

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Action Waste Oil Service, LLC.
5917 Oak Ave., #332
Temple City, California 91780

ID No. CAL 000 280 876

Respondent.

Docket HWCA 2009 1970

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Action Waste Oil Service, LLC. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles and/or transports hazardous waste at the following site: 5917 Oak Ave., #332, Temple City, California 91780 (Site).

1.3. Inspection. The Department inspected the Respondent on December 4, 2008.

1.4. Permit Status. The Department authorized Respondent to transport hazardous waste by Hazardous Waste Transporter Registration #51116, issued on May 9, 2008.

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.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondent violated Health and Safety Code, section 25201, subdivision (a) in that in some instances in years 2007 and 2008, Respondent as a hauler of hazardous waste stored hazardous waste in excess of the ten days allowed under the transfer facility exemption without a permit or other grant of authorization from the Department.

2.1.2. Respondent violated Health and Safety Code, section 25160.2, subdivision (b) in that on or about October 23, 2008, Respondent failed to comply with the conditions of Health and Safety Code, section 25160.2, subdivision (b) by not obtaining the signature of the generator or generator's representative on all copies of each receipt and on the statement by generator certifying that the generator has established a program to reduce the volume or quantity and toxicity of the hazardous waste to the degree, as determine by the generator to be economically practicable.

2.1.3. Respondent violated Health and Safety Code, section 25165, subdivision (a) and California Code of Regulations, title 22, section 66263.11, subsection (c) in that in or about May, 2008, Respondent failed to comply with the conditions of Health and Safety Code, section 25165, subdivision (a) and California Code of Regulations, title 22, section 66263.11, subsection (c) by not requesting and obtaining an approved notification for intending to transport waste stream pursuant to consolidated manifesting procedure specified in Health and Safety Code, section 25160.2 including a statement by the transporter notifying the Department of that transportation and the list of specific category or categories of waste streams to be transported using the consolidated manifesting procedure.

2.1.4. Respondent violated Health and Safety Code, section 25201, subdivision (a) in that on or about December 4, 2008, Respondent stored hazardous waste in a container longer than 90 days without a permit or other grant of authorization from the Department.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent has corrected the violations cited above. Respondent shall operate hereafter in a manner that shall prevent recurrences of the violations cited herein.

3.2. 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. 5.1. Respondent shall pay the Department a total sum of \$8,000.00 as a penalty.

5.2. The payments shall be paid in two (2) installments of \$4,000.00. The two (2) installments of \$4,000.00 each are due and payable on September 1, 2009 and January

1, 2010. Any installment payment which is received by the Department after the 15th day of the payment month in which it is due subject to penalty in amount of \$250.00, which penalty shall be paid by Respondent no later than the due date of next installment payment. If Respondent fails to make a full installment payment within thirty (30) days of its due date, then the Department, at its option, may declare the entire balance of the outstanding penalties immediately due and owing. If Respondent fails to make any payment timely as provided above, Respondent agrees to pay interest thereon at the rate established pursuant to H&SC, Section 25360.1. Respondent further agrees to pay all costs and attorney's fees incurred by the Department in pursuing the collection of any sums the payment of which becomes delinquent hereunder. Respondent's checks shall be made payable to Department of Toxic Substances Control and shall be delivered.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and together with a payment Voucher in the form set forth in Exhibit 1 attached hereto and incorporated herein by reference, shall be delivered 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:

Mehdi Nobari
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

5.4. Respondent hereby agrees to send one of its employees to the California Compliance School, Modules I through IV. Attendance of each and every module must be completed and Respondent must submit a Certification of Satisfactory Completion issued by the California Compliance School to the Department within 180 days of the effective date of this Order. In recognition of this educational investment, the penalty

has been reduced by \$5,000 provided the employee satisfactorily completes the specified modules and the Department receives the Certificate of Satisfactory Completion within 180 days of the effective date of this Order. If Respondent fails to submit the Certificate of Satisfactory Completion as required, the penalty of \$5,000 become due and payable within 30 days after the 180 days period expires. The 180-day period may be extended by the Department Branch Chief upon a written request demonstrating good cause from the Respondent.

6. EFFECTIVE DATE

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

Dated: November 17, 2009

Original signed by Jeffrey Rhine
Respondent Signature

Jeffrey Rhine
Print Name of Respondent

Dated: November 18, 2009

Original signed by Robert Kou
Robert Kou, Acting Branch Chief
Chatsworth Branch
Enforcement and Emergency Response Program
Department of Toxic Substances Control