

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Temarry Recycling, Inc.
2307 Avenida Costa Este
San Diego, California 92154

ID No. CAR000194217

Respondent.

Docket No. HWCA20217619

CONSENT ORDER

Health and Safety Code
Section 25187

The State of California Department of Toxic Substances Control (Department) and Temarry Recycling, Inc. (Respondent), collectively the Parties, enter into this Consent Order and agree as follows:

1. Respondent is a registered transporter of hazardous waste (Hazardous Waste Transporter Registration Number 6311) located at 885 Paseo De La Fuente Norte, Suite D, San Diego, CA 92154 (Site).

2. The Department inspected the Site on September 28, 2021.

3. The Department alleges the following violations:

3.1. Respondent violated Health and Safety Code section 25201(a), in that, on or about September 28, 2021, Respondent failed to meet the conditions for an exempt transfer facility set forth in California Code of Regulations, title 22, section 66263.18(b)(1) by storing hazardous waste for more than ten (10) days at the Site. From December 18, 2019 to June 30, 2021 (560 calendar days),

Respondent illegally stored hazardous waste for longer than ten (10) days on at least 895 manifests (84 consecutive days in violation).

4. Respondent admits all alleged violations set forth above and has corrected them.

5. Respondent agrees that it shall not challenge or dispute the use of any admitted violation for any purpose in any future Department determination, decision, proceeding, or process.

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

7. The Parties wish to avoid the expense of litigation.

8. Respondent waives any right to a hearing in this matter. If the Department seeks to use the violations alleged in this Consent Order, admitted by Respondent pursuant to paragraph 4, and Respondent's admissions to those violations, for any of the purposes described in paragraph 13 (Reservation of Authority), Respondent will not assert any defenses based on the passage of time, including, but not limited to, laches, estoppel, and statute of limitations.

9. This Consent Order shall constitute full settlement of the violations alleged above but does not limit the Department from taking appropriate enforcement action concerning other violations, except to the extent provided in this Consent Order.

COMPLIANCE REQUIREMENTS

10. Respondent shall immediately comply with all applicable laws concerning the transportation and storage of hazardous waste, including, but not limited to, the following provisions:

10.1. Respondent shall not operate the Site as a hazardous waste storage facility without authorization from the Departments pursuant to Health and Safety Code section 25201(a).

PAYMENTS

11. Within 30 calendar days of the Effective Date of this Consent Order, Respondent shall pay the Department a total of **\$33,516.00** in administrative penalties. Respondent's check 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 shall be sent:

To: Carlo Rodriguez
Supervising Environmental Scientist
Department of Toxic Substances Control
2375 Northside Dr, Suite 100
San Diego, California 92108
Carlo.Rodriguez@dtsc.ca.gov

To: Paige Fennie
Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, PO Box 806
Sacramento, California 95812
Paige.Fennie@dtsc.ca.gov

12. If Respondent fails to make payment as provided above, Respondent agrees 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.

OTHER PROVISIONS

13. Reservation of Authority: The Department reserves its authority under the Hazardous Waste Control Law to: 1) enforce this Consent Order; 2) use all violations alleged in this Consent Order, and Respondent's admissions to those violations, to seek enhanced penalties in any subsequent administrative or civil action to show a pattern or course of conduct, or a history of noncompliance; and 3) use all violations alleged in this Consent Order, admitted by Respondent pursuant to paragraph 4, and Respondent's admissions to those violations, in any future Department registration and/or permit determination, decision, proceeding, or process.

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 Consent Order 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 on and the same document.

Original signed by Matt Songer

Dated: 12/28/2021

Matt Songer
President
Temarry Recycling, Inc.

Original signed by Alfredo Rios for Carlo Rodriguez

Dated: 1/18/2022

Carlo Rodriguez
Unit Chief
Department of Toxic Substances Control

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

PAYMENT VOUCHER

Docket No.: HWCA 2021 7619

Respondent: Temarry Recycling, Inc.

ID No.: CAR000194217

County: San Diego

Total Due: \$ 33,516.00

Administrative Costs: \$ 0

Penalty/Fine: \$ 33,516.00

Payment No.	Due Date	Amount Due
1	Within 30 calendar days from the effective date of this Consent Order	\$33,516.00