



Department of Toxic Substances Control



Matthew Rodriguez
Secretary for
Environmental Protection

Deborah O. Raphael, Director
1515 Tollhouse Road
Clovis, California 93611

Edmund G. Brown Jr.
Governor

February 10, 2012

Mr. John O'Gara
Head, Environmental Management Division
China Lake Naval Weapons Station
One Administration Circle
China Lake, California 93555-6100

Certified #7009 1680 0002 0724 9575

FULLY EXECUTED CONSENT ORDER-DOCKET NUMBER HWCA 20113528- CHINA LAKE NAVAL AIR WEAPONS STATION, CHINA LAKE, CALIFORNIA, 93555-6100 (KERN COUNTY)

Dear Mr. O'Gara:

Enclosed please find the fully executed Consent Order with the designated signatures, dated February 10, 2012. Please be advised that the effective date of the Consent Order will be when China Lake Naval Air Weapons Station receives the signed Consent Order.

The Department confirms that all violations identified in the Consent Order have been corrected. The Department also confirms that full payment of the administrative penalties as identified in the Consent Order was received by the Department on December 27, 2011. The Department acknowledges that China Lake Naval Air Weapons Station modified page 6 of the Order by removing Paragraph 5.4.

If you have any questions, please contact me at (559) 297-3959.

Thank You for your cooperation in resolving this matter.

Sincerely,

Ignacio R. Dominguez
Supervising Hazardous Substances Scientist I
Enforcement and Emergency Response Program

Enclosure

Mr. John O'Gara
December 1, 2011
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cc: Joseph Smith, Esq.
Office of Legal Affairs
Department of Toxic substances Control
1001 I Street
P.O. Box 806
Sacramento, California 95812-0806

Mr. Don Plain
Enforcement and Emergency Response Program
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826

Mr. Brian Pitts
County of Kern
Environmental Health Services
2700 M Street, Suite 300
Bakersfield, California 93301

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Docket HWCA 20113528

Department of the Navy
Naval Air Weapons, China Lake
1 Administration Circle
China Lake, CA 93555-6100

CONSENT ORDER

Health and Safety Code
Section 25187

ID No. CA2170023152

Respondent.

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Department of the Navy, Naval Air Weapons Station, China Lake (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats, stores, and/or disposes of hazardous waste at the following site: (Site).

1.3. Inspection. The Department inspected the Site on (date(s)).

1.4. Authorization Status. Respondent operates, handles, treats, stores, and offers for transportation hazardous waste at 1Administration Circle, China Lake, California (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 Health and Safety Code, section 25201 (a) and California Code of Regulations, title 22, section 66262.34, subsection (a), in that on or about March 1-3, 2011, Respondent allowed hazardous waste to accumulate on a concrete floor. To wit: Respondent allowed the "Sand Blast Media" hazardous waste generated from the sand blasting operation in the machine shop located in the Michelson Lab, Bldg. #5, to accumulate on the concrete floor and to remain there after the end of the work shift which it was generated. Respondent does not have a permit or authorization from the Department to store hazardous waste on the concrete floor in the Michelson Lab.

2.1.2: Respondent violated California Health and Safety Code, section 25201 (a) and California Code of Regulations, title 22, section 66264.34, subsection (c), in that on or about March 1-3, 2011, Respondent stored hazardous waste on site in tanks or containers for more than 90 days without a permit or authorization from the Department. To wit: Respondent allowed the solid magnesium hydroxide waste at the Acid

Neutralization Unit to be stored in Tank #1, an open container, since January 2007. The white solid waste was sampled and analyzed and has been classified as non-RCRA hazardous waste.

2.1.3. Respondent violated California Code of Regulations, title 22, section 66262.11, in that on or about March 1-3, 2011, Respondent failed to determine if the magnesium hydroxide waste in Tank #1, located in the Acid Neutralization Unit, is hazardous by not testing the waste or applying knowledge of the characteristics. The waste magnesium hydroxide waste has been stored in Tank #1 located in the Acid Neutralization Unit since January 2007, when the unit was considered clean closed.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Respondent corrected the violation during the inspection on March 2, 2011. Effective immediately, Respondent shall ensure that the "sand blast media" generated in the sand blasting area be properly managed at the point of generation at all times pursuant to Health and Safety Code section 25201.

3.1.2. Respondent removed the contents from Tank #1 in the Acid Neutralization Unit and immediately properly placed the magnesium hydroxide waste in a labeled hazardous waste container upon making the determination that the solid waste was a non-RCRA hazardous waste. Effective immediately, Respondent shall properly clean tank #1 and provide documentation to the Department.

3.1.3. Respondent on March 16, 2011, sampled the solid waste identified as magnesium hydroxide. The sample results determined that the magnesium hydroxide waste failed the Bioassay Test and classified as California waste. The

hazardous waste was removed from tank #1 and properly placed in a hazardous waste container and transported to the permitted Hazardous Waste Storage and Transfer Facility (HWSTF).

3.1.4. 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.

4.4. 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. Respondent shall pay the Department the total sum of \$8725.50 in administrative penalties.

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. 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:

Mr. Ignacio R. Dominguez
Supervising Hazardous Substances Scientist I
Enforcement and Emergency Response Program
Department of Toxic Substances Control
1515 Tollhouse Road
Clovis, California 93611

and

Joseph Smith, Esq.
Office of Legal Counsel
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

6. EFFECTIVE DATE

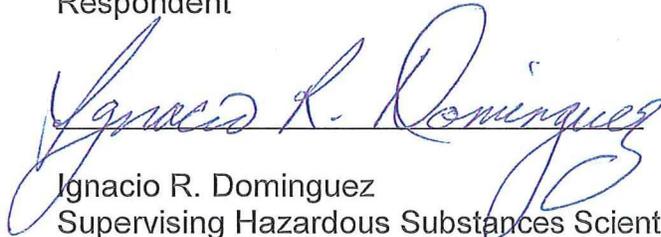
6.1 The effective date of this Order is the date it is signed by the Department.

Dated: 2-6-2012



Mr. John O'Gara
Head, Environmental Management Division
China Lake Naval Air Weapons Station
Respondent

Dated: 2/10/2012



Ignacio R. Dominguez
Supervising Hazardous Substances Scientist
Enforcement and Emergency Response
Program
Department of Toxic Substances Control