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In the Matter of:	:	STIPULATION AND
	:	CONSENT ORDER
Freeport West, Building D-3	:	
Clearfield, Utah	:	No. 2011129

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This **STIPULATION AND CONSENT ORDER** (CONSENT ORDER) is issued by the DIRECTOR OF THE UTAH DIVISION OF WASTE MANAGEMENT ~~AND~~ and RADIATION CONTROL pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.*

JURISDICTION

1. The Director has jurisdiction over the subject matter of this CONSENT ORDER pursuant to Utah Code §§ 19-6-107 and 19-6-112, and jurisdiction over the solid, universal, and hazardous waste abandoned by Stone Castle, LLC (“Stone Castle”) at Freeport West, Building D-3 owned by D-3 Freeport Center, LLC (D-3 LLC). D-3 LLC consents to and will not challenge issuance of this CONSENT ORDER or the Director's jurisdiction to enter and enforce this ORDER. D-3 LLC and the Director are parties to this CONSENT ORDER.

FINDINGS

2. D-3 LLC is a limited liability company registered to do business in the State of Utah (6723829-0160). D-3 LLC is the owner of Freeport West, Building D-3, Clearfield, Utah (Building D-3).¹
3. Building D-3, Davis County tax parcel 126940002, is a warehouse type building located in Davis County, Utah.
4. Stone Castle, a limited liability company, leased Building D-3 from D-3 LLC.²
5. For a period of time, to include calendar year 2013, when representatives of the Division of Solid and Hazardous Waste³ conducted an inspection at the facility,

¹ See *e.g.*, Complaint, D-3 Freeport Center, LLC v. Stone Castle, LLC et al. (D-3 Complaint) (June 23, 2014).

² See D-3 Complaint.

³ Effective July 1, 2015, the legislature combined the Division of Solid Hazardous Waste and the Division of Radiation Control to create the Division of Waste Management and Radiation Control. The Division of Solid and Hazardous Waste and the Division of Waste Management and Radiation Control are interchangeably referenced in this CONSENT ORDER as the “Division.”

Stone Castle, UTR000012591, operated the Stone Castle Recycling facility at Building D-3 where it collected, separated, and crushed electronic waste and universal waste. The electronic and universal waste included plastics, various metals, and Cathode Ray Tube (CRT) glass, and fluorescent light tubes.

6. On or before January 30, 2013, the U.S. Environmental Protection Agency (EPA) determined that CRT glass stored at the Stone Castle Recycling facility by Stone Castle met the definition of hazardous waste as it exhibited the hazardous waste toxicity characteristic for lead.⁴
7. On May 28, 2013, representatives of the Division inspected the Stone Castle Recycling facility at Building D-3. Stone Castle Recycling employee, Jamen Wood, and Division representatives estimated that Stone Castle stored 660 Gaylord boxes inside Building D-3 and 252 Gaylord boxes outside the building which totaled 3,465,500 pounds of crushed CRT glass at the site.⁵ Additionally, Mr. Wood estimated 100 to 200 Gaylord boxes containing whole televisions/CRTs were stored inside Building D-3.⁶
8. On July 9, 2013, representatives of the Division inspected the Stone Castle Recycling facility at Building D-3. Stone Castle Recycling employee, Jamen Wood, estimated 1,411 Gaylord boxes containing electronic waste were stored outside.⁷ Some Gaylord boxes stored outside contained crushed CRT glass, and other boxes contained whole televisions or computer monitors.⁸ Inspectors noted that crushed CRT glass had spilled onto the ground, the Gaylord boxes were not properly labeled, and most boxes were not closed or covered.⁹ Stone Castle also accumulated whole fluorescent tubes and crushed fluorescent tubes both inside and outside of Building D-3.¹⁰
9. On July 30, 2013, representatives of the Division inspected the Stone Castle Recycling facility at Building D-3. Stone Castle Recycling employee, Jamen Wood, estimated 1,458 Gaylord boxes containing electronic waste were stored outside.¹¹ During the July 30, 2013 inspection, the inspectors did not estimate the amount of waste stored inside Building D-3.¹²

⁴ See *Indictment, United States of America v. Stone Castle Recycling, LLC; Anthony L. Stoddard; and Jamen D. Wood*, Case No. 1:17-cr-00044-DN (N.D. Utah July 2017) (Stone Castle Indictment) at ¶ 13.

⁵ See DSHW Report on May 28, 2013 Inspection (DSHW-2013-008273) (July 1, 2013) at 2.

⁶ *Id.*

⁷ See DSHW Report on July 9, 2013 Inspection (DSHW-2013-008276) (July 23, 2013) at 5.

⁸ *Id.*

⁹ *Id.* at 4-5.

¹⁰ *Id.* at 5-6.

¹¹ See DSHW Report on July 30, 2013 Inspection (DSHW-2013-008275) (July 31, 2013) at 2.

¹² See *in general, id.*

10. On July 8, 2014, the District Court issued an Order of Restitution for Stone Castle to vacate Building D-3. *See* Order of Restitution (July 8, 2014). On or about July 15, 2014, Stone Castle vacated Building D-3 and abandoned the CRT glass, both inside and outside of Building D-3.¹³
11. D-3 LLC states that on or about July 15, 2014, Stone Castle also abandoned at Building D-3 other solid and hazardous waste, including fluorescent tubes which may be defined as universal waste.¹⁴
12. On September 3 and 4, 2014, the EPA collected and analyzed representative samples of the CRT glass stored in boxes inside Building D-3.¹⁵ EPA's Toxicity Characteristic Leaching Procedure (TCLP) analysis showed the lead levels in the CRT glass samples ranged between 88 mg/L and 253 mg/L, exceeding the hazardous waste limit of 5.0 mg/L for lead.¹⁶
13. On August 23, 2016, EPA collected and analyzed representative samples of CRT glass stored outside Building D-3.¹⁷ EPA's TCLP analysis showed the lead levels in the CRT glass samples ranged between 151 mg /L and 233 mg/L, exceeding the hazardous waste limit of 5.0 mg/L for lead.¹⁸
14. On September 14, 2016, a representative of the Division inspected the site of the former Stone Castle Recycling facility at Building D-3. The inspector documented spilled CRT glass on the ground and CRT glass stored in deteriorating Gaylord boxes outside.¹⁹
15. D-3 LLC is a “person” as defined in Utah Code § 19-1-103(4) and is subject to all applicable provisions of the Utah Administrative Code (the Rules) and the Act.
16. Pursuant to the Utah Solid and Hazardous Waste Act, a person may not store hazardous waste without a permit.²⁰
17. EPA representative samples collected on January 2013, September 2014, and August 2016 confirmed the CRT waste stored or abandoned by Stone Castle at Building D-3 is hazardous waste for TCLP lead.

¹³ *See* Stone Castle Indictment at ¶¶ 31, 32.

¹⁴ *See* Utah Admin. Code R315-273-9(i) (definition of “lamp” or “universal waste lamp”).

¹⁵ *See* Stone Castle Indictment at ¶ 34.

¹⁶ *Id.*; *see also* Utah Admin. Code R315-261-24.

¹⁷ *See* Stone Castle Indictment at ¶ 35.

¹⁸ *Id.*; *see also* Utah Admin. Code R315-261-24.

¹⁹ *See* DSHW Report on September 14, 2016 Inspection (DSHW-2016-013489) (September 14, 2016) at 2.

²⁰ Utah Code § 19-6-108(3)(a)(i).

18. Based on information and belief, solid and hazardous waste, including hazardous waste that may be designated as universal waste, abandoned by Stone Castle continues to be stored in or around Building D-3 without a hazardous waste permit.
19. A waste handler²¹ may alternatively manage lamps or universal lamps, as defined in Utah Admin. Code R315-273-5, in accordance with the rules specified in Utah Admin. Code R315-273. Nevertheless, if a waste handler fails to meet the applicable requirements of Utah Admin. Code R315-273, the waste handler must comply with all applicable requirements of Utah Admin. Code R315-260 through 266, R315-268, R315-270, and R315-124.²²
20. D-3 LLC maintains it did not generate or otherwise create the solid, universal, or hazardous waste stored by Stone Castle in Building D-3, nor did D-3 LLC transport the waste onto the property. D-3 LLC is the owner of Building D-3, the previous location of Stone Castle's recycling business and the place where Stone Castle abandoned the waste. The federal criminal case against Stone Castle's owner recognized D-3 LLC as a victim of that crime and ordered Stone Castle and its owner to pay restitution to D-3 LLC.²³

STIPULATION AND CONSENT ORDER

21. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve this matter without issuance of a notice of violation or further administrative or judicial proceedings.
22. On or before 30 days from the effective date of this CONSENT ORDER, D-3 LLC shall file a request to modify the existing EPA identification number to reflect D-3 LLC's ownership of the warehouse and add a contact person from D-3 LLC.
23. On or before 120 days from the effective date of this CONSENT ORDER, D-3 LLC is hereby ordered to submit to the Director for written approval, a detailed plan and compliance schedule to:
 - a. Estimate the amount of CRT glass, fluorescent tubes, or other universal and hazardous waste located on the premises of Building D-3, both inside and outside the building;

²¹ A "waste handler" is defined, in part, as an owner of facility "that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination." See Utah Admin. Code R315-273-9(q).

²² See Utah Admin. Code R315-273-1(b).

²³ *Amended Judgment, United States of America v. Anthony L. Stoddard*, Case No. 1:17-cr-00044-TS (N.D., Utah February 13, 2019); *Memorandum of United States' Position on Sentencing for Anthony L. Stoddard, United States of America v. Stone Castle Recycling, LLC; Anthony L. Stoddard, et al*, Case No. 1:17-cr-00044-TS (January 22, 2019); *Stipulated Motion for Order for Restitution, United States of America v. Stone Castle Recycling, LLC; Anthony L. Stoddard, et al*, Case No. 1:17-cr-00044-TS (February 8, 2019).

- b. Move all universal and CRT glass, fluorescent tubes, or other hazardous waste stored outside of Building D-3 to inside the building;
 - c. Annually remove and transport a minimum of twenty-five percent (25%) of all solid, universal and hazardous waste stored in or around Building D-3 to a waste disposal facility in accordance with the Act and applicable rules; and
 - d. After removal of all solid, universal and hazardous waste stored in or around Building D-3, sample and determine the extent of contamination at the Building D-3 site in accordance Utah Admin. Code R315-101 or other applicable rules.
24. D-3 LLC is hereby ordered to implement the detailed plan specified in ¶ 23 as approved by the Director in writing, and remove all solid and hazardous waste, including any universal waste, stored in and around Building D-3 on or before four years from the effective date of this CONSENT ORDER.

EFFECT OF CONSENT ORDER

25. For the purpose of this CONSENT ORDER, the parties agree and stipulate to the above stated facts. The obligations in this CONSENT ORDER apply to and are binding upon the Division of Waste Management and Radiation Control and upon D-3 LLC and any of D-3 LLC's successors, assigns, or other entities or persons otherwise bound by law.
26. The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall not be used by any person related or unrelated to this CONSENT ORDER for purposes other than determining the basis of this CONSENT ORDER. Nothing contained herein shall be deemed to constitute a waiver by the State of Utah of its right to initiate enforcement action, including civil penalties, against D-3 LLC in the event of future non-compliance with this CONSENT ORDER, with the Act and applicable provisions of the Utah Admin. Code; nor shall the State of Utah be precluded in any way from taking appropriate action should such a situation arise again with D-3 LLC. However, entry into this CONSENT ORDER shall relieve D-3 LLC of all liability for violations which did arise or could have arisen with respect to the solid, universal, and hazardous waste abandoned by Stone Castle at the D-3 Building location.

EFFECTIVE DATE

27. This CONSENT ORDER shall become effective upon the date of execution by the Director.

PUBLIC PARTICIPATION

from June 14, 2021 to July 13, 2021

was

28. This CONSENT ORDER ~~shall be~~ subject to public notice and comment for a period of at least 30 days (“Comment Period”) in accordance with Utah Admin. Code R315-124-34. ~~The Director reserves the right to withdraw or withhold its consent if any comment received during the Comment Period disclose facts or consideration indicating the CONSENT ORDER is inappropriate, improper, or inadequate.~~

The Director received no comments.

SIGNATORY

29. The undersigned representative of D-3 Freeport Center, LLC certifies he is authorized to enter into this CONSENT ORDER and to execute and legally bind D-3 Freeport Center, LLC.

Pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-1 01, et seq., the parties hereto mutually agree and consent to STIPULATION AND CONSENT ORDER No. 2011129 as evidenced below:

D-3 FREEPORT CENTER, LLC

THE STATE of UTAH
DIVISION of WASTE MANAGEMENT
and RADIATION CONTROL

Hal Renfro
Renfro Family Trust Dated October 10, 1995

Douglas J. Hansen, Director

Date: _____

Date: _____

