

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

7. The State of California (“State”) received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271, on August 1, 1992. The authorized hazardous waste program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. § 66001 *et seq.* The State has been authorized for all the hazardous waste management regulations referenced in this CA/FO.

8. A violation of California’s authorized hazardous waste program, found at Health & Safety Code § 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California’s authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.

C. EPA’S GENERAL ALLEGATIONS

9. Respondent DeMenno-Kerdoon owns and operates a facility located at 2000 N. Alameda Street, in Compton, California (the “World Oil Recycling Facility”), with an EPA identification number of CAT 080013352. The World Oil Recycling Facility is engaged in storage and treatment of used and waste oil, oily water and used anti-freeze, and storage and treatment, including blending, of hazardous waste for shipment to off-site disposal facilities.

10. Respondent D/K Environmental owns and operates a facility located at 3650 East 26th Street, in Vernon, California (the “World Oil Terminals Vernon Facility”), with an EPA identification number of CAT080033681. The World Oil Terminals Vernon Facility is engaged in the storage and handling of hazardous waste, including the consolidation and repackaging of hazardous waste, loading and unloading of hazardous waste from railcars and tank trucks and decontamination of roll-off bins and railcars.

11. Pursuant to Subtitle C of RCRA, on August 14-15, 2017, and October 17-19, 2017, respectively, EPA performed compliance evaluation inspections of the World Oil Terminals Vernon Facility and the World Oil Recycling Facility. Based on the information gathered during these inspections and subsequent investigation, EPA alleges that Respondents violated certain provisions of RCRA.

12. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders assessing a civil penalty and/or requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*

13. The Administrator has delegated enforcement authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the EPA Regional Administrators, through Delegation 8-9-A, last revised February 4, 2016. The Regional Administrator for EPA Region IX redelegate that authority to

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

the Director of the Enforcement Division for Region IX, with Delegation R9-120 TN 111, dated January 22, 2016.

14. Respondents are “persons” as defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10].¹

15. Respondent DeMenno-Kerdoon is the “owner” and “operator” of the World Oil Recycling Facility and Respondent D/K Environmental is the “owner” and “operator” of the World Oil Terminals Vernon Facility, as those terms are defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10].

16. Respondents are “generators” of hazardous waste as that term is defined in 22 C.C.R. § 66260.10 [40 C.F.R. § 260.10].

17. Respondents are or have been engaged in “treatment,” “storage,” or “disposal” of “hazardous waste” as those terms are defined in 22 C.C.R. §§ 66260.10 and 66261.3 [see also 40 C.F.R. §§ 260.10 and 261.3].

18. The hazardous wastes that Respondent DeMenno-Kerdoon treats, stores, or disposes of at the World Oil Recycling Facility include, but are not limited to, the following waste codes: D001, D002, D004, D005, D006, D007, D008, D018, D019, D021, D022, D023, D024, D025, D026, D027, D028, D029, D030, D032, D033, D034, D035, D036, D037, D038, D039, D040, D041, D042, D043, F001, F002, F003, F004, F005, F037, F038, K048, K049, K050, K051, and K052.

19. The hazardous wastes that Respondent D/K Environmental treats, stores, or disposes of at the World Oil Terminals Vernon Facility include, but are not limited to, the following waste codes: D001, D002, D004, D005, D006, D007, D008, D009, D010, D011, D018, D019, D021, D022, D023, D024, D025, D026, D027, D028, D029, D030, D032, D033, D034, D035, D036, D037, D038, D039, D040, D041, D042, D043, F001, F002, F003, F004, F005, F006, F019, F037, F038, K048, K049, K050, K051, K052, K086, K087, K169, K170, K171, K172, U002, U019, U031, U037, U044, U052, U070, U071, U072, U077, U078, U159, and U196.

20. On February 12, 2016, Respondent DeMenno-Kerdoon submitted a Part B Application for the World Oil Recycling Facility to the California Department of Toxic Substances Control (“DTSC”). The Part B Application was incorporated into the December 23, 2016, Hazardous

¹ All citations to the “C.C.R.” refer to Division 4.5 of Title 22 of the current California Code of Regulations. EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States. As a convenience, corresponding federal citations are provided in brackets.

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

Waste Facility Permit issued by DTSC for the World Oil Recycling Facility (“World Oil Recycling Permit”), which became effective January 31, 2017.

21. On October 29, 2009, Respondent D/K Environmental submitted a Part B Application for the World Oil Terminals Vernon Facility to DTSC. The Part B Application was incorporated into the October 1, 2012, Hazardous Waste Facility Permit issued by DTSC for the World Oil Terminals Vernon Facility (“World Oil Terminals Vernon Permit”).

D. EPA’s ALLEGED VIOLATIONS

COUNT I

(Failure to Make a Hazardous Waste Determination at World Oil Recycling Facility)

22. Paragraphs 1 through 21 above are incorporated herein by reference as if they were set forth here in their entirety.

23. Per 22 C.C.R. § 66262.11 [40 C.F.R. § 262.11], a person who generates a waste, as defined by 22 C.C.R. § 66261.2, must make an accurate determination as to whether that waste is a hazardous waste.

24. During the inspection of the World Oil Recycling Facility and subsequent record review, EPA inspectors noted that asphalt flux generated from waste oil carrying RCRA waste codes D018 (exhibiting the characteristic of toxicity for benzene) and D008 (exhibiting the characteristic of toxicity for lead) was not undergoing regular testing to ensure that the waste characteristic was being removed prior to shipment of asphalt flux off-site as a product.

25. EPA inspectors also noted that solids and sludges from the wastewater treatment unit, tank bottoms, solids from truck unloading and on-site maintenance, and spent carbon from glycol vapor recovery were not being regularly tested at their respective points of generation to ensure an accurate waste determination for each waste stream.

26. Therefore, EPA alleges that Respondent DeMenno-Kerdoon failed to determine if solid waste generated at the World Oil Recycling Facility was a hazardous waste, a violation of 22 C.C.R. § 66262.11 [40 C.F.R. § 262.11].

COUNT II

(Failure to Comply with Land Disposal Restriction (LDR) Requirements at World Oil Recycling Facility)

27. Paragraphs 1 through 21 above are incorporated herein by reference as if they were set forth here in their entirety.

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

28. Per 22 C.C.R. § 66268.7(a) [40 C.F.R. § 268.7(a)], a generator of hazardous waste must determine if waste has to be treated before it can be land disposed, to certify that the waste has been examined and that an appropriate LDR determination has been made, to notify an off-site facility receiving waste of the appropriate LDR determination, and to maintain on-site any records relied upon to make an appropriate LDR determination.

29. Per 22 C.C.R. § 66268.7(a)(7) [40 C.F.R. § 268.7(a)(7)], where a hazardous waste becomes exempt or excluded from the definition of hazardous waste subsequent to its point of generation, the generator must place a one-time notice in its on-site files.

30. Per 22 C.C.R. § 66268.9 [40 C.F.R. § 268.9], where a RCRA characteristic waste loses its RCRA characteristic through treatment, a one-time notification and certification must be placed in the generator's or treater's on-site files.

31. Per 22 C.C.R. § 66268.3 [40 C.F.R. § 268.3], a generator or owner or operator of a treatment, storage, or disposal facility is prohibited from in any way diluting a restricted waste or the residual from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with LDR standards.

32. In addition, "Unit 15 Unit Specific Condition 8" of the World Oil Recycling Permit requires that if any RCRA hazardous waste is co-mingled with non-RCRA material for the purpose of bulking for disposal, the entire resulting contents shall be managed as RCRA hazardous waste under the applicable RCRA codes. Per 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)], a permittee must comply with all conditions of its permit.

33. At the time of EPA's inspection of the World Oil Recycling Facility, EPA inspectors noted that the World Oil Recycling Facility was not regularly testing the following waste streams, which were being consolidated in the Solid Waste Reduction Unit, to determine compliance with LDR requirements: tank bottoms, spent carbon from glycol recovery, solids from on-site maintenance, de-watered solids from the on-site wastewater treatment unit and truck washout.

34. EPA inspectors noted that limited testing provided by the World Oil Recycling Facility demonstrated that at least one of these waste streams, tank bottom waste, exhibited the characteristic of toxicity for benzene (D018) at its point of generation.

35. EPA inspectors noted that the aforementioned waste streams were consolidated in roll-off bins in the Solid Waste Reduction Unit and treated as non-RCRA (California-only) hazardous waste. This combined waste stream was shipped off-site to a Subtitle D (non-hazardous waste) disposal facility.

36. EPA inspectors also noted that DeMenno-Kerdoon processes oily wastes, including but not limited to wastes carrying hazardous waste codes D008, D018, D039 (exhibiting the characteristic

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

of toxicity for tetrachloroethylene), and D040 (exhibiting the characteristic of toxicity for trichloroethylene), through the Oily Water Recycling Process at the World Oil Recycling Facility. Treated water from that process is discharged under the terms of a pretreatment permit from Los Angeles County Sanitation District.

37. Respondent DeMenno-Kerdoon indicated that wastewater thus treated through the Oily Water Recycling Process became exempt from regulation as hazardous waste because it is managed in a wastewater treatment system subject to the federal Clean Water Act. While claiming this exemption, Respondent did not place a one-time notice describing the generation and subsequent exclusion of the treated wastewater from the definition of hazardous waste in the World Oil Recycling Facility's on-site files.

38. EPA inspectors further observed that the World Oil Recycling Facility processed hazardous wastes exhibiting the characteristic of toxicity for lead (D008) and benzene (D018) through its Oil Recycling Process.

39. Though DeMenno-Kerdoon indicated that it had determined the waste streams accepted to the Oil Recycling Process were treated such that the waste streams lost their hazardous characteristics, EPA inspectors observed that Respondent did not place a one-time notice and certification in its on-site files indicating that hazardous wastes accepted to the Oil Recycling Process had lost their hazardous characteristics prior to shipment of asphalt flux off-site.

40. Therefore, EPA alleges that Respondent DeMenno-Kerdoon failed to determine whether wastes shipped off-site from the World Oil Recycling Facility met LDR treatment standards by determining applicable standards at the point of generation, failed to make appropriate certifications and notifications, and failed to prevent dilution and comply with related permit conditions by commingling wastes that included RCRA characteristic waste in the Solid Waste Reduction Unit, in violation of 22 C.C.R. §§ 66268.3, 66268.7, 66268.9, and 66270.30(a) [40 C.F.R. §§ 268.3, 268.7, 268.9, and 270.30(a)].

COUNT III

(Failure to Correct Manifest Discrepancies at World Oil Recycling Facility)

41. Paragraphs 1 through 21 above are incorporated herein by reference as if they were set forth here in their entirety.

42. Per 22 C.C.R. § 66264.72(h), upon discovering a discrepancy in the quantity or type of hazardous waste reported on a manifest versus the quantity or type actually received, the owner or operator shall attempt to reconcile the reportable quantity or difference with the waste generator or transporter, and if it is not reconciled within 24 hours after discovery, the owner or operator shall immediately notify DTSC.

43. In addition, Part B, Sections C.2.2 and C.2.3 of the World Oil Recycling Permit require World Oil to verify that incoming shipments of hazardous waste conform to the description of such waste on the hazardous waste manifest, and to reject any shipment of waste for which a manifest discrepancy cannot be timely resolved. 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)] requires a permittee to comply with all conditions of its permit.

44. Upon review of records provided by DeMenno-Kerdoon during the inspection of the World Oil Recycling Facility, EPA inspectors noted that Respondent recorded receiving the following waste shipments:

- a. In 2013, one shipment of waste described on the manifest as RCRA listed waste with a waste code of F006;
- b. In 2014, one shipment of waste described on the manifest as RCRA hazardous waste exhibiting the characteristic of toxicity for selenium (D010), one shipment of waste described on the manifest as RCRA hazardous waste exhibiting the characteristic of toxicity for toxaphene (D015), and one shipment of waste described on the manifest as F006;
- c. In 2016, four shipments of waste described on the manifest as F006.

45. The World Oil Recycling Facility is not authorized under its permit to receive wastes with waste codes F006, D010, or D015.

46. DeMenno-Kerdoon indicated that the aforementioned shipments were mis-identified on the manifests that accompanied their shipment to the World Oil Recycling Facility. Respondent has since sent letters correcting the manifest discrepancies to DTSC, but failed to do so within the timeframe specified by regulation and by its permit.

47. Therefore, EPA alleges that Respondent DeMenno-Kerdoon failed to timely correct manifest discrepancies, as required by 22 C.C.R. § 66264.72(h) and Sections C.2.2 and C.2.3 of Part B of the World Oil Recycling Permit, in violation of 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)].

COUNT IV

(Failure to Make a Waste Determination and Retain Records of Analytical Results at World Oil Terminals Vernon Facility)

48. Paragraphs 1 through 21 above are incorporated herein by reference as if they were set forth here in their entirety.

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

49. 22 C.C.R. § 66262.11 states that a person who generates a waste, as defined by 22 C.C.R. § 66261.2, must make an accurate determination as to whether that waste is a hazardous waste [40 C.F.R. § 262.11].

50. Parts III.E, III.F, and III.H.1 of Part B of the World Oil Terminals Vernon Permit require D/K Environmental to update its Waste Analysis Plan (“WAP”) whenever the existing WAP proves to be inadequate, to re-characterize each waste stream annually and any time the process generating the waste or the constituents in the waste change, and to retain all analytical results completed to support LDR requirements as part of the facility’s operating record. 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)] requires a permittee to comply with all conditions of its permit.

51. During its inspection of the World Oil Terminals Vernon Facility and subsequent record review, EPA inspectors noted that D/K Environmental lacked documentation to support its waste determinations for the petroleum distillate railcar washout and the spent carbon from air pollution control devices.

52. Therefore, EPA alleges that Respondent D/K Environmental failed to comply with permit conditions by failing to perform a waste determination and/or failing to document such determination, and failing to update the World Oil Terminals Vernon Facility’s WAP to include procedures for performing waste characterizations for the petroleum distillate railcar washout and the spent carbon waste streams, in violation of 22 C.C.R. § 66262.11 [40 C.F.R. § 262.11] and Parts III.E, F, and H.1 of the World Oil Terminals Vernon Permit, as required by 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)].

E. CIVIL PENALTY

53. The Complainant proposes that Respondents be assessed, and Respondents agree to pay THIRTY-NINE THOUSAND NINETY-TWO DOLLARS (\$39,092), as the civil penalty for the violations alleged herein.

54. The proposed penalty was calculated in accordance with the “June 2003 RCRA Civil Penalty Policy,” and was adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act, as amended, and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19.

F. ADMISSIONS AND WAIVERS OF RIGHTS

55. For the purposes of this proceeding, Respondents admit and agree that EPA has jurisdiction and authority over the subject matter of the action commenced in this CA/FO and over Respondents. Respondents consent to and agree not to contest EPA’s jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondents will not contest

EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.

56. Respondents neither admit nor deny any allegations of fact or law set forth in Section D of this CA/FO and do not admit any liability arising out of the occurrences alleged in this CA/FO. Respondents hereby waive any rights Respondents may have to a hearing pursuant to Section 3008(b) of RCRA, to contest the allegations and to appeal the proposed Final Order accompanying this Consent Agreement and made part of this CA/FO. Respondents consent to the issuance of this CA/FO without adjudication.

G. PARTIES BOUND

57. This CA/FO shall apply to and be binding upon Respondents and their agents, successors and assigns, until the civil penalty required under Sections E and I has been paid in accordance with Section I, the compliance tasks required under Section H have been completed in accordance with that section, the SEP required under Section J has been completed in accordance with that section (or the stipulated penalties for non-completion of the SEP have been paid), and any delays in performance and/or stipulated penalties have been resolved. When those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.

58. No change in ownership or corporate, partnership or legal status relating to the facilities will in any way alter Respondents' obligations and responsibilities under this CA/FO.

59. Respondents hereby certify that their undersigned representatives are fully authorized by Respondents to enter into this CA/FO, to execute and to legally bind Respondents to it.

H. COMPLIANCE TASKS

60. All submissions to EPA in this section shall be to Sharon Lin at lin.sharon@epa.gov.

61. Asphalt Flux Testing. Within sixty (60) days of the Effective Date of this CA/FO, Respondent DeMenno-Kerdoon shall revise its WAP for the World Oil Recycling Facility to include waste determination procedures for asphalt flux produced from waste oil that exhibits the characteristic of toxicity. Such procedures shall include, at a minimum, periodic testing for arsenic, cadmium, chromium, and lead, at a frequency to be approved by the permitting agency (DTSC) and which is sufficient to support an accurate waste determination. Respondent DeMenno-Kerdoon shall submit the revised WAP to the permitting agency within the sixty days provided, and shall request a permit modification incorporating the revisions. Approval of such revisions shall be at the permitting agency's discretion. A copy of the revised WAP shall be provided to EPA at the same time that it is provided to the permitting agency.

62. Solid Waste Reduction Unit Testing. Within sixty (60) days of the Effective Date of this CA/FO, Respondent DeMenno-Kerdoon shall revise its WAP for the World Oil Recycling

Facility to include procedures that ensure that an accurate waste determination is made at the point of generation for each waste stream processed through the Solid Waste Reduction Unit, and that all waste streams comply with land disposal restriction treatment standards. The frequency of testing proposed in the revised WAP shall be sufficient to support an accurate waste determination and shall be subject to approval by the permitting agency. At a minimum, such revision shall include:

- a. TCLP testing of tank bottoms for hazardous characteristics during each cleaning event;
- b. Testing of solid waste from onsite maintenance;
- c. Testing of solids and sludges generated by the wastewater treatment unit prior to mixing such solids and sludges with any other materials or waste streams. In normal operation, V701 will receive material from the oily water treatment units or the truck wash, but not both at the same time. In this scenario, subject to approval by the permitting agency, testing may be permitted off the centrifuge;
- d. Testing of spent carbon from glycol recovery;
- e. Testing of truck washout/solids prior to mixing with any other materials or waste streams.

The revised WAP shall also include procedures for the proper handling and disposal of any hazardous waste that is identified as a result of such testing. Respondent DeMenno-Kerdoon shall submit the revised WAP to the permitting agency within the sixty (60) days specified, and shall request a permit modification incorporating the revisions. Approval of such revisions shall be at the permitting agency's discretion. A copy of the revised WAP shall be provided to EPA at the same time that it is provided to the permitting agency.

63. Petroleum Distillate Railcar Washout & Spent Carbon Testing. Within sixty (60) days of the Effective Date of this CA/FO, Respondent D/K Environmental shall revise its WAP for the World Oil Terminals Vernon Facility to specify appropriate waste characterization procedures for all waste streams, including:

- a. Maintaining separate generator waste profiles, based on analytical data, for spent carbon from each air pollution control device at the facility;
- b. Testing of petroleum distillate railcar washout waste, including testing for VOCs, at a frequency to be approved by the permitting agency (DTSC) and which is sufficient to support an accurate waste determination.

Respondent D/K Environmental shall submit the revised WAP to the permitting agency within the sixty (60) days specified and shall request a permit modification incorporating the revisions. Approval of such revisions shall be at the permitting agency's discretion. A copy of the revised WAP shall be provided to EPA at the same time that it is provided to the permitting agency.

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

64. For both the World Oil Recycling Facility and the World Oil Terminals Vernon Facility, the WAP revisions shall include procedures that ensure that records or analytical data used to support waste characterizations and LDR determinations are maintained as part of the facilities' operating records and are available upon request to regulatory agencies.

I. PAYMENT OF CIVIL PENALTY

65. Respondents consent to the assessment of and agree to pay a civil penalty of THIRTY-NINE THOUSAND NINETY TWO DOLLARS (\$39,092) in full settlement of the federal civil penalty claims alleged in this CA/FO.

66. Respondents shall submit payment of the amount specified in Paragraph 65 within thirty (30) calendar days of the Effective Date of this CA/FO, in accordance with one of the options set forth below. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments shall indicate the name of the facility, the Respondents' names and addresses, and the EPA docket number of this action.

Regular Mail:

Payment shall be made by certified or cashier's check payable to "Treasurer, United States of America," and sent as follows:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Overnight Mail:

Payment shall be made by certified or cashier's check payable to "Treasurer, United States of America," and sent as follows:

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Craig Steffen (513) 487-2091

Wire Transfers:

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary: US Environmental Protection Agency
*Note: Foreign banks **must** use a United States Bank to send a wire transfer to the US EPA.

ACH (also known as REX or remittance express):
US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury Facility:
5700 Rivertech Court
Riverdale, MD 20737
Remittance Express (REX): 1-866-234-5681

On Line Payment:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments.

This payment option can be accessed from the information below:
www.pay.gov
Enter “sfo1.1” in the search field
Open form and complete required fields

If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at 513-487-2091.

67. At the time payment is made, a copy of the check shall be sent to:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

San Francisco, CA 94105

with an electronic copy to:

Sharon Lin (ENF-2-2)
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 9
Lin.Sharon@epa.gov

and

Tessa Berman (ORC-3-1)
Office of Regional Counsel
U.S. Environmental Protection Agency – Region 9
Berman.Tessa@epa.gov

68. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), each payment must be received by the due date set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. In addition, a 6% per annum penalty assessed monthly will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondents further will be liable for stipulated penalties as set forth below for any payment not received by its due date.

69. The penalties specified in this CA/FO shall represent civil penalties assessed by EPA and shall not be deducted by Respondents or any other person or entity for federal, state, or local taxation purposes.

J. SUPPLEMENTAL ENVIRONMENTAL PROJECT

70. As a condition of settlement, Respondents shall fund and ensure satisfactory completion of a supplemental environmental project (“SEP”), as set forth in this Section and in Appendix A to this CA/FO, to install at least one school Air Filtration System (“AFS”) to reduce harmful air pollutants in classrooms in a school or schools in the area surrounding the World Oil Recycling Facility and/or the World Oil Terminals Vernon Facility. Performance of the tasks detailed in this Section and in Appendix A shall constitute satisfactory performance of the SEP, which the parties agree is intended to provide significant environmental and/or public health benefits.

71. Respondents shall provide at least ONE HUNDRED SIXTY-SEVEN THOUSAND, NINE HUNDRED AND SIXTY-SEVEN DOLLARS (\$167,967) to the South Coast Air Quality Management District (“SCAQMD”) within 120 calendar days of the Effective Date of this CA/FO to be utilized for the AFS SEP.

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

72. The AFS SEP shall be for the purpose of improving air quality in classrooms in the area surrounding the facilities addressed in this CA/FO. The SEP funding shall be used to: (1) install high performance filtration systems in classrooms and common areas; (2) conduct post-installation testing to verify the performance of the systems and report test results; (3) train school staff on the maintenance of the AFS(s) to ensure proper and efficient operation; (4) provide a three-year supply of replacement filters; (5) prepare reports to document the status of the SEP; and (6) provide for reasonable administrative costs charged by SCAQMD for implementing the AFS SEP.

73. **SEP Completion Report.** Within sixty (60) days of completion of installation of the AFS SEP, a SEP Completion Report that includes the information specified in Appendix A of this CA/FO shall be submitted to EPA at the address specified in Paragraph 75. Respondents may place reasonable reliance on the accuracy of reports or other information provided by the SCAQMD.

74. In the SEP Completion Report, Respondents shall sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

The AFS SEP Completion Report shall be certified by an appropriate corporate official.

75. The Final SEP Completion Report shall be submitted via hard copy or electronic mail to:

Sharon Lin (ENF-2-2)
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 9
Lin.sharon@epa.gov

76. Failure to complete the SEP Completion Report required herein shall be deemed a violation of this CA/FO and Respondents shall be liable for stipulated penalties pursuant to Section K.

77. Respondent shall request the SCAQMD to maintain, and provide to EPA upon request, all documents to substantiate the funds expended and work completed to implement the SEP described in Paragraphs 70 through 80, and Appendix A of this CA/FO.

78. After receipt of the SEP Completion Report described in Paragraph 73 above, EPA shall, within thirty (30) days, notify Respondents in writing of either (a) any deficiencies in the SEP Completion Report in which case EPA will grant an additional thirty (30) days for Respondents

to correct any deficiencies; (b) that EPA concludes that the project has been completed satisfactorily; or (c) that the project has not been completed satisfactorily in which case EPA may seek stipulated penalties as specified in Section K, below.

79. If EPA elects to exercise option (a) or (c) in Paragraph 78 above, EPA shall permit Respondents the opportunity to object in writing to the notification of deficiency within ten (10) days of receipt of such notification. EPA and Respondents shall have an additional thirty (30) days from receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Completion Report or SEP implementation. If agreement cannot be reached on any such issue within this 30-day period, EPA shall provide a written statement of its decision on the adequacy of the SEP Report or SEP completion, which decision shall be final and binding on Respondents. In the event the SEP is not completed as reasonably contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondents to EPA as specified below in Section K.

80. With regard to the SEP, Respondents, by signing this CA/FO, certify the truth and accuracy of each of the following: (i) that all cost information provided to EPA in connection with EPA's approval of the SEP is complete and accurate and that Respondents in good faith estimate that the cost to implement the SEP is at least \$167,967; (ii) that, as of the date of this Agreement, Respondents are not required to perform or develop the SEP by any federal, state, or local law or regulation and are not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum; (iii) that the SEP is not a project that Respondents were planning or intending to construct, perform or implement other than in settlement of the claims resolved in this Agreement; (iv) that Respondents have not received and will not receive credit for the SEP in any other enforcement action; (v) that Respondents will not receive reimbursement for any portion of the SEP from another person or entity; (vi) that for federal income tax purposes, Respondents will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP; and (vii) that Respondents are not a party to any federal financial transaction that is funding or could fund the same activity as the SEP described in this Agreement and have inquired of the SCAQMD whether it is a party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and have been informed by the SCAQMD that to its knowledge it is not a party to such a transaction.

81. Any public statement, oral or written, in print, film, or other media, made by Respondents making reference to the SEP under this CA/FO from the date of Respondents' execution of this CA/FO shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the Environmental Protection Agency to enforce federal laws."

K. DELAY IN PERFORMANCE/STIPULATED PENALTIES

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

82. In the event Respondents fail (i) to make any payment of the civil penalty required under Sections E and I on the date that such payment is due or (ii) to complete any compliance task required under Section H on the date that such task is required to be performed, Respondents shall pay stipulated penalties as follows: FIVE HUNDRED DOLLARS (\$500) per day for first to fifteenth day of delay, ONE THOUSAND DOLLARS (\$1,000) per day for sixteenth to thirtieth day of delay, and THREE THOUSAND DOLLARS (\$3,000) per day for each day of delay thereafter. Compliance by Respondents shall include completion of any activity under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.

83. In the event that Respondents fail to substantially conduct the SEP in accordance with the terms of this CA/FO, Respondents shall pay a stipulated penalty of TWO HUNDRED FIFTY-ONE THOUSAND NINE HUNDRED AND FIFTY DOLLARS (\$251,950) less any stipulated penalties already paid for failure to submit the SEP Completion Report pursuant to Paragraph 73.

84. If Respondents demonstrate that the SEP tasks described in Section J were completed, but Respondents incur less than 90 percent of the costs required to be incurred pursuant to Section J, Respondents shall pay a stipulated penalty to the United States that is the difference between ONE HUNDRED SIXTY-SEVEN THOUSAND, NINE HUNDRED AND SIXTY-SEVEN DOLLARS (\$167,967) and the actual costs incurred by Respondents toward completion of the tasks described in Section J.

85. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance and shall be remitted in the same manner described in Section I. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. §13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.

86. The payment of stipulated penalties shall not alter in any way Respondents' obligations to complete the performance required hereunder.

87. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

88. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions that may be available to EPA because of Respondents' failure to comply with any of the requirements of this CA/FO.

89. The payment of stipulated penalties specified in the Section shall not be deducted by Respondents or any other person or entity for federal, state or local taxation purposes.

L. CERTIFICATION OF COMPLIANCE

90. In executing this CA/FO, subject to the provisions of Section H, above, Respondents certify under penalty of law to EPA that they are in full compliance with Section 3008 of RCRA, 42 U.S.C. § 6928, and its implementing regulations that formed the basis for the violations alleged in Section D, above. This certification of compliance must be based upon true, accurate, and complete information that the signatories can verify personally or regarding which the signatories have inquired of the person or persons directly responsible for gathering the information.

M. RESERVATION OF RIGHTS

91. Except as addressed in this CA/FO, EPA hereby reserves all its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondents perform tasks in addition to those required by this CA/FO. EPA further reserves all its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondents' failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 3008 of RCRA, 42 U.S.C. § 6928. This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA, or any other statutory, regulatory or common law enforcement authority of the United States.

92. Compliance by Respondents with the terms of this CA/FO shall not relieve Respondents of their obligations to comply with RCRA or any other applicable local, State or federal laws and regulations.

93. The entry of this CA/FO shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondents' liability for federal civil penalties for the alleged violations and facts as set forth in Section D of this CA/FO.

94. This CA/FO is not intended to be, nor shall it be construed as, a permit. This CA/FO does not relieve Respondents of any obligation to obtain and comply with any local, State or federal permits.

N. OTHER CLAIMS

95. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the two facilities addressed in this CA/FO.

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

O. MISCELLANEOUS

96. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondents.

97. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

98. Each party to this action shall bear its own costs and attorneys' fees.

99. EPA and Respondents consent to entry of this CA/FO without further notice.

P. EFFECTIVE DATE

100. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the Final Order contained in this CA/FO, having been signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

FOR RESPONDENTS DEMENNO-KERDOON

AND D/K ENVIRONMENTAL:

6/11/19

Date



Christopher M. Norton
Chief Legal Officer
DeMenno-Kerdoon
D/K Environmental

FOR COMPLAINANT U.S. ENVIRONMENTAL PROTECTION AGENCY,

REGION 9:

6/17/19

Date



Amy C. Miller, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 9

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

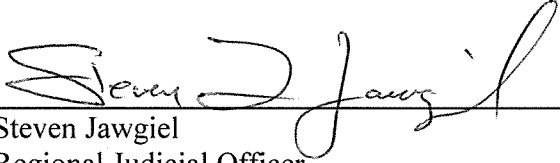
In the matter of:)	U.S. EPA Docket No.
)	
)	RCRA(3008)-09-2019-0044
DeMenno-Kerdoon, dba World Oil)	
Recycling, and D/K Environmental, dba)	
World Oil Terminals Vernon)	
)	CONSENT AGREEMENT
)	FINAL ORDER PURSUANT TO
)	40 C.F.R. SECTIONS 22.13 AND
)	22.18
<u>Respondent.</u>)	

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA(3008)-09-2019-0044) be entered and that Respondents pay a civil penalty of THIRTY-NINE THOUSAND NINETY TWO DOLLARS (\$39,092), due within thirty (30) days from the Effective Date of this Consent Agreement and Final Order, implement the compliance tasks described in Section H, and implement the Supplemental Environmental Project described in Section J of this CA/FO, in accordance with all terms and conditions of this Consent Agreement and Final Order.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

06/24/19
Date



Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region 9

CERTIFICATE OF SERVICE

I hereby certify that the original of the Consent Agreement and Final Order in the matter of DeMenno-Kerdoon (World Oil Recycling) and D/K Environmental (World Oil Terminals Vernon), RCRA-09-2019-0044, has been filed by the Regional Hearing Clerk, and a true and correct copy was served on the following parties as indicated below:

Certified Mail

Respondents:

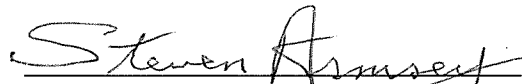
Christopher M. Norton
Chief Legal Officer
DeMenno-Kerdoon
D/K Environmental
9302 Garfield Avenue
South Gate, CA 90280

Complainant:

Hand Delivery

Tessa Berman (ORC 3-1)
Assistant Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Dated at San Francisco, California, this 25th day of June, 2019



Steven Armsey
Regional Hearing Clerk
U.S. EPA, Region IX

APPENDIX A

AIR FILTRATION SYSTEM SUPPLEMENTAL ENVIRONMENTAL PROJECT

A. SEP Purpose

The Air Filtration System (“AFS”) Supplemental Environmental Project (“SEP”) shall be to install an AFS at a school or schools to reduce exposure to harmful air pollutants, including Ultrafine Particles (“UFP”), Black Carbon (“BC”), and Fine Particulate Matter (“PM_{2.5}”). The SEP shall be implemented in the area immediately surrounding the facilities addressed in this CA/FO.

B. SEP Implementation

1. DeMenno-Kerdoon and D/K Environmental (“Respondents”), have selected the South Coast Air Quality Management District (“SCAQMD”) to implement the SEP. SCAQMD is a governmental entity that is authorized to receive funding from non-governmental sources to be used for implementation of this SEP.
2. Respondents shall provide \$167,967 to the SCAQMD within one hundred twenty (120) days of the Effective Date of this CA/FO for the purpose of implementing the AFS SEP in accordance with Paragraphs 70 through 80, and Appendix A of this CA/FO.
3. The SEP funds shall be expended in accordance with Paragraphs 70 through 80, and Appendix A of this CA/FO to: (1) install high performance air filtration units in classrooms and common areas of a school or schools selected in accordance with this CA/FO; (2) conduct post-installation testing to verify the performance of the systems and to report test results; (3) train school staff on the maintenance of the AFS(s) to ensure proper and efficient operations; (4) provide a three-year supply of replacement filters; (5) prepare reports to document the status of the SEP; and (6) provide for reasonable administrative costs charged by the SEP Implementer for implementing the SEP.
4. Respondent shall be responsible to complete the AFS SEP in at least one entire school. For purposes of Appendix A of this CA/FO, “entire school” shall mean all classrooms and common areas in a school for which the installation of an air filtration unit is reasonably practicable and must include a substantial percentage of total classrooms and common areas in the school. If there are remaining funds, Respondents may direct the balance to pay for the cost of additional replacement filters, future maintenance costs, air filtration unit(s) for a classroom or common area

within a school, and other associated costs for the AFS and/or air filtration unit(s) purchased through this SEP.

5. Respondents shall consult with the SCAQMD to evaluate potential school sites within a two-mile radius of either the World Oil Recycling Facility and/or the World Oil Terminals Facility Vernon. This evaluation should include an assessment of the type of heating, ventilation and air conditioning (“HVAC”) units present at the school, with site visits to be conducted as necessary to verify the existing HVAC system/specifications. Respondents also shall consult with the SCAQMD to determine the type of AFS to install in accordance with the Performance Specifications identified below. Consideration will be given to whether the type of AFS would be effective at significantly reducing particulate matter and whether the AFS vendor or contractor for that type of AFS has design and operational proposals appropriate for classroom conditions. Such consultation shall consider, as appropriate, other air pollution control agencies that have programs installing AFSs.
6. In consultation with the SCAQMD, Respondents shall present a detailed schedule for the installation of the AFS. Installation and other implementation issues shall be coordinated with the appropriate school and school district.
7. In consultation with the SCAQMD, Respondents shall ensure that there is a maintenance program established to provide training for the selected school’s or schools’ maintenance staff for ongoing maintenance of the AFS following installation of the AFS at the school(s). An operation and maintenance manual shall be provided to the school(s)/school district(s), and shall include, but not be limited to, the required frequency for cleaning and replacement of the filters and other maintenance procedures.
8. Within sixty (60) days after completion of the AFS SEP, Respondents shall submit an AFS SEP Completion Report to EPA at the address specified in Paragraph 74 herein. The SEP Completion Report must include the following information: (1) the type of AFS installed; (2) the number of schools/classrooms/common areas where AFSs are installed; (3) the expenditures associated with the project; (4) the operation and maintenance manual; and (5) a written certification of project completion.

C. Environmental Benefit

Exposure to harmful air pollutants has been linked to a variety of short-term and long-term health effects, including asthma, reduced lung function, impaired lung development in children and cardiovascular effects in adults. Children’s exposure to harmful air pollution while at school is a concern because many schools across the country are located near industrial areas and heavily trafficked roadways and children are particularly vulnerable to

exposure. Certain filtration systems have been independently tested and proven to remove up to 87 to 96% of UFP and BC from classrooms.

D. Performance Specifications

In order to ensure that the environmental benefit will be achieved and that the AFS will function effectively within the classroom setting, the following performance specifications are hereby incorporated, as required by the AFS SEP, unless they differ from local requirements. The AFS will meet these performance specifications at the time the AFS is installed at the selected school(s).

1. Definitions

- a. Baseline Conditions – Percentage reduction in the indoor concentration of a particular air pollutant relative to its concurrent outdoor level before installation of any air filtration unit.
- b. Minimum Average Removal Efficiency – Minimum percentage reduction in the indoor air concentration of a particular pollutant relative to its concurrent outdoor level after installation of one or more air filtration units, averaged over all time periods and installations.
- c. Potential Average Removal Efficiency – Potential percentage reduction in the indoor concentration of a particular pollutants relative to its concurrent outdoor level after installation of one or more air filtration units, demonstrated for several time periods and installations.

2. Removal Efficiency Standard

The AFS(s) must demonstrate, from Baseline Conditions, Minimum Average Removal Efficiencies of 50% for UFC, BC, and PM_{2.5} and should have demonstrated Potential Average Removal Efficiencies of at least 90% for the same pollutants unless local school authorities require different standards.

3. Minimal Impact on Air Flow

The AFS(s) shall lower the indoor air concentrations of pollutants identified in D(2) above, but shall not significantly reduce the existing air flow rates through the HVAC system and shall not require significantly higher power consumption to achieve similar flow rates. Determinations regarding impacts on air flow may require coordination and consultation with local school authorities.

In re DeMenno-Kerdoon (World Oil Recycling)
and D/K Environmental (World Oil Terminals Vernon)
Consent Agreement and Final Order

4. Low Noise

The AFS shall not exceed a 45 decibel noise threshold for any new in-classroom equipment, a standard required by many school districts unless local rules have different requirements.

5. Filter Lifetime

To minimize labor costs associated with filter replacement, the advertised lifetime of the installed high-performance filters should be at least three months.

E. Schedule

1. Respondents shall provide the funding for the AFS SEP within 120 days of the Effective Date of this CA/FO.
2. Respondents shall complete the AFS SEP no later than one year after the Effective Date of this CA/FO.
3. Within 60 days of completion of the AFS SEP, Respondents shall submit the AFS SEP Completion Report to the address specified in Paragraph 75 of this CA/FO.