

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

KM 106 Construction Inc.
1400 Egbert Avenue
San Francisco, California 94124

ID No. CAL000377811
Respondent.

Docket HWCA20217605

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and KM 106 Construction Inc. (Respondent), a California corporation (collectively, the "Parties") enter into this Consent Order and agree as follows:

1. Respondent is a previously registered transporter of hazardous waste located at 630 Cherry Way, Hayward, California, 94541 (Site).
2. The Department conducted a virtual inspection by Microsoft Teams with the Respondent on June 28, 2021. The Department inspected the Site on July 14, 2021.
3. The Department alleges the following violations:
 - 3.1. Respondent violated Health and Safety Code section 25201 subdivision (a) and California Code of Regulations, title 22, section 66263.18 subdivision (c) in that Respondent stored hazardous waste at the Site located within 500 feet of a structure identified in Health and Safety Code section 25232, subdivision (b), paragraph (1), subparagraphs (A)-(E) without authorization from the Department between on or about July 21, 2018, through October 19, 2020.
4. The parties wish to avoid the expense of litigation and to ensure prompt compliance.
5. Jurisdiction exists pursuant to Health and Safety Code section 25187.
6. Respondent waives any right to a hearing in this matter. If the Department seeks to use the violations alleged in this Consent Order, whether or not admitted by Respondent pursuant to paragraph 8, and Respondent's admissions to those violations, for any of the purposes described in paragraph 12

(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.

7. 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 the Consent Order.

8. Respondent admits the violation alleged above and has corrected it.

COMPLIANCE REQUIREMENTS

9. Respondent shall immediately comply with the following provisions:

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

PAYMENTS

10. Within 30 calendar days of the Effective Date of this Consent Order, Respondent shall pay the Department a total of \$2,800.00 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 for this Consent Order in the memo line, 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: Abdalin Asinas, Ph.D.
Senior Environmental Scientist (Supervisory)
Emergency Response and Sacramento Enforcement Branch
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

To: E. Paige Fennie
Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, 23rd floor
P. O. Box 806
Sacramento, California 95812-0806

To: Jordan Gaskins
Office of Legal Counsel
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

11. 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

12. 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, whether or not admitted by Respondent pursuant to paragraph 8, and Respondent's admissions to those violations, in any future Department registration and/or permit determination, decision, processing, or process.

13. 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.

14. 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.

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

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

17. 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.

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 the full 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 documents.

Dated: 03/02/2022 Original signed by Aaron Ramirez

Aaron Ramirez
President
KM 106 Construction Inc.
Respondent

Dated: 03/09/2022 Original signed by Abdalin Asinas

Abdalin Asinas, Ph.D.
Senior Environmental Scientist (Supervisory)
Enforcement and Emergency Response Division
Department of Toxic Substances Control