

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Tamco, a California Corporation,  
Doing Business As Tamco and as  
Tamco Steel, Inc.  
12459-B Arrow Highway  
Rancho Cucamonga, California 91739  
(San Bernardino County)

ID No. CAD982361404

Respondent.

Docket No. HWCA 2005 0964

CONSENT ORDER

Health and Safety Code  
Section 25187

The State Department of Toxic Substances Control (Department) and Tamco, a California Corporation Doing Business As (DBA) in California as Tamco Steel, Inc., (Respondent) enter into this Consent Order and agree as follows:

1. Respondent is a generator (California Code of Regulations, title 22, section 66260.10) of hazardous waste at the Tamco facility at 12459-B Arrow Highway, Rancho Cucamonga, California 91739 (Site). Respondent receives large quantities of metal scraps, including shavings and turnings, for smelting to produce reinforcing metal bars, and has stored them in piles without lateral or overhead containment. Respondent handles and stores scrap materials containing lead, chromium, copper, nickel and zinc in these scrap piles.

2. The Department inspected the Site on January 20, 2005.

3. Respondent violated California Code of Regulations, title 22, section 66262.34, by violating California Code of Regulations, title 22, section 66265.31, in that on or about January 20, 2005, Respondent failed to maintain and operate its facility in a manner to minimize the possibility of any unplanned sudden or non-

sudden release of hazardous constituents to air, soil, or surface water which could threaten human health or the environment, and once released, may fail hazardous waste classification levels for selected heavy metals. Specifically, Respondent allowed release(s) of residual fine powder (dry, solid form having particle size smaller than 100 micrometer in diameter), containing levels of lead, chromium, copper, nickel and zinc to adjacent soil(s) that exceeded Total Threshold Level Concentrations as provided in 22 CCR 66261.24.

4. During the Spring of 2006, TAMCO completed the sampling, removal and proper disposal of impacted soils. In addition, TAMCO instituted controls to prevent contamination of soils in the future by paving the area to the north and south of the scrap metal piles and it installed barriers (k-rails) to help segregate the scrap metal piles. TAMCO also constructed a storm water collection and treatment system to keep potential contaminants from leaving the pavement and impacting surface waters.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violation alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

#### SCHEDULE FOR COMPLIANCE

9. Respondent shall comply with the following terms and conditions:

9.1. Respondent shall minimize the dispersion of any hazardous materials to the environment. Such measures shall include wind breaks or barriers to prevent wind dispersal of residuals at the Site that contain fine powder (dry, solid

form having particle size smaller than 100 micrometer in diameter, which contain lead, chromium, copper, nickel and zinc), routine removal of residuals from the scrap metal pile areas of the Site, track-out controls to prevent trucks that enter and leave the Site from spreading residuals to public streets, and additional mitigation measures when wind gusts exceed 25 mph. Respondent shall comply with the South Coast Air Quality Management District's fugitive dust control requirements (Rule 303) at all times.

9.2. The Respondent shall immediately notify the Department verbally, and within five (5) calendar days in writing, when any hazardous material is released to the environment as a result of any activity at the Site.

9.3. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent simultaneously to:

Florence Gharibian, Chief  
Glendale Branch of Statewide Compliance Division  
Department of Toxic Substances Control  
1011 North Grandview Avenue  
Glendale, California 91201

9.4. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a 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 Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

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

safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

9.6. Compliance with Applicable Laws: Respondent 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.

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

9.8. Liability: Nothing in this Consent 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 Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

9.9. 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 Consent 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 may 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 Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent 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 Consent Order.

9.10. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order.

9.11. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

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

9.13. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

9.14. 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.

### PAYMENTS

10. Within 30 days of the effective date of this Consent Order, Respondent shall deliver to the Department a total of forty-nine thousand five hundred dollars (\$49,500), of which \$40,000 is an administrative penalty, \$5,000 is a supplemental environmental project, and \$4,500 will reimburse the Department's costs in this matter.

10.1. Respondent's check or money order for \$44,500 in penalties and costs shall be made payable to Department of Toxic Substances Control, shall be annotated with the docket number of this matter, 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 shall be sent to both:

Florence Gharibian, Chief  
Glendale Branch of Statewide Compliance Division  
Department of Toxic Substances Control  
1011 North Grandview Avenue  
Glendale, California 91201

and

Vivian Murai, Staff Counsel  
Office of Legal Affairs  
Department of Toxic Substances Control  
1001 I Street, 23rd floor (MS-23A)  
P.O. Box 806  
Sacramento, California 95812-0806

10.2. Respondent shall pay five thousand dollars (\$5,000) as a supplemental environmental project by check or money order made payable to the Secretary of the California Environmental Protection Agency for deposit in the Environmental Enforcement Training Account as set forth in Penal Code section 14300 et seq., and delivered with two photocopies of this check or money order to Vivian Murai at the address listed above.

10.3. If Respondent fails to make any payment as provided above, Respondent agrees:

A) 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; and

B) That all balances due shall be deemed a penalty for enforcement and collection purposes, regardless of its original characterization under this document.

#### OTHER PROVISIONS

11.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

11.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil 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.

11.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, 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 Consent Order.

11.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

11.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

11.6. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California Regional Water Quality Control Board.

Dated: April 26, 2007

Original signed by Jack Stutz  
Jack Stutz, President and CEO  
Tamco, a California Corporation DBA  
Tamco Steel, Inc.

Dated: May 2, 2007

Original signed by Florence Gharibian  
Florence Gharibian, Branch Chief  
Glendale Branch  
Statewide Compliance Division  
Department of Toxic Substances Control