

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

American Earth Management, Inc. dba
American Oil Co.
13736-13740 Saticoy Street
Van Nuys, CA 91402

ID No. CAD981427669

Respondent.

Docket HWCA20177333

STIPULATION & ORDER

Health and Safety Code
Section 25187

The California Department of Toxic Substances Control (DTSC) and American Earth Management, Inc. dba American Oil Co. (Respondent), a California corporation doing business in California, (collectively, the "Parties") enter into this Stipulation and Order and agree as follows:

DEFINITIONS

1. The following terms used in this Stipulation and Order shall have the meaning set forth below:

1.1. "DTSC Action(s) and Proceeding(s)," whether or not in the name of the People of the State of California, shall mean all enforcement, regulatory, or other types of actions, proceedings, matters, and decisions (for purposes of this Stipulation and Order, "decisions" Includes determinations), Including those pertaining to any Permit, other authorization, or the Violations Scoring Procedure Program, with regard to Respondent, brought or pursued by, on behalf of, or

against DTSC. “DTSC Action(s) and Proceeding(s)” shall not include actions, proceedings, matters or decisions that involve Respondent and third parties to which DTSC is neither a party nor a real party in interest. In any DTSC Action(s) or Proceeding(s), the term “DTSC” includes DTSC, any DTSC official or employee, or any DTSC-administered account, whether as a party or a real party in interest.

1.2. “Facility” shall mean American Earth Management, Inc. dba American Oil Co.’s hazardous waste facility located at 13736-13740 Saticoy Street in Van Nuys, California, 91402, and operating under EPA ID CAD981427669. On or about June 2018, without providing notice to DTSC, Respondent’s operations at the Facility ceased. Respondent is currently working with DTSC’s Permitting Division to clean close the Facility pursuant to the terms of the Permit.

1.3. “Include(s)” or “Including” shall mean “include(s) without limitation” or “including without limitation”, respectively.

1.4. “Inspection” shall mean the Compliance Evaluation Inspection/Transporter Inspection of the Facility that DTSC conducted on November 4, 2016, and December 8, 2016.

1.5. “Permit” shall mean the hazardous waste facility permit issued by DTSC to the Facility effective January 17, 2007, authorizing Respondent’s operation of the Facility.

1.6. “Violations Scoring Procedure Program” or “VSP Program” shall mean DTSC’s implementation of Health and Safety Code section 25200.21 and associated regulations at California Code of Regulations, title 22, chapter 21, article 3.

VIOLATIONS

2. DTSC alleges the following violations from the Inspection:

2.1. The Respondent violated Health and Safety Code 25185(a)(1), California Code of Regulations, title 22, section 66270.30(i)(1-4), and Standardized Hazardous Waste Facility Permit (Permit), Part III, General Conditions, in that Respondent failed to allow inspectors access to conduct an inspection during normal business hours. Respondent failed to provide DTSC with access to conduct the inspection on three separate occasions.

2.2. The Respondent violated Health and Safety Code section 25202(a), California Code of Regulations, title 22, section 66270.30., and Permit, Part V, Special Conditions I, 2, a, (2) in that Respondent failed to properly perform PCB analysis. DTSC determined that the Respondent's PCB analysis reports contained incomplete chromatograms; did not show if solvent extraction was performed; did not show proper use and analysis of QC samples; and did not show proper calibration.

2.3. The Respondent violated California Code of Regulations, title 22, section 66264.173, in that Respondent failed to keep hazardous waste in closed, covered containers. DTSC observed two containers holding hazardous waste used oil. One was a basin around a metal crushing unit and the other was a plastic bucket on a table. Both containers were uncovered.

2.4. The Respondent violated California Code of Regulations, title 22, section 66264.16(d)(1-4), in that Respondent failed to maintain adequate training records for employees. DTSC reviewed the training records submitted and

determined these records did not satisfy the regulatory requirements as they were incomplete.

2.5. The Respondent violated California Code of Regulations, title 22, section 66264.73(b)(1-2), in that Respondent failed to implement and follow an operating record. DTSC reviewed the operating records that were available at the time of the inspection and found that they did not allow for the coherent tracking of incoming and outgoing hazardous waste.

3. Respondent has corrected the violations noted in paragraphs 2.1 – 2.5, above.

SCOPE AND EFFECT OF STIPULATION AND ORDER

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.

7. The Parties agree that the violations alleged in this Stipulation and Order are admitted and deemed proven for any purpose in any DTSC Action(s) and Proceeding(s). Such purposes may include seeking enhanced penalties and/or to show a pattern, course of conduct, and/or a history of non-compliance. In any DTSC Action(s) and Proceeding(s), Respondent shall not defend against, challenge, or dispute DTSC's use of, or reliance on, the violations alleged in this Stipulation and Order as being admitted and deemed proven. This paragraph is not intended to act as an admission of liability or otherwise have any impact on the

pending Office of Tax Appeals matters between DTSC and Respondent, assigned case numbers 18011920, 18011921, 18011922 (the “OTA Matters”).

COMPLIANCE REQUIREMENTS

8. Respondent shall immediately comply with the Hazardous Waste Control Law (“HWCL”) (Health & Saf. Code, § 25100 et seq.), its implementing regulations (California Code of Regulations, title 22, section 66260.1, et seq.), and the Permit, at the Facility and in connection with its closure of the Facility’s operations.

PAYMENTS

9.1. DTSC has assessed an administrative penalty against Respondent in the sum of \$53,000. However, Respondent has represented and provided supporting evidence pursuant to California Code of Regulations, title 22, Section 66272.68(d) (Ability to Pay), that Respondent does not have the financial resources to pay the full penalty amount in this matter. In reliance upon Respondent’s representations and certifications of its inability to pay the full penalties, DTSC agrees that the full administrative penalties assessed against the Respondent shall be reduced to \$7,500.

9.2. The monetary settlement in paragraph 9.1, reflects the Respondent’s Ability to Pay claim and not the merits of DTSC’s allegations or the seriousness of the violations alleged in this Stipulation and Order. DTSC reserves the rights to reconsider its decision and demand immediate payment of the assessed penalty in the amount of \$53,000, 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.

9.3. Within 30 days of the Effective Date of this Stipulation and Order, as defined in paragraph 13, Respondent shall pay DTSC a total of \$7,500. Respondent's check or electronic funds transfer (EFT) shall be made payable to Department of Toxic Substances Control. If the payment is made by EFT, Respondent shall make payment as directed in the "Electronic Fund Transfer Instructions" provided by DTSC to Respondent. As soon as the EFT payment is completed, Respondent shall notify DTSC's Accounting Office by email (accounting@dtsc.ca.gov), with Glenn Forman (Glenn.Forman@dtsc.ca.gov) and Julianne Culbert (Julianne.Culbert@dtsc.ca.gov) copied. If the payment is made by check, it shall identify Respondent and Docket Number as shown in the caption of this Stipulation and Order, 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 via email to Glenn Forman (Glenn.Forman@dtsc.ca.gov) and Julianne Culbert (Julianne.Culbert@dtsc.ca.gov).

9.4. 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 DTSC in pursuing collection, including attorney's fees.

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MATTERS COVERED AND RESERVED CLAIMS

10.1. Except as otherwise provided in this Stipulation and Order, upon the Effective Date, this Stipulation and Order is a final and binding resolution and settlement of the “Covered Matters.” The Covered Matters are all claims, violations, and causes of action specifically alleged in DTSC’s Enforcement Order issued on December 8, 2021, against Respondent, and any claim, violation, or cause of action that DTSC could have brought against Respondent pursuant to the HWCL based on Inspections of the Facility. Any other claim, violation, or cause of action that is not a Covered Matter is a “Reserved Claim.”

10.2. The provisions of paragraph 10.1 are effective on the Effective Date of this Stipulation and Order, provided however, that the continuing effect of the provisions of Paragraph 10.1 is expressly conditioned on Respondent’s full payment of the amount due under this Stipulation and Order as set forth in paragraph 9.1.

10.3. Respondent shall not assert that failing to pursue any Reserved Claim in the Enforcement Order constitutes claim-splitting, estoppel, or otherwise raise defenses based on laches, or any other lack of timeliness, except for the statute of limitations. Respondent expressly reserves the right to assert any and all other defenses to any Reserved Claim.

10.4. In any DTSC Action(s) and Proceeding(s), Respondent shall not defend against, challenge or dispute (1) DTSC’s use of or reliance on the fact that a violation has been admitted and deemed proven pursuant to Paragraph 7, except for the OTA Matters; or (2) the VSP Program score assigned to that violation.

10.5. This Stipulation and Order does not limit the rights of DTSC against Respondent under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, 42 U.S.C. § 9601 et seq.), the California Hazardous Substance Account Act (State Superfund, Health & Saf. Code, § 25300 et seq.), and Health and Safety Code section 25187, subdivision (b) (corrective action concerning a release of hazardous waste or a hazardous constituent into the environment), or for violations of the HWCL not included under Covered Matters in Paragraph 10.1.

10.6. DTSC further reserves all rights (1) to enforce this Stipulation and Order; and (2) to use, and rely on, the violations admitted and deemed proven, without any need for further testimony or evidence, for any purpose, in DTSC Action(s) and Proceeding(s), except for the OTA Matters.

OTHER PROVISIONS

11. Penalties for Noncompliance: Failure to comply with the terms of this Stipulation and Order may subject Respondent to costs, penalties, and/or punitive damages, including without limitation any costs incurred by DTSC 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.

12. Parties Bound: This Stipulation and 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

DTSC and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Stipulation and Order.

13. Effective Date: The Effective Date of this Stipulation and Order is the date it is signed by DTSC.

14. Integration: This Stipulation and Order constitutes the entire agreement between the Parties and may not be amended, supplemented, or modified, except by express written agreement signed by authorized representatives of each of the Parties.

15. Future Statutory, Regulatory, or Permitting Changes: Nothing in this Stipulation and 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. Moreover, nothing in this Stipulation and Order shall exempt or excuse Respondent from complying with any future hazardous waste facility permits, permit amendments, permit modifications, or authorizations issued to or applicable to the Facility.

16. Continuing Jurisdiction: In the event that any provision of this Stipulation and Order, or the application of any such provision to any Party or set of circumstances, is for any reason or to any extent determined to be invalid, unlawful, void or unenforceable (hereafter collectively "Void"), the Parties hereto shall negotiate in good faith to modify this Stipulation and Order in a mutually acceptable manner so as to produce a Stipulation and Order so as to effect the Parties' original intent as closely as possible and to the fullest extent possible without any Void provisions. In the event that the Parties are unable to mutually

agree on such a modification to this Stipulation and Order, the Court or other tribunal having jurisdiction to do so is authorized, and requested, to modify this Stipulation and Order so as to effect the Parties' original intent as closely as possible and to the fullest extent possible without any Void provisions.

17. Authority to Enter Into this Stipulation and Order: Each signatory to this Stipulation and Order certifies that such signatory is fully authorized by the Party such signatory represents to enter into this Stipulation and Order and to execute it on behalf of such Party.

18. Counterparts: This Stipulation and 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.

ORIGINAL SIGNED

Dated: 5/9/2022

Brigitte G. Kay
Attorney for Respondent
American Earth Management, Inc. dba American
Oil Company

ORIGINAL SIGNED

Dated: 05/09/2022

Jessica Rodriguez
Senior Environmental Scientist (Supervisor)
Department of Toxic Substances Control