

Enclosure
CLEAN AIR ACT MOBILE SOURCE EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO. R9-CAA-19-1013

Respondent: Mr. James Birstengel
Birstengel Investments, Inc.
13920 Hill Ridge Dr.
Minnetonka, MN 55305

1. The parties enter into this Clean Air Act Mobile Source Expedited Settlement Agreement (Agreement) in order to settle the civil violations discovered as a result of the inspection specified in Table 1, attached, incorporated into this Agreement by reference. The civil violations that are the subject of this Agreement are described in Table 2, attached, incorporated into the Agreement by reference, regarding the vehicles/engines specified therein.
2. Respondent admits to being subject to the Clean Air Act (CAA) and its associated regulations and that the United States Environmental Protection Agency (EPA) has jurisdiction over the Respondent and the Respondent's conduct described in Table 2. Respondent does not contest the findings detailed therein and waives any objections Respondent may have to the EPA's jurisdiction.
3. Respondent consents to the payment of a penalty in the amount of \$2,100. further described in Table 3, attached, incorporated into this Agreement by reference. Respondent agrees to follow the instructions in "CAA Mobile Source Expedited Settlement Agreement Instructions," attached, incorporated into this Agreement by reference. Respondent certifies that the required remediation, detailed in Table 3, has been carried out.
4. By its first signature below, the EPA approves the findings resulting from the inspection and alleged violations set forth in Table 1 and Table 2. Upon signing and returning this Agreement to the EPA, Respondent consents to the terms of this Agreement without further notice. Respondent acknowledges that this Agreement is binding on the parties signing below and becomes effective on the date of the EPA's ratifying signature.

APPROVED BY EPA:

[Redacted Signature]

Joel E. Jones, Assistant Director, Enforcement Division, EPA Region 9

Date: 4-5-19

APPROVED BY RESPONDENT:

Name (print): James Birstengel

Title (print): CEO

Signature: [Redacted Signature]

Date: 4/10/2019

RATIFIED BY EPA:

[Redacted Signature]

Joel E. Jones, Assistant Director, Enforcement Division, EPA Region 9

Date: 5.9.19

Table 1 - Inspection Information

Entry/Inspection Date(s):		Docket Number:	
March 6, 2019 / March 14, 2019		R 9 - C A A - 1 9 - 1 0 1 3	
Inspection Location:		Entry/Inspection Number(s)	
Price Dominguez Warehouse		9 3 M - 0 0 1 8 8 8 3 - 0	
Address:			
2711 E. Dominguez St			
City:		Inspector(s) Name(s):	
Long Beach		Daniel Haskell	
State:	Zip Code:	EPA Approving Official:	
CA	90810	Joel E. Jones	
Respondent:		EPA Enforcement Contact:	
Birnstengel Investments, Inc		Daniel Haskell (Region 9), (213) 244-1816	

Table 2 - Description of Violation and Vehicles/Engines

The 3 forklifts described below were found to be imported by Birnstengel Investments, Inc in violation of Section 203(a)(1) of the Clean Air Act (CAA), 42 U.S.C. § 7522(a)(1), and the regulations codified at 40 C.F.R. §§ 86.407-78(a), 1068.101(a)(1), and 1068.101(b)(5), which collectively prohibit the importation of engines or equipment containing these engines, unless they are covered by a valid EPA certificate of conformity (COC) or are properly exempted or excluded. Under this entry, Birnstengel Investments, Inc inaccurately claimed the 3 forklifts were under the ancient engine exemption, as described under the regulations at 40 C.F.R. § 1068.315(i). No emission control information labels in English were found as part of the inspection. Since an EPA certificate of conformity (COC) has not been awarded to Birnstengel Investments, Inc for the 3 forklifts, they are considered uncertified. The EPA found no evidence that the forklifts are excluded from coverage. Hence, they cannot legally be imported into the United States.

Vehicle Description	Claimed Engine Manufacturer	Observed Model	Observed Engine Family	Quantity
Forklifts	Nissan, Toyota, Komatsu	50 horsepower	Unknown	3

Table 3 - Penalty and Required Remediation

Penalty	\$2,100
Required Remediation	Birnstengel Investments, Inc must destroy or export the 3 forklifts to a country other than Canada or Mexico and provide the EPA with a report documenting the corrective action taken.

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