

1.3. Inspection. The Department inspected the Respondents on December 13, 2011 and January 30 & 31, 2012.

1.4. Permit Status. The Department authorized Respondent Evergreen Oil, Inc. to manage hazardous waste by Hazardous Waste Facility Permit dated December 1, 2004, and authorized Respondent Evergreen Environmental Services to manage hazardous waste by Transporter Hauler Registration number 0242 that expires July 31, 2013.

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. Respondents waive any and all rights to a hearing in this matter.

1.8. Admissions. Respondents admit the violations as alleged in Section 2 below.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.2. Respondent Evergreen Oil, Inc. violated California Code of Regulations, title 22, section 66264.193, subdivision (c)(2) in that on or about December 13, 2011, Respondent failed to install a secondary containment system for the base of the loading and unloading area free of cracks and gaps.

2.3. Respondent Evergreen Environmental Services violated Health and Safety Code, section 25250.10, in that on or about January 30, 2012, Respondent as a registered transporter of hazardous waste failed to provide the Department four quarterly reports due on March 30, 2011, June 30, 2011, September 30, 2011 and December 31, 2011 quarters for using consolidated manifesting procedure. These reports were due 30 days after the end of the each quarter.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondents have corrected the violations cited above. Respondents shall operate hereafter in a manner that shall prevent recurrences of the violations cited herein.

3.2. Respondents shall make all payments at the time(s) and in accord with 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 Respondents, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondents 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 Respondents 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 Respondents and their 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.

4.4. 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. Respondents shall pay the Department a total sum of \$10,000.00 as a penalty.

5.2. Payment of the total sum specified in paragraph 5.1 is due within 30 days from the effective date of this Order.

5.3. Respondents' check 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 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:

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

5.4. If Respondents fail to make payment as provided above, Respondents agree 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: December 10, 2012

Original signed by Alid Guerrero

Respondent Signature

Alid Guerrero

Print Name of Respondent

Dated: December 17, 2012

Original signed by Robert Kou

Robert Kou, Unit Chief

Chatsworth Branch

Enforcement and Emergency Response Program

Department of Toxic Substances Control