

JUL 17 2013

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Exempt from fees pursuant to
Government Code section 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

AUG - 5 2013

J. Castillo 

MRC

AUG 07 2013

FM

8 *Attorneys for People of the State of California*

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10 SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
11 (Riverside)

RIC 1308053

12 THE PEOPLE OF THE STATE OF
13 CALIFORNIA,

Plaintiff,

CASE NO.

~~PROPOSED~~ FINAL JUDGMENT
AND INJUNCTION PURSUANT TO
STIPULATION

v.

15 AFS, INC.,
16 a California corporation,

(Code Civ. Proc., § 664.6.)

17 Defendant.

18
19 Pursuant to a stipulation between the parties herein, the Plaintiff, The People of the State of
20 California, having filed the Complaint herein, and appearing through its attorneys Paul E.
21 Zellerbach, District Attorney of the County of Riverside, Michael Quesnel, Supervising Deputy
22 District Attorney, and Lauren R. Martineau, Deputy District Attorney, and the defendant, AFS,
23 Inc., a California corporation, have agreed that they desire to resolve this action and all issues
24 raised by the Complaint without litigation. Accordingly, Plaintiff and the defendants have further
25 stipulated that this Final Judgment Pursuant to Stipulation (hereinafter referred to as "Final
26 Judgment") may be entered without taking any evidence, and without the trial or adjudication of
27 any issue of law or fact. The parties have waived their right of appeal and have approved this
28 Final Judgment as to form and content.

1 **INTRODUCTION**

2 This matter related to the People's investigation into AFS, Inc.'s ("AFS") compliance with
3 state laws and regulations regarding the storage, handling, treatment, transportation, and disposal of
4 hazardous waste pursuant to Health and Safety Code Division 20, Chapter 6.5, at AFS's location in
5 Corona, California. As set forth in the Complaint filed concurrently herewith ("the Complaint"),
6 the People allege that AFS violated Chapter 6.5 of Division 20 of the Health and Safety Code and
7 the regulations promulgated under these chapters by its improper disposal of hazardous waste on
8 February 11, 2010 and July 19, 2010.

9 The Parties engaged in settlement negotiations prior to the filing of this Consent Judgment.
10 In these negotiations, the People were represented by the Riverside County District Attorney's
11 Office. AFS was represented by Craig Knutsen of McCauley Knutsen, a Law Business.

12 The People believe that the resolution embodied in this Consent Judgment is fair and
13 reasonable and fulfills the People's enforcement objections, that the terms of this Consent Judgment
14 are appropriate, and that entry of this Consent Judgment is in the best interest of the public.

15 **FINAL JUDGMENT PURSUANT TO STIPULATION**

16 1. **JURISDICTION**

17 This Court finds that it has jurisdiction of the subject matter and the parties.

18 2. **SETTLEMENT OF DISPUTED CLAIMS**

19 This Final Judgment is not an admission by AFS regarding any issue of law or fact in the
20 above-captioned matter or any violation of any law. The Parties enter into this Final Judgment
21 pursuant to a compromise and settlement of disputed claims, as set forth in the Complaint, for the
22 purpose of furthering the public interest. Both Parties have stipulated and consented to the entry of
23 this Final Judgment prior to the taking of any proof, and without trial or adjudication of any fact or
24 law herein and the Parties waive their right of appeal.

25 3. **APPLICABILITY**

26 The provisions of this Final Judgment are applicable to defendants, AFS, and its employees,
27 representatives, and all other persons, corporations or entities who are acting in concert or in
28 participation with defendant with actual or constructive notice of this Final Judgment.

1 4. **CIVIL PENALTIES AND COSTS**

2 AFS shall pay a total amount of Forty-five thousand dollars (\$45,000.00) in civil penalties
3 and reimbursements costs of investigation and enforcement, as set forth in Paragraphs 4.1 through
4 4.2

5 4.1 **Civil Penalties**

6 Defendant, AFS, shall be liable for Thirty Thousand Dollars (\$30,000.00) in civil
7 penalties, pursuant to Health and Safety Code section 25189.2. An initial installment of Ten Thousand
8 dollars (\$10,000.00) shall be due and payable upon entry of the judgment in this matter; a second
9 subsequent installment of Ten Thousand Dollars (\$10,000.00) is due and payable on or before August
10 23, 2013; a third subsequent installment of Ten Thousand Dollars (\$10,000.00) is due and payable on
11 or before November 25, 2013. All installments shall be paid in the form of a cashier's check made
12 payable to the Riverside County District Attorney's Office and sent to the Riverside County District
13 Attorney's Office, attn: Lauren R. Martineau, 3960 Orange Street, Riverside, CA 92501. Pursuant to
14 Health and Safety Code section 25192, fifty percent (50%) of the installments will be deposited into
15 the Toxic Substances Control Account in the General Fund, twenty-five percent (25%) shall be paid to
16 the Riverside County District Attorney's Office, and twenty-five percent (25%) shall be used to fund
17 the activity of Riverside County CUPA.

18 4.2 **Costs of Investigation**

19 Defendant, AFS, shall pay Fifteen Thousand Dollars (\$15,000.00) for reimbursement of
20 investigative costs and other costs of enforcement incurred in the prosecution of this matter. The costs
21 shall be distributed to California Department of Toxic Substances Control. An initial installment of Five
22 Thousand dollars (\$5,000.00) shall be due and payable upon entry of the judgment in this matter; a
23 second subsequent installment of Five Thousand Dollars (\$5,000.00) is due and payable on or before
24 August 23, 2013; a third subsequent installment of Five Thousand Dollars (\$5,000.00) is due and payable
25 on or before November 25, 2013. All installments shall be paid in the form of a cashier's check or
26 business check made payable to the Riverside County District Attorney's Office and sent to the Riverside
27 County District Attorney's Office, attn: Lauren R. Martineau, 3960 Orange Street, Riverside, CA 92501.

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1 4.3 **Late Payments**

2 There will be an additional penalty of five hundred dollars (\$500.00) for each day any
3 installment listed in this paragraph is late.

4 5. **INJUNCTIVE RELIEF**

5 Pursuant to the provisions of Health and Safety Code section 25181, Defendant is enjoined,
6 for a period of five years from entry of the judgment, to comply with Chapter 6.5 of Division 20 of
7 the Health and Safety Code and the regulations promulgated under that chapter as well as Chapter
8 21, Division 4.5 of the California Code of Regulations. Failure to comply with this injunction and
9 the specific additional injunctive provisions that follow may subject Defendant to sanctions,
10 including, but not limited to, contempt and additional penalties.

11 5.1. **Specific Injunctive Provisions**

12 5.1a Defendant is prohibited from intentionally disposing or causing the
13 disposal of a hazardous waste at an unauthorized location, in violation of California Health and
14 Safety Code section 25189, subdivision (c).

15 5.1b Defendant is prohibited from negligently disposing or causing the
16 disposal of a hazardous waste at an unauthorized location, in violation of California Health and
17 Safety Code section 25189, subdivision (d).

18 5.1c Defendant is prohibited from disposing or causing the disposal of a
19 hazardous waste at an unauthorized location, in violation of Health and Safety Code section
20 25189.2, subdivision (c).

21 5.1d. Defendant is prohibited from failing to maintain a valid registration
22 issued by the Department of Toxic Substances Control, in violation of Health and Safety Code
23 section 25163, for as long as legally required for AFS's operations.

24 5.1e. Defendant is prohibited from failing to maintain valid permits in
25 accordance with Title 22, Division 4.5, Chapter 21 of the California Code of Regulations for as
26 long as legally required for AFS's operations.

27 5.1f Defendant is prohibited from failing to maintain proper manifests of
28 hazardous waste, in violation of Health and Safety Code section 25160, for as long as legally

1 required for AFS's operations.

2 6. **AUTHORITY TO INSPECT**

3 Defendant, AFS, shall allow employees of the Department of Environmental Health,
4 Hazardous Materials Division, or their authorized representatives, to inspect all sites and records
5 relevant to determining compliance with this judgment. Such access shall exclude any attorney
6 information and/or documentation which is subject to the attorney-client privilege or otherwise
7 privileged from disclosure under the applicable rules of evidence. The provisions of this paragraph
8 shall in no way effect the authority of the Department of Environmental Health Hazardous
9 Materials Division to enter, inspect, sample or monitor compliance under any law, permit, court
10 order or agreement.

11 7. **RETAINING JURISDICTION**

12 Jurisdiction is retained for the purpose of enabling any party to this Final Judgment to apply
13 to the Court at any time for such further orders and directions as may be deemed necessary or
14 appropriate for the construction of or the carrying out of this Final Judgment, the enforcement of the
15 compliance with the injunctive provisions hereof, and for the punishment of violations of the
16 injunctive provisions hereof.

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18 **IT IS SO ORDERED.**

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20 Dated: 8/1/13



JUDGE OF THE SUPERIOR COURT

Gloria Connor Trask

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