

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

USS-POSCO Industries
900 Loveridge Road
Pittsburg, California 94565

ID No. CAD009150194

Respondent.

Docket HWCA 2020 7559

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and USS-POSCO Industries (Respondent), collectively, the Parties, enter into this Consent Order and agree as follows:

1. Respondent generates and handles hazardous waste at 900 Loveridge Road, Pittsburg, California 94565 (Site). Respondent has a Hazardous Waste Post Closure Facility Permit, effective April 21, 2014.
2. The Department inspected the Site on March 10, 2020 and conducted a financial responsibility review of the Site on April 10, 2020.
3. The Department alleges that Respondent violated California Code of Regulations, title 22, sections 66264.143(e)(1), 66264.143(e)(2), 66264.145(e)(1) and 66264.145(e)(2) in that the certificate of insurance issued by Grant Assurance, insurance policy number CPCCI2020-CA, in the amount of \$5,084,056.00, which was one of the two instruments that Respondent provided to the Department to demonstrate financial assurance for post closure and corrective action, does not meet the regulatory requirements. Grant Assurance is not an admitted carrier,

licensed to transact the business of insurance in California, or a non-admitted carrier eligible to provide insurance as an excess or surplus lines insurer in California. Also, the certificate of insurance provided to demonstrate financial assurance for post closure and corrective action is not worded identical to California Code of Regulations, title 22, section 66264.151(e).

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

5. The parties agree that for any of the specified matters described in the Reservation of Authority, paragraph 11, the violation alleged will be deemed proven without any need for testimony or other evidence. Further, Respondent agrees that, in any of the specified matters in paragraph 11, it will not dispute the facts underlying the violation alleged herein.

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 action as set forth herein, including but not limited to, taking enforcement action concerning other violations.

COMPLIANCE

9. The violation alleged in Paragraph 3 was corrected on June 3, 2020. An electronic mail copy of the new certificate of insurance was received by the Department on May 20, 2020. Thereafter, the original was received by the Department on June 3, 2020.

PAYMENTS

10. Respondent agrees to pay the Department a total of \$63,000.00 in three installments:

- First payment of \$31,500 due within 30 days of the effective date of this Consent Order;
- Second payment of \$15,750 due within 60 days of the effective date of this Consent Order; and
- Third payment of \$15,750 due within 90 days of the effective date of this Consent Order.

Respondent shall make the above payments by Electronic Fund Transfer (EFT).

As soon as each EFT is completed, Respondent shall notify the Department's Accounting Office by email (accounting@dtsc.ca.gov), with a copy of the email to April Ranney (Apri.Ranney@dtsc.ca.gov), so that the funds can be claimed.

If Respondent fails to make any payment as provided above, Respondent agrees to pay interest on all unpaid amounts 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.

OTHER PROVISIONS

11. Reservations of Authority: The Department reserves its authority under the Hazardous Waste Control Law to: 1) enforce the Final Judgment; 2) use the violation alleged in the Consent Order by Respondent pursuant to Paragraph 3 above to seek enhanced penalties in any subsequent administrative or civil action

to show a pattern or course of conduct or a history of non-compliance; and 3) use the violation alleged in the Consent Order in any future Department permit decision or proceeding. Any such future permit decision or proceeding shall be based upon the requirements of the Hazardous Waste Control Law and its implementing regulations that are in effect on the date of the permit decision or proceeding.

12. Waiver: If the Department seeks to use the violation alleged in this Consent Order, whether or not admitted by Respondent pursuant to Paragraph 5, for any of the purposes described in Paragraph 11 Respondent will not assert any defenses based on the passage of time, including but not limited to, laches, estoppel, and statute of limitations.

13. 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.

14. 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.

15. 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.

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

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

18. Future Statutory or Regulatory Changes: Nothing in this Consent Order shall exempt or excuse Respondent from complying with existing law, or with meeting any more stringent requirements that may be imposed by applicable law or changes in the applicable law.

19. Authority to Bind: Each person executing this Consent Order represents that he or she has full and legal authority to execute this Consent Order for and on behalf of the respective party for whom he or she is executing this Consent Order and to bind that party.

20. Counterparts: This Consent Order may be executed and delivered in one or more counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

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21. Authorized Signatory: Respondent warrants and guarantees its signatory below has been duly authorized and has full authority to execute this Agreement on behalf of Respondent.

Dated: 9/23/2020

Original signed by Esther Klisura

Esther Klisura
Assistant General Counsel
USS-POSCO Industries

Dated: 9/24/2020

Original signed by April Ranney

April Ranney
Senior Environmental Scientist (Supervisor)
Department of Toxic Substances Control