

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Filter Recycling Services, Inc.  
180 W. Monte Avenue  
Rialto, California 92316

EPA ID No. CAD982444481

and

Jon L. Bennett, Jr., President  
Filter Recycling Services, Inc.  
180 W. Monte Avenue  
Rialto, California 92316

Respondents.

Docket HWCA 2009-1956

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 Filter Recycling Services, Inc. (FRS) and Jon L. Bennett, Jr., President, the owner and/or operator of FRS (Respondents).

1.2. Site. Respondents generate, handle, transfer and store hazardous waste at 180 W. Monte Avenue in Rialto, California 92316 (Site).

1.3. Permit. The Department authorized Respondents to manage hazardous waste at the Site by Series A Standardized Hazardous Waste Facility Permit (Number 2585), which was issued with an effective date of January 21, 2002 and an expiration date of January 21, 2012.

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. The Department has determined that:

2.1. Respondents violated Health and Safety Code section 25202, subsection (a), California Code of Regulations, title 22, section 66270.30 and their permit, Part II Special Conditions, paragraph 1, in that on numerous occasions from January 2006 through December 2006 and on September 20, 2007, Respondents conducted tank trailer to tank trailer transfer of hazardous waste used oil at the Site, an activity which is not authorized by their permit. In addition, Respondents stored tank trailers of hazardous waste in areas of the Site not permitted for hazardous waste storage.

2.2. Respondents violated Health and Safety Code section 25189.2, subsection (a), in that on numerous occasions from January through December 2006, Respondents made false statements in their operating records (Load Acceptance Sheets) that certain bulk loads of hazardous waste were pumped into permitted tanks/containers when in fact these loads were transferred directly from the incoming tank trailers into outbound tank trailers at the Site.

2.3. Respondents violated California Code of Regulations, title 22, section 66264.73, subsection (b)(1) and (2), in that during the period from January 2006 to November 2006, Respondents failed to maintain adequate operating records recording the methods and dates of transfer and storage of hazardous waste received at the Site, to wit: Respondents were unable to show in their operating records the corresponding

outbound manifests for numerous incoming loads of hazardous waste received at the Site.

2.4. Respondents violated California Code of Regulations, title 22, sections 66264.71, subsection (c), 66262.21, subsection (e)(3), and 66262.23, subsection (a)(4), in that during the period from January 2006 to November 2006, Respondents failed to submit to the Department copies of numerous hazardous waste manifests which were required to be submitted by Respondents pursuant to the Hazardous Waste Control Law, including manifests signed by out of state receiving facilities, and generator copies of manifests for shipments initiated from the Site.

### SCHEDULE FOR COMPLIANCE

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

3.1.1. Respondents shall immediately discontinue conducting tank trailer to tank trailer transfer of hazardous waste and storage of hazardous waste in unpermitted areas of the Site, unless they obtain authorization from the Department.

3.1.2. Respondents shall ensure that the FRS operating records are true and accurate.

3.1.3. Respondents shall maintain operating records which record the methods and dates of transfer and storage of all hazardous waste received at the Site as required by California Code of Regulations, title 22, section 66264.73.

3.1.4. Respondents shall submit copies of hazardous waste manifests to the Department as required by California Code of Regulations, title 22, section 66264.71 subsection (c), 66262.21, subsection (e)(3), and 66262.23, subsection (a)(4),

including manifests which should have been submitted from January 2006 to the present.

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

Richard L. Jones  
Senior Hazardous Substances Scientist  
Enforcement and Emergency Response Program  
Department of Toxic Substances Control  
9211 Oakdale Avenue  
Chatsworth, California 91311

3.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondents in writing by the Performance Manager, 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 Respondents of their obligation to obtain such formal approvals as may be required.

3.4. 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.

3.5. 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.

3.6. 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.

3.7. 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.

3.8. 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 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.

3.9. 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 Respondent's 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 Respondents 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 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 Order.

3.10. 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 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.

3.11. 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.

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

3.13. 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.

#### 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 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' penalties at \$228,000. Respondents are jointly and severally liable to the Department for these penalties. 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:

To: Richard L. Jones  
Senior Hazardous Substances Scientist  
Enforcement and Emergency Response Program  
Department of Toxic Substances Control  
9211 Oakdale Avenue  
Chatsworth, California 91311

To: Debra Schwartz  
Senior Staff Counsel  
Office of Legal Affairs  
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 Respondent.

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 Respondents, unless Respondents requests a hearing within the twenty-day period.

Date of Issuance: December 28, 2010

//Original signed by Roberto Kou//

Roberto Kou  
Acting Performance Manager  
Enforcement and Emergency Response  
Program  
Department of Toxic Substances Control