

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Mr. Juan Silva, dba Alfa & Omega Oil &
Recycle
9951 Delco Avenue
Chatsworth, CA 91311

Respondent.

Docket HWCA 20177341

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 Juan Silva, an Individual dba Alfa & Omega Oil & Recycle (Respondent).

1.2. Site. Respondent handled and stored hazardous waste at the following site: 13717 Victory Blvd., Van Nuys, California.

1.3. Interim Status. The Department authorized the Respondent to manage hazardous waste by Transporter registration number 6216 issued on September 21, 2015. The registration expired on September 30, 2016.

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.

1.5. Exhibits. All exhibits attached to this Order are incorporated herein by this

reference.

1.6. Applicable Statutes and Regulations. Copies of the statutes and regulations applicable to this Order are attached as Exhibit A.

DETERMINATION OF VIOLATIONS

2. The Department has determined that:

2.1. The Respondent violated Health and Safety Code, section 25160, in that on or about April 11, 2016 the Respondent failed to have a manifest in his or her possession while transporting hazardous waste. Respondent failed to meet all the conditions for using consolidating manifesting procedures in section 25160.2 of the Health and Safety Code in the following: Respondent did not complete both the generator's and the transporter's sections of the manifest prior to commencing each day's collections, Respondent failed to attach to the front of the manifest legible receipts for each quantity of hazardous waste that is received from a generator, Respondent's receipts did not have completed information, and Respondent did not enter the total volume at the change of each date, driver, or vehicle to close the manifest.

2.2. The Respondent violated Health and Safety Code, section 25250.13. According to Health & Safety Code, section 25250.13 notwithstanding any provision of this chapter, a transfer facility, as defined in paragraph (3) of subdivision (a) of Section 25123.3, that accepts used oil and holds the oil for more than 24 hours, but is not otherwise a storage facility, as defined in subdivision (b) of Section 25123.3, shall comply with the requirements for used oil facilities that are specified in Subpart E of Part 279 of Title 40 of the Code of Federal Regulations. On or about March 22, 2016 the

Respondent failed to provide secondary containment for used oil stored in vehicles greater than 24 hours.

2.3. The Respondent violated Health and Safety Code, sections 25201 and 25123.3(b)(3)(ii) in that on or about March 22, 2016, the Respondent operated a storage facility that commenced initial operations on or after January 1, 2005 at a site located within 500 feet of a structure identified in paragraphs (1) to (5), inclusive of subdivision (c) of section 25227, without authorization.

2.4. The Respondent violated Health and Safety Code, section 25189.2(a) in that on or about April 11, 2016 the Respondent made a false statement or representation in a manifest.

2.5. The Respondent violated Health and Safety Code, section 25250.10 in that on or about April 11, 2016, the Respondent failed to submit a Used Oil Annual Report to the Department for used oil transported during calendar year 2015 on or before March 1.

SCHEDULE FOR COMPLIANCE

3. Based on the foregoing Determination of the Violations, the Department has determined that as of the date of issuance of this Order, the Respondent remains out of compliance with all applicable statutory and regulatory requirements. Should Respondent desire to own and/or operate a transporter business in the future, it must be in compliance with all applicable statutory and regulatory requirements.

3.1. Submittals. All submittals from a Respondent pursuant to this Order shall be sent simultaneously to:

Roberto Kou, Branch Chief
Enforcement and Emergency Response Division
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, CA 9131

Leah White, Staff Counsel
Office of Legal Affairs
Department of Toxic Substances Control
1001 I Street
Sacramento, California 95812-0806

3.2. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Unit 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 the obligation to obtain such formal approvals as may be required.

3.3. 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 Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.4. 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.

3.5. 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 Respondent 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.

3.6. 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. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.7. 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 Respondent in carrying out the terms of this 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 Order.

3.8. 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 Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent 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 Respondent 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, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

3.9. 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 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 Respondent or its agents in

carrying out activities pursuant to the Order.

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

3.11. Extension Request: If Respondent is unable to perform any activity or submit any document within the time required under this 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.

3.12. 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. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

4.1. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondent 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.

4.2. 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.

4.3. Time Periods. "Days" for purposes of this Order means calendar days.

PENALTY

5. Based upon the financial information submitted by the Respondent, and in accordance with California Code of Regulations, title 22, section 66272.68 (d) Ability to Pay, the Department has determined that the Respondent does have the financial ability to pay the assessed penalty. As a result, Respondent shall pay the Department a total amount of Ten Thousand Dollars (\$10,000) as a penalty and is due and payable within 30 days from the effective date of the Order. The Respondent affirms that the information it provided to the Department is current and accurate. The Department reserves its rights to reconsider its decision and demand immediate payment of the assessed penalty in the amount of \$10,000, as well as any accrued interest and attorneys' fees, should it later determine that the information provided by the Respondent was incorrect and/or inaccurate.

5.1. Payment of \$10,000 as specified in paragraph 5. is due within 30 days from the effective date of this order. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Respondent 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:

Roberto Kou, Branch Chief
Enforcement and Emergency Response Division

Alfa and Omega Oil and Recycle

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Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, CA 9131

Leah White, Staff Counsel
Office of Legal Affairs
Department of Toxic Substances Control
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Sacramento, California 95812-0806

RIGHT TO A HEARING

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

Date of Issuance June 29, 2017

Signature on Original

Roberto Kou, Branch Chief
Enforcement and Emergency Response Division
Department of Toxic Substances Control