

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Docket HWCA SCUPA 2015 IM004

Hani Shamoun
dba Calipatria Oasis, Inc.
500 North Sorenson Avenue
Calipatria, California 92233

CONSENT ORDER

Health and Safety Code
Section 25187

EPA No. Not Applicable

Respondent.

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control Imperial Certified Unified Program Agency (Department) and Hani Shamoun, dba Calipatria Oasis, Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent operates the following on site: underground storage tank systems at 500 North Sorenson Avenue, Calipatria California 92233 (Site).

1.3. Inspection. The Department inspected the Site at various times beginning on September 9, 2007 and continuing to at least August 31, 2016.

1.4. Authorization Status. Respondent does not have any permit or certificate issued from the Department to manage underground storage tanks at the Site.

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent admits the violations as alleged in Section 2 below.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.2. Respondent violated Health and Safety Code section 25298(a) in that on or about September 17, 2008, and continuing through at least the day of this Order, Respondent abandoned and/or illegally closed an underground storage tank system at Respondents Site.

2.2. Respondent violated Health and Safety Code section 25508(a)(1)(A) in that on or about January 27, 2014, Respondent failed to upload the Business Plan, including underground storage tanks information into the California Environmental Reporting System upon assuming ownership of the Site.

2.3. Respondent violated California Code of Regulation, title 23, Section 2715 (a) in that on or about September 17, 2008, and continuing at least to the date of this Order, Respondent failed to contract a underground storage tank system designated operator for the facility and notify the local agency.

2.4. Respondent violated California Code of Regulation, title 23, section 2637(a) in that on or about September 9, 2007, and continuing at least to the date of this Order, Respondent failed to conduct secondary containment testing at the Site. SB989 testing is required every 3 years and Respondent has not conducted secondary containment testing for 2007, 2010 and 2013 at the Site.

2.6. Respondent violated California Code of Regulation, title 23, section 2638 (a) in that on or about September 17, 2008, and annually thereafter through and including 2016, Respondent failed to conduct an annual monitoring certification inspection at the Site. The Site has been abandoned at least since September 28, 2008.

2.7. Respondent violated Health and Safety Code section 25284 (a) (1), in that on or about January 1, 2007, Respondent failed to obtain from the Department an underground storage tank operating permit from January 2007 through 2015.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1 Respondent has failed to correct all of the violations set forth above.

3.1.2. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order.

Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, 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 Order.

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

5. PENALTY

5.1. Respondent shall pay the Department a total penalty of \$40,000. A deferral of \$15,000 exists upon the effective date of this Order only if Respondent does not violate the terms of this Order, or other significant Department statutes or regulations, as determined by the Department, during the remaining time that Respondent own and/or operate the Site. By December 30, 2016, Respondent must undergo closure of the USTs, following all Federal, State and local statutes and regulations, unless the

Department receiving a written request from Respondent provides a written statement to Respondent extending the time period. Any extension solely at the discretion of the Department cannot extend beyond July 31, 2017. The \$25,000 payment shall be paid a minimum of \$1,388.89 per month, to be paid in full no later than March 31, 2018 from the effective date of this Order.

5.2 Respondent must clean the tank under supervision of the Department no later than 60 days from the effective date of this Order. Any residual from the tank cleaning must be managed as hazardous waste.

5.3. Respondent's check(s) for the penalty shall be made payable to the Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, 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(s) shall be sent to:

Roger Vintze
Branch Chief
DTSC Imperial CUPA
627 Wake Avenue
El Centro, California 92244

5.4. 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 the Department in pursuing collection including

attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: 9-14-16

original signed by Hani Shamoun

Hani Shamoun
Respondent

Dated: 9/14/16

original signed by Roger Vintze

Roger Vintze
Department of Toxic Substances Control