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**Response to Comments  
for  
American Oil Company  
13736 - 13740 Saticoy Street  
Van Nuys, California 91402  
EPA ID No.: 981427669**

### Background

American Oil Company (AOC) has been operating at 13736 - 13740 Saticoy Street, Van Nuys, Los Angeles County, since 2000 as a hazardous waste transporter for mainly used oil.

AOC applied for a Series C Standardized Permit from the Department of Toxic Substances Control (DTSC) in 2003. The Standardized Permit would allow AOC to pump the used oil from smaller tanker trucks to one larger (up to 7,000 gallons) tanker trailer. AOC may also transfer used oil from containers, such as 55-gallons drums, into a tanker truck or the tanker trailer. In addition, the Standardized Permit would allow AOC to consolidate the solid waste contaminated with used oil into one 4.32-cubic-yard dump trailer. The consolidated used oil and solid waste is sent to the appropriate authorized used oil recycling or disposal facility.

DTSC prepared a Draft Permit and a Draft Negative Declaration in compliance with the California Environmental Quality Act (CEQA) for this project. DTSC issued a public notice on April 7, 2006 to announce the start of a 45-day public comment period for the Draft Permit and the Proposed Negative Declaration. A public hearing was held at the Panorama City Public Library on May 10, 2006. The public comment period ended on May 22, 2006. DTSC received four comment letters from Mr. Steve Wadleigh, Mr. Michael Freund, Mr. David Waymire, and Ms. Jodi Smith, and oral comments from Mr. Michael Freund at the public hearing.

This document responds to comments received during the April 7, 2006 to May 10, 2006, public comment period. A court reporter was present at the public hearing and recorded the proceedings. The court reporter provided DTSC with a transcript of the public hearing. DTSC excerpted oral comments from the court recorder's transcript and from written comments received. The persons who made the comments are identified and their comments are shown in *italics* and listed after the person's name. DTSC's response to each comment is follows:

**Commenter #1: Steve Wadleigh (Letter dated May 6, 2006)**

**Comment #1-1**

*Please be advised, I am against granting a hazardous waste permit to 13736-13740 Saticoy Street.*

**Response:**

Comment noted.

**Comment #1-2**

*We have no guarantee that the site will be 100 percent safe, also it is too close to residential property.*

**Response:**

The nearest residents are approximately 600 linear feet from the AOC facility; however, in between the AOC facility and these residents are several warehouse buildings which act as a buffer. In addition, the AOC facility will only be managing used oil and solid waste contaminated with used oil. Used oil is a relatively low-risk waste stream and is commonly generated by home/car owners, gasoline stations, automobile repair shops, and oil changers. Used oil is not ignitable or corrosive and poses very little hazard to human health and the environment if managed properly.

**Comment #1-3**

*Also please be advised that there are many illegal immigrants working on said street of Saticoy. If they are cutting cost of labor, what guarantee do we have that they will not be cutting corners on containment of hazardous waste?*

**Response:**

The issue of using illegal immigrants is beyond DTSC jurisdiction and not directly related to the draft permit. The commentor is advised to contact the United States Immigration and Custom Enforcement at 1-866-347-2423 regarding any concerns about illegal immigrant workers.

AOC workers handling hazardous waste are required to have 24 hours of hazardous waste management training as required by Section 5192, Title 8, California Code of Regulations, and must be adequately trained in the facility's operations as required by Section 66264.16, Title 22, California Code of Regulations. The training involves both a program of classroom instruction or

on-the-job training that teaches AOC workers to perform their duties in a way that ensures the facility is operated safely. AOC workers must also receive annual refresher training.

**Commenter #2: Michael Freund representing the Center for Environmental Health (Letter dated May 10, 2006)**

*I represent the Center for Environmental Health ("CEH"), a 501 (c) (3) California corporation dedicated to environmental protection and enhancement. One of CEH's objectives is to prevent and reduce toxic hazards to human health and the environment, specifically from pollution of air, water and land in California. CEH has focused on reducing toxic exposures in consumer products and stationary pollution sources throughout the state. CEH has brought numerous legal actions against companies emitting toxic chemicals into the air, especially in southern California. These actions have led to the reduction and elimination of thousands of pounds of emissions of chemicals such as lead and perchloroethylene. CEH maintains its office in Oakland, California.*

*CEH hereby offers comments on the Draft Standardized Hazardous Waste Facility Permit and Draft Negative Declaration for American Oil Company located at 13736-13740 Saticoy Street, Van Nuys, California 91402. American Oil Company is seeking a standardized permit for used oil storage and consolidation activities at their facility. The company has been a transporter and a 10 day transfer facility. American Oil now seeks to be able to pump used oil from smaller tanker trucks to a larger tanker trailer (7,000 gallons), store oil for up to a year at the facility in the 7,000 gallon tanker trailer, transfer solid waste contaminated with used oil from drums into a dump trailer, and designate an area inside their warehouse building for loading and unloading used oil. The area where the trailer will be parked will be bermed for containment. The area inside the warehouse building to be used for loading and unloading used oil will also be bermed.*

*CEH understands that the facility is located on a commercial/industrial street. According to the Los Angeles City Zimas report for the subject property, the area is zoned M2-1 (Light Manufacturing). Across the street to the north are businesses. Behind these businesses is a residential area located within .1 miles from the facility. The neighborhood is primarily Hispanic. The Ranchito Elementary School is situated .6 miles from the American Oil facility. According to the Los Angeles Unified School District, the school's student population is 77.7% Hispanic.*

**Comment #2-1**

**THE PROJECT DOCUMENTS MUST BE PROVIDED IN SPANISH.**

*CEH is very concerned that despite there being a substantial Hispanic presence*

*in the area surrounding American Oil Company, the project's documents prepared by DTSC have been written in English. By not preparing the relevant documents in Spanish, this has effectively deprived a sizeable number of neighbors from being fully informed about the project, including environmental impacts and mitigation measures. CEH believes that meaningful community participation cannot occur in this case without translation of the project documents into a language that a substantial number of neighbors can understand. See El Pueblo Para el Aire y Agua Limpio v. County of Kings (Dec. 30, 1991) No. 366045, 22 Environmental Law Reporter 20357 (Sacramento Superior Court) (translation of at least EIR executive summary required). Furthermore, environmental justice principles adopted by DTSC require that key project documents be provided in appropriate languages and made available on DTSC's website. See "Draft Environmental Justice Philosophy" available on DTSC's website (<http://www.dtsc.ca.gov>). For these reasons, the project is flawed from the outset.*

**Response:**

DTSC has always made a concerted and determined effort to regulate and oversee facilities in a fair, firm, and forthright manner. DTSC is committed to compliance with federal and state environmental justice goals and policies and has incorporated environmental justice principles within its public participation program. DTSC has made all reasonable efforts to ensure that its actions do not cause disproportionate environmental or health impacts on the community.

DTSC conducted a community survey and a walkthrough of the neighborhood prior to the public comment period. DTSC felt that even though a majority of the residents are Hispanics, the majority of those encountered and interacted with spoke and understood English. Therefore, DTSC did not translate any project related documents.

**Comment #2-2**

**AMERICAN OIL COMPANY HAS A CONSIDERABLE HISTORY OF VIOLATING NUMEROUS STATUTORY AND REGULATORY REQUIREMENTS GOVERNING HAZARDOUS WASTES.**

*American Oil Company has been operating as a used oil transporter at its current location since 2000. American Oil Company has been the subject of an Enforcement Order containing numerous recent violations. DTSC authorized American Oil Company to transport hazardous waste by hazardous waste transporter registration number 1601, which was issued on or about April 10, 1987 and expired on May 31, 2005. However, it appears that American Oil Company has not been a good neighbor to the nearby community as the Enforcement Order specifies many violations beginning shortly after operations commenced on Saticoy Street in Van Nuys. The Enforcement Order reveals the*

*following:*

*(a) On five separate occasions between July 24, 2000 and November 8, 2001, American Oil made false statements by misrepresenting the waste description, waste code or container. During this period, American Oil falsely stated that waste is non-flammable in a tanker truck on four occasions and falsely stated that the waste was oil and water in a tanker truck on one occasion;*

*(b) On five separate occasions between June 28, 2000 and October 15, 2001, American Oil violated California Code of Regulations, title 22, section 66263.23, subdivision (b) by delivering used oil mixed with contaminated petroleum products and/or waste solvents to a hazardous waste facility that was not authorized by DTSC to receive the waste. Specifically, on five occasions the company took waste including ignitable solvents, gasoline, Stoddard solvent, ignitable fuel and gasoline to a facility that was not authorized to receive such waste;*

*(c) On two separate occasions between September 11, 2000 and September 28, 2001, American Oil violated Health & Safety Code section 25189.2, subdivision (c) by disposing of drums of non-RCRA hazardous waste at an unauthorized location;*

*(d) On four separate occasions between July 24, 2000 and November 8, 2001, American Oil violated Health & Safety Code section 25250.7, subdivision (a) by intentionally contaminating used oil with other hazardous waste. Specifically, the company picked up various solvents, flammable gasoline, flammable fuel and water with pyrotechnics from various generators on four separate dates and delivered used oil contaminated with these solvents to the TSDf;*

*(e) American Oil violated California Code of Regulations, title 22, section 66263.21, subsection (a)(1) on or about September 21, 2001 when the company failed to deliver to the designated facility listed on the manifest the entire quantity of hazardous waste that it had picked up. Manifest # 20074926 reveals that 150 gallons of hazardous waste was picked up and 100 gallons delivered to the TSDf;*

*(f) American Oil violated Health & Safety Code section 25201, subdivision (a) in that between November 3, 2001 and December 28, 2001, the company stored hazardous waste in excess of the ten day period allowed under the transfer facility exemption. Four manifests were involved;*

*(g) American Oil violated Health & Safety Code section 25201, subdivision (a) in that on four separate occasions between July 24, 2000 and November 8, 2001, the company stored hazardous waste, without a permit or authorization from DTSC without qualifying for the ten day transfer facility exception. Specifically, on three occasions, American Oil picked up hazardous waste in a*

*drum that was delivered to the TSDf in a tanker truck and on one occasion, picked up hazardous waste in a pick up truck that was delivered to the TSDf in a tanker truck;*

*The above record of this company shows a pattern of false statements, misrepresentations and violations of numerous statutory and regulatory requirements designed to safeguard the environment and the health of the people situated in the area surrounding the facility. Based on the foregoing list of violations, DTSC set a penalty at \$204,900.00. American Oil Company's history of non-compliance with important environmental laws indicates that DTSC must conduct strict scrutiny of this permit and at a minimum presume that the company will not fully obey the law absent stringent reporting and inspection conditions.*

**Response:**

The objective of requiring a hazardous waste facility permit for a facility such as AOC is to ensure that it operates within the confines of the state hazardous waste management laws and regulations. It is to further subject AOC to DTSC's inspections and oversight. The permit is a legally binding document that establishes the waste management activities that AOC can conduct and the general and specific conditions under which it can conduct them. The permit addresses facility design and operation, safety standards, inspection and reporting, emergency plans, employee training, financial assurance for closure and post-closure cost estimates and corrective action requirements for any release of hazardous waste.

DTSC has recently resolved the enforcement action mentioned by the commenter. DTSC and AOC entered into a Stipulation and Order, dated October 26, 2006, whereby AOC agreed to immediately cease all unauthorized hazardous waste management activities and pay DTSC a total of \$60,000 as penalty and cost reimbursement. DTSC will conduct inspections at AOC to ensure that AOC comply with the terms and conditions of the permit and the Stipulation and Order.

**Comment #2-3**

***THE PERMIT IS DEFICIENT IN ALLOWING HAZARDOUS WASTE TO BE STORED IN A TRUCK TRAILER INSTEAD OF A TANK.***

*The proposed permit is deficient in allowing hazardous waste to be stored in a truck instead of a tank. Title 22 of the California Code of Regulations provides for stringent requirements on tank storage such as structural integrity standards and corrosion protection; testing and engineering certification; seismic evaluation and protection, e.g. bolting, etc.; secondary containment; operating requirements, including spill and overflow prevention controls; and inspections. See 22 CCR 66264.190 – 66264.195. This project allows waste to be stored in a truck trailer*

*that provides little of the protection established for tank storage.*

**Response:**

A truck trailer is a "bulk container" defined under California Code of Regulations, title 22, section 66260.10 and regulated as a container under sections 66264.170 through 66264.179. DTSC permits the use of a tanker trailer as a storage container as long as the design and handling of hazardous waste management devices comply with the regulatory requirements, including those for secondary containment, inspections, compatibilities, facility closure and air emission.

**Comment #2-4**

***SECONDARY CONTAINMENT MUST BE PROVIDED BY IMPERVIOUS MATERIALS AND MUST CONTAIN THE VOLUME OF THE LARGEST STORAGE TANK IN THE AREA.***

*Title 22 regulations for secondary containment of tank systems require that containment be "sufficiently impervious" to contain leaks and spills. 22 CCR 66264.193(c)(2). The containment for the unloading and trailer storage areas uses the walls of the adjacent buildings as portions of the containment. These walls are made of cinderblock which is known to be porous. These walls would need to be sealed with a coating to make it impervious.*

**Response:**

DTSC has added a permit condition (Permit Part V., Special Condition S) to require application of a chemical resistant coating to the floor of the secondary containment system.

The new condition reads:

"S. The Permittee shall, within 60 days of the effective date of the Permit, apply a coating material to the containment area, which is compatible with the hazardous wastes to be managed in the containment area and is sufficiently impervious to contain leaks and spills."

## **Comment #2-5**

*The unloading area for used oil and the storage area for the 7,000 gallon tanker trailer will share containment if necessary. The containment areas are comprised of the walls of the buildings and various berms. Some of the berms allow flow between the two containment areas if liquid were to collect high enough in either one, while other berms would prevent flow from the overall containment area to the facility parking area. The title 22 regulations for secondary containment require that the containment have enough capacity to hold either 10% of the aggregate volume of all containers within its boundaries, or the capacity of the largest container, whichever is greater. See 22 CCR 66264.193(e). Here, the unloading area has containment capacity of 6,732 gallons, which is enough to hold a total release from the size of the truck that will be unloading in that area. However, the storage area for the 7,000 gallon tanker trailer has a containment capacity of 4,713 gallons, which is not enough to hold a total release from the tanker trailer. In the event of a total release from the tanker trailer, once the containment in the area of the trailer reached a certain level, it would overflow into the containment area for the unloading area.*

*The total capacity of the two containment areas is 11,445 gallons. The berm on the north end of the containment area for the 7,000 gallon trailer (which the trailer will drive over when arriving empty or leaving full) is only 6 inches high. The concern is that if there was a catastrophic release from the trailer a large amount of released liquid may flow over the berm and out into the parking lot, since the containment area for the trailer is quite narrow.*

## **Response:**

California Code of Regulations, title 22, section 66264.175 requires the secondary containment system to have sufficient capacity to contain 10% of the aggregate volume of all containers or the volume of the largest container, whichever is greater. The aggregate volume of the tanker trailer and tanker truck is 11,000 gallons. The largest container is the 7,000-gallon tanker trailer. The secondary containment system consists of the area between the two buildings and the area inside the 13736 Saticoy Street warehouse building. These areas are considered to be a single containment unit with a capacity of 11,445 gallons which is greater than the volume of the largest container.

## **Comment #2-6**

*PERMIT APPROVAL MUST BE CONDITIONED UPON AMERICAN OIL COMPANY OBTAINING A CONDITIONAL USE PERMIT FROM THE CITY OF LOS ANGELES.*

*DTSC must recognize that American Oil Company is required to obtain a conditional use permit from the City of Los Angeles. Pursuant to Chapter 1,*

*Article 2, Section 12.24 of the City of Los Angeles Municipal Code, American Oil, as a hazardous waste facility in a M2 zone, is required to obtain a conditional use permit, and must also be consistent with the Los Angeles County Hazardous Waste Management Plan and any other siting criteria adopted by the City. The County Plan or "CoHWMP" contains 27 siting criteria for hazardous waste facilities. CoHWMP Objective # 5 requires that the facility "operate in a manner which protects public health and the environment." CoHWMP Objective # 7 "encourages public involvement/participation in the planning, siting and permitting of hazardous waste management facilities." Based on the issues raised by CEH in this letter, American Oil Company would have the burden to show that it has complied with the conditional use permit requirements to obtain such a permit from the City of Los Angeles.*

**Response:**

The provisions in Part III.B.1 of the Permit make it clear that the issuance of the permit does not release AOC from obtaining all necessary permits and approvals from federal, local and other state agencies. A conditional use permit is generally required to authorize uses that are not routinely allowed at a particular site. Since AOC obtained a letter dated October 30, 2003 from the City of Los Angeles, Department of Building and Safety stating that the AOC's operation is a permitted use in an M2 Zone, AOC does not need a conditional use permit from the City of Los Angeles. DTSC has provided a copy of this letter to the commenter upon request.

**Comment #2-7**

*DTSC must provide the Spanish community with the project documents translated into Spanish. DTSC should extend the comment period and provide another community meeting following distribution of the project's documents into Spanish.*

**Response:**

See Response to Comment #2-1.

**Comment #2-8**

*The project should be modified to prevent hazardous waste from being stored in a truck trailer. Rather, American Oil Company should be required to store the waste in a tank that is subject to the requirements on tank storage as set forth in title 22, sections 66264.190 through 66264.195 of the California Code of Regulations.*

**Response:**

See Response to Comment #2-3.

**Comment #2-9**

*The walls for the trailer and storage areas must be sealed with a coating to make the walls impervious to the fullest extent practicable.*

**Response:**

See Response to Comment #2-4.

**Comment #2-10**

*DTSC must address the fact that the storage area for the 7,000 gallon tanker trailer has a containment capacity of 4,713 gallons, which is not enough to hold a total release from the tanker trailer.*

**Response:**

See Response to Comment #2-5

**Comment #2-11**

*The berm on the north end should be enlarged to provide greater protection.*

**Response:**

DTSC has determined that the height of the berm (six inches) on the north end of the container storage area is adequate to provide the required containment capacity. A berm of higher than six inches would hinder movement of the tanker trailer coming in and out the area.

**Comment #2-12**

*DTSC must conditionally approve the permit on the approval of the conditional use permit by the City of Los Angeles.*

**Response:**

See Response to Comment #2-6

**Commenter #3: David Waymire (Email dated May 22, 2006)**

*I have various concerns regarding the referenced draft hazardous waste permit and draft CEQA negative declaration that your agency proposes to issue for American Oil Company's facility in Van Nuys. These concerns are necessary (but not sufficient) for public safety and to prevent significant impacts to the community. Page number references are to the draft permit document:*

**Comment #3-1**

*Page 6 states that the permittee drives and parks a hazardous waste transport vehicle in the loading/unloading area. It does not exclude third-party trucks that could be used in this operation. The permit should explicitly state that third-party transport vehicles are not authorized for loading/unloading in Unit #1. Otherwise, there is no way to ensure that trucks entering the facility are in compliance with California laws. Diesel exhaust is a significant cause of lung cancer in California.*

**Response:**

The AOC facility is allowed to handle used oil only, regardless of whether the used oil is brought to the facility by AOC drivers or third-party transporters as long as the third-party transporters obtain and maintain valid hazardous waste transporter's registrations from DTSC. The number of vehicle trips in and out of the AOC facility is limited by the total volumes of waste handled at the facility. DTSC's environmental analysis was based on having a total of 20-30 vehicle trips per week (five trucks, 2-3 round trips per truck per week) and found that there would not be significant air emission from any diesel exhaust. Please see DTSC Initial Study, page 39.

"Activities Description" in Page 6 of the Draft Permit, the first sentence has now revised to read "Hazardous waste transporter vehicles (e.g. tanker truck) are driven and parked in the unit."

**Comment #3-2**

*Page 7 indicates that waste codes 221, 223, and 612 will be authorized for Unit #1, with the common name of "used oil." The permit should explicitly state that the only authorized household hazardous waste under code 612 is used oil. For example, it is my understanding that spent antifreeze is not authorized, and this should be clearly prohibited.*

**Response:**

The Draft Permit conditions in Part III,B.2 and Part IV (Waste Code and Waste Type) specifically limit AOC to accept, transfer or store waste streams containing

only used oil and solid waste contaminated with used oil. No changes to the permit will be made.

### **Comment #3-3**

*Page 8 describes the maximum permitted capacity for the used oil storage area at 7,000 gallons in one tanker trailer. However, there is no throughput limit on a daily or annual basis. It is my understanding that your agency typically includes throughput limits for California hazardous waste management facilities. Furthermore, the CEQA negative declaration cannot be supported unless there is a finding of no significant impact for all potential impacts, including the impact or risk associated with the number of tanker trucks traveling to/from the facility. The permit should explicitly state maximum daily and annual throughput limits for Unit #2. With 5 turnovers per day, the facility could theoretically process over 12 million gallons of used oil in one year, clearly a significant impact that would invalidate the CEQA negative declaration unless a throughput limit is imposed and stated in the permit.*

### **Response:**

While DTSC often imposes through-put capacities on facilities that treat hazardous wastes, such is not the case for storage/transfer operations. DTSC does, however, impose a maximum storage capacity at any one time at facilities based on facility layout, operating practice, and design capacity. In its review of these factors in the permit application for the AOC facility, DTSC concluded that the maximum permitted capacity for the used oil storage area to be 7,000 gallons in one tanker trailer at any one time. Operationally, up to five company-owned vacuum trucks leave the AOC facility in the morning to pick up used oil from generators located throughout Southern California, and arrive back at the AOC facility in the late afternoon to early evening. It typically takes approximately 1 to 2 hours for a vacuum truck to pump a load of used oil into the designated tanker-trailer. When full, the tanker-trailer is driven to a used oil recycling facility. At best, AOC can only turnover one tanker-trailer per day, and 20 trucks entering and leaving the facility for used oil collection and storage purposes. Based on these factors, DTSC concluded that potential impacts on human health and the environment based on this maximum storage capacity and truck trips would be less than significant. Any increase in turnover as suggested by the commenter would be pure speculation.

### **Comment #3-4**

*Page 10 describes the maximum permitted capacity for the solid waste storage area at 4.32 cubic yards in one tandem axle dump trailer. However, there is no throughput limit on a daily or annual basis. It is my understanding that your agency typically includes throughput limits for California hazardous waste management facilities. Furthermore, the CEQA negative declaration cannot be*

*supported unless there is a finding of no significant impact for all potential impacts, including the impact or risk associated with the number of hazardous waste trucks traveling to/from the facility. The permit should explicitly state maximum daily and annual throughput limits for Unit #3. With 5 turnovers per day and an estimated density of 60 pounds per cubic yard, the facility could theoretically process almost 500,000 pounds of hazardous waste per year, clearly a significant impact that would invalidate the CEQA negative declaration unless a throughput limit is imposed and stated in the permit.*

**Response:**

See Response to Comment #3-3.

**Comment #3-5**

*If any of these comments and requested changes are not accommodated, please then register my opposition to the CEQA negative declaration for this permit decision. The changes that I am requesting are necessary conditions to ensure that public impacts from the proposed operation are not significant.*

**Response:**

Comment noted.

**Comment #3-6**

*I appreciate your consideration of these comments, and I look forward to receiving your response to public comments once it is prepared. Also, please send me a copy of the final permit when it is issued, and let me know what steps to take in the event that I want to appeal any DTSC permit decision on this matter. You can correspond with me by e-mail or the return address on the first page of this letter.*

**Response:**

Each commenter will receive a copy of the Response to Comment and the Notice of Final Permit Decision. The permit appeal process will be explained in the Notice of Final Permit Decision. As requested, DTSC will also send a copy of the final permit to the commentor. The final permit is also available on DTSC's website and in the information repositories of the local libraries.

**Commenter #4: Jodi Smith of Paul, Hastings, Janofsky, & Walker LLP on behalf of DeMenno/Kerdoon (Letter dated May 22, 2006)**

**Comment #4-1**

*The following comments on the Draft Standardized Hazardous Waste Facility Permit ("Permit") for the American Oil Company ("American Oil") are being submitted on behalf of DeMenno/Kerdoon ("D/K"). D/K wishes to provide the following comments on this Permit in the context of DTSC's recent aborted effort to call in permit modifications for PCB testing at all in-state used oil transfer facilities. D/K believes that the requirement for PCB testing on each truck-to-truck transfer, without regard for the destination of the waste, would set a precedent for other transfer facilities. Implementation of this proposal at all in-state transfer facilities would adversely affect the California used oil industry and California consumers. D/K proposes that DTSC instead limit the mandatory PCB testing to all tankers of used oil that will be sent out of state. If the oil will be processed in-state at a permitted treatment and recycling facility, the oil should be tested at the in-state facility consistent with that facility's WAP. D/K also proposes that DTSC enhance compliance with Health and Safety Code Section 25250.09.*

*At D/K's Compton facility, each tank receiving used oil must be tested to determine whether the used oil contains less than 2 ppm PCBs. If a tank contains PCBs at a concentration of 2 ppm or greater, D/K must trace the source of the PCBs back to the individual shipment by testing samples that are collected from each of the incoming trucks prior to transferring their loads into a tank. If any of the individual loads contains PCBs at a concentration of 5 ppm or greater, D/K must dispose of the entire tank as PCB-containing hazardous waste.*

*In its recent call-in letters to used oil transfer facilities, DTSC sought to impose PCB testing requirements on storage tanks prior to shipment to recycling facilities that are similar to the PCB testing on truck-to-truck transfers that it now proposes at American Oil. The conditions requiring PCB testing for each truck-to-truck transfer in this Permit are of grave concern to D/K because requiring such testing for used oil that is destined for in-state recycling is unnecessary, highly impractical and would pose tremendous delays in routine used oil transportation.*

**Response:**

Used oil transfer facilities, such as AOC, are eligible to apply for a Standardized Permit with DTSC since used oil is not regulated as a RCRA hazardous waste under federal law. The California Health and Safety Code section 25250.1 excludes as "used oil" any oil containing more than 5 ppm of PCBs. Any used oil facility intending to receive used oil with more than 5 ppm of PCBs would not qualify for a Standardized Permit. Therefore, used oil transfer facilities must ensure that incoming shipments of used oil do not contain more than 5 ppm of

PCBs. DTSC recognizes that it would be difficult to have each incoming load of used oil tested for PCBs to ensure it does not contain greater than 5 ppm of PCBs. Instead, DTSC allows used oil facilities to test each outgoing load for PCBs at 2 ppm to account for the dilution factor.

These permit conditions are necessary to ensure that the used oil in the outgoing tanker trailer does not contain PCBs at a concentration of 2 ppm or greater. If the test result in the outgoing tanker trailer confirms that the used oil contains PCBs at a concentration of 2 ppm or greater, it would be necessary to test the representative sample taken from each tanker truck before it was unloaded into the tanker trailer to determine whether the used oil in any of the tanker trucks contained PCBs at a concentration at or above 5 ppm; and if it does, the entire tanker trailer would have to be shipped to a facility that is authorized to accept PCB-contaminated hazardous waste. These conditions are necessary to ensure that AOC is receiving the types of hazardous waste that it is authorized to receive, regardless of the final destination of the used oil.

These permit conditions are practical because testing of each incoming tanker truck is only required after the test result in the outgoing tanker trailer confirms that the used oil contains PCBs at a concentration of 2 ppm or greater.

These permit conditions also provide flexibility in that it allows AOC either to test the outgoing oil for PCBs or to instruct the receiving facility to test the tanker truck containing used oil load from AOC for PCBs. The used oil recycling facility must provide AOC with documentation that the load has been tested and does not contain greater than 2 ppm of PCBs. Used oil recycling facilities such as Industrial Services and Evergreen Oil are already testing used oil in each incoming truck before it is unloaded into the tanks.

#### **Comment #4-2**

*D/K understands that the proposed testing requirement is appropriate for oil that is being transported out-of-state because the standards for used oil are so much less stringent outside of California. However, imposing blanket PCB testing requirements on each transfer facility will discourage rather than encourage compliance with PCB testing requirements. Once a transporter drives to another state, the transporter is only required to meet the federal 50 ppb standard under TSCA. Deleting the option of sending the used oil to an in-state facility without testing will encourage transporters to flaunt the California regulations and ship waste out of state. As oil prices continue to increase with no end in sight, there is even more incentive for transporters to take oil out of state. Used oil can be used in a variety of ways under the federal regulations. Used oil can be reconditioned by removing impurities, introduced into a refining process as a feedstock to produce gasoline and coke, or processed and burned for energy recovery. Thus, oil that does not meet California standards for used oil and must be managed as a hazardous waste in California may be a valuable commodity in states with less*

*stringent environmental regulations. If DTSC requires testing on each tank or truck load that is transferred to another truck, transporters will be more likely to simply make the Section 25250.9 certifications and then haul the used oil to another state for recycling.*

*Under the proposed requirements included in American Oil's draft permit, if a truck is destined for in-state recycling, that truck would be required to sit idle at the transfer station until a sample of the used oil can be collected and tested. The practical reality is that in many cases, there will be a lapse of two to three days between the time a truck reaches a transfer station and the time the test results of the truck's contents are received. Any number of scheduling issues plays into this, including the timing of a truck's arrival and the analytical schedule and capacity of the contracted laboratory. In the meanwhile, the truck must remain idle and still loaded at the transfer facility until the testing is completed. Rather than wait up to several days for a load to be tested, the temptation will be to drive smaller trucks directly to a neighboring state to unload the oil. If this precedent is applied to tanks at transfer facilities, then bulking will not occur and individual trucks will be similarly incentivized to drive directly out-of-state. The end result of sending used oil with a high PCB content to other states is that an increasing proportion of used oil generated in California will be managed at out-of-state facilities with reduced environmental protections.*

*In addition, as more transporters take used oil out of the state without testing it for PCBs, there will be a huge negative economic impact on the transporters and recyclers who manage used oil in California. Inevitably, used oil meeting the recycled oil criteria will be trucked out of state by transporters unwilling to keep their trucks idle for several days while they wait for test results. As a result, California consumers will be impacted by higher costs for and reduced availability of recycled oil.*

**Response:**

DTSC is committed to enhanced enforcement of Health and Safety Code section 25250.9, but compliance of this section alone does not ensure that the incoming and outgoing loads of used oil meet the statutory limits for PCBs. The State Legislature, in enacting Health and Safety Code section 25250 et seq., recognizes that in spite of the potential for used oil recycling, significant quantities of used oil are improperly used by means that pollute the water, land and air, and endanger the public health and safety. DTSC has the statutory authority and mandate to impose permit conditions on a case-by-case basis to ensure that the operation of a used oil transfer facility provides adequate protection of the environment and public health. There are currently two other used oil facilities that have similar PCB testing requirements in their permits. There is no evidence that transporters avoid these facilities due to the PCB testing requirements, nor is there any evidence that these facilities intend to leave California due to PCB testing requirements. There is also no evidence

that California consumers would be impacted by higher costs for, or reduced availability of, used oil.

The commentor is mistaken that DTSC is requiring each incoming truck load of used oil to be tested for PCBs. The AOC permit only requires that each outgoing consolidated load of used oil be tested for PCBs. These permit conditions will have minimal impact on transporters bringing used oil to the AOC facility since incoming loads are not tested for PCBs. A sample from each truck load is retained and analyzed only if PCBs are later detected by the receiving facility. This is common practice for used oil transfer facilities. Additionally, these permit conditions should not impact transporters hauling used oil from the AOC facility since these transporters are either employed by AOC or contracted by AOC to provide transportation service.

With regard to the comment about "idling" trucks, the time spent in waiting for PCB determination is warranted to prevent a PCB-contaminated load from further cross-contaminating other loads or equipment. In stead of relying on the receiving facilities to test for PCBs, used oil transfer facilities can establish onsite laboratory testing procedures for PCBs, or contract with certified laboratories for PCB testing. At the AOC facility, there would not be any "idling" trucks because AOC plans to have the receiving facilities test for PCBs.

#### **Comment #4-3**

*Health and Safety Code Section 25250.9 was adopted to ensure used oil generators are informed that their used oil may be sent to an out-of-state facility that does not meet stringent hazardous waste management standards when choosing whether to process used oil at a California facility or to send the used oil to another state. This statute evinces the Legislature's desire to keep used oil in-state and managed as hazardous waste. California standards include secondary containment, waste composition analysis and financial assurances. This legislative policy has helped prevent used oil from being dumped and it has successfully promoted used oil recycling. Enhanced enforcement of Section 25250.9 would ensure that all used oil is properly tested at California treatment and recycling facilities, making it unnecessary to test used oil at transfer facilities unless that oil will be transported to another state.*

*Additionally, D/K takes issue with the alternative testing condition set out in the permit. Specifically, it is impractical and unnecessary to require receiving facilities to test American Oil's used oil for PCBs as stated in Section V.I.2.b. Permitted California treatment and recycling facilities are required to test the used oil in accordance with their WAPs. D/K is opposes the imposition of different testing requirements on California treatment and recycling facilities as proposed in American Oil's Permit. This is inconsistent with the facilities existing permits and will result in the receiving facility being required to comply with two overlapping sets of PCB testing requirements. As noted above, the draft permit*

*should acknowledge the existing in-state management scheme and allow waste to be tested at permitted in-state facilities pursuant to the facility WAP. It may make sense to require out-of-state facilities to test individual trucks because the oil could legally be commingled with high PCB oil. However, it may make more sense to simply require trucks bound for out-of-state facilities to be tested on a truck by truck basis. This especially true given California's lack of jurisdiction over out-of-state facilities.*

**Response:**

As pointed out in Response to Comment #4-2, DTSC is committed to enhanced enforcement of Health and Safety Code section 25250.9, but compliance of this section alone does not ensure that the incoming and outgoing loads of used oil meet the statutory limits for PCBs. The requirements in Section V.1.2.b of the permit serve two purposes. First, it provides an alternative to AOC if it chooses to have the receiving facility test the used oil for PCBs. Second, these procedural requirements are necessary to maintain consistency in the testing for PCBs conducting by the receiving facilities. A transfer facility, such as AOC, can ask a receiving facility to agree to these testing procedures which are in addition to the facility's waste analysis plan (WAP); it is part of the business arrangement and customer service that a receiving facility can agree to provide to a transfer facility. The purpose of a WAP is to impose the minimum testing requirements to ensure that the facility is receiving the types of hazardous waste the facility is authorized to receive. Unless a receiving facility's WAP prohibits the PCB-testing procedures required by this permit, there should not be any conflict or inconsistency between the WAP and the testing procedures required by this permit. The receiving facility may choose to apply for a permit modification to include the additional testing procedures for PCBs, but it would not be required to do so. DTSC has reviewed the WAPs for the facilities that are authorized to receive used oil in California and has not found any conflict or inconsistency.

**Comment #4-4**

*As a practical matter, truck-to-truck transfers only occur when a transporter is taking used oil out of state. Consequently, requiring PCB testing on truck-to-truck transfers, such as DTSC proposed to require at the American Oil transfer facility, may not affect the in-state management of used oil. However, D/K is concerned that if DTSC does not acknowledge the in-state option of having used oil tested at the treatment and/or recycling facility, then it will set the precedent for applying these standards to transfer facilities. D/K is also very troubled by the proposal to change practices at existing in-state facilities. This is either ill-conceived or a back door attempt to change existing facility WAPs without associated permit modifications. In either event, it is bad policy. A better model for enforcement would be to expressly require PCB testing requirements only on used oil that is destined for transport to an out-of-state facility.*

*D/K greatly appreciates your consideration of these comments.*

**Response:**

It is incorrect to state that truck-to-truck transfers only occur when a transporter is taking used oil out of state. AOC will conduct truck-to-truck transfers as it consolidates truck-loads of used oil before sending the consolidated load to a receiving facility. DTSC understands that AOC intends to send the consolidated loads to an in-state recycling facility. Other used oil transfer facilities such as the Evergreen Oil facility in Carson may occasionally conduct truck-to-truck transfers before sending the consolidated load to an in-state recycling facility.

DTSC does acknowledge the in-state option of having the used oil tested at the treatment and/or recycling facility. That is why DTSC allows for the flexibility of having the receiving facility conduct the PCB testing and provide AOC with documentation that the consolidated used oil load has been tested and confirms that it does not contain greater than 2 ppm of PCBs.

The conditions in Part V.I.2. of the permit are not intended to change practices at existing in-state facilities, nor are they a back door attempt to change existing facilities' WAPs without associated permit modifications. As discussed in previous responses, these conditions are imposed on a case-by-case basis to ensure that an used oil transfer facility such as AOC is receiving the types of hazardous waste that it is authorized to receive, regardless of the final destination of the used oil, and to ensure that AOC's used oil transfer operation provides adequate protection of the environment and public health. D/K may choose to follow the requirements in Part V.I.2.b of the permit as part of the business arrangement with AOC. D/K may choose to apply for a permit modification to include the additional testing procedures for PCBs, but it would not be required to do so because DTSC does not believe these procedures conflict with the current WAP requirements.

Commenter #5: Michael Freund (The following comments were excerpted from the transcript of the public hearing held on May 10, 2006 at the Panorama City Public Library. Mr. Michael Freund was the only speaker at the public. Mr. Freund reiterated his written comments to DTSC. The responses to Mr. Freund's comments at the public hearing makes reference to DTSC's responses to Mr. Freund's written comment above.)

**Comment #5-1**

*I am a private public interest attorney. I work in Berkeley. One of my clients is the Center for Environmental Health. They have a number of concerns that they wanted to have put on the record tonight, and I'll go through those.*

*The Center for Environmental Health has done a lot of work throughout the state*

*of California on toxics and has focused their efforts in reducing toxic effects on the environment and on human health. They've done a lot of consumer cases involving carcinogens and reproductive toxins. They've also done a lot of air cases involving similar chemicals under Proposition 65, and have been one of the main groups in the state that have had tremendous results in reducing toxic chemicals and exposures to people. They've done a tremendous job. They're very well respected throughout the state.*

*The Center for Environmental Health has a number of concerns about this particular project. The first one really has to do with the way in which people were contacted and not contacted. This, the setting of the project involves an area that is primarily Hispanic. The, the research that we found showed that the, the Ranchito Elementary School is about .6 miles from the facility, and based on the Los Angeles Unified School District information student population there is 77.7 percent Hispanic. Driving around today and looking at the people who comprise the neighbors around the facility, it's clear to me that the neighborhood is overwhelmingly Hispanic.*

*And the reason why we're concerned about it is really the threshold of public participation and input. Here tonight I am the only speaker. The community is, is not here, and that's disappointing. That's, while I did not expect many people to be here, there should be some who would be able to raise some questions and concerns, or simply to put their comments on the record.*

*The project documents have been put into English and not Spanish, and I believe that to the greatest extent practicable, in a situation like this one where the area is primarily Hispanic, it would serve DTSC's goals in achieving public participation to put as much notice of this hearing in Spanish and to put as much of the project documents in Spanish as can be done. My understanding is that the project documents were not put into English, and in my written comments I have some citations about some cases and even, even the DTSC principles on furthering environmental justice would support having as much Spanish language in the documents and notices as possible.*

*And I think that could help bring in some people to, to be here. And I, I hope that that concern is taken very seriously, not only in this matter but in any matter. And it's, it's really just going to the neighborhood and, and I know that we, we talked yesterday, Mr. Cruz, about -- or recently about this issue, and you had mentioned that you had gone to speak to some people in the neighborhood and you spoke to them in Spanish and they answered you in English. I think while that's good that you did that, I don't think it's scientifically valid in terms of how many people really are out there who just speak Spanish and, and not -- or, or don't speak English as a primary language and would benefit from Spanish materials, especially on matters that get a little bit more technical, I think that would be really important.*

*So for those reasons, we believe that, that the project as proposed is, is flawed. And we hope you look at that seriously and, and revise your approach so that we do get people here who are Spanish speaking.*

**Response:**

See Response to Comment #2-1

**Comment #5-2**

*The second comment has a lot to do with why the Center for Environmental Health is interested in the case, and that is that the project proponent has a lot of history that indicates many violations of statutes and regulations regarding hazardous waste. In their short history since the year 2000, the enforcement order goes through quite a number of incidents that raised our concern, namely -- and these, these started taking place very shortly after the company started operating at this site. The enforcement order has a number of violations.*

*One includes the falsification of statements of waste on four occasions, and on one occasion falsely stating that the waste was oil and water in a tanker truck. That took place between July of 2000 and November of 2001. Making false statements is not something that gives us a lot of confidence that the company will comply with laws unless they are extremely monitored and scrutinized.*

*The, the next set of occasions were five between June of 2000 and October of 2001, where the company violated Title 22, Section 66263.23 of the California Code of Regulations, delivering used oil mixed with contaminated petroleum products and/or waste solvents to a hazardous waste facility that was not, not authorized by DTSC to receive such waste. And on those five occasions, American Oil took waste including ignitable solvents, gasoline, Stoddard solvent, ignitable fuel and gasoline to a, a non-authorized facility.*

*The next set of, of violations took place between September of 2000 and September of 2001, and they were two separate occasions whereby the company was found to be in violation of the Health and Safety Code, Section 25189.2, subdivision (c). And there they disposed of drums of non-RCRA hazardous waste at an unauthorized location. Also goes to what confidence do we have that this company will continue to follow and be a good neighbor, follow the, the laws that DTSC has.*

*The next set of violations took place between July 24, 2000 and November 8th, 2001, where four separate occasions where the company violated the Health and Safety Code again, this time Section 25250.7, subdivision (a), by intentionally contaminating used oil with other hazardous waste. In particular, the company picked up various solvents, flammable gasoline, flammable fuel and water with pyrotechnics from various generators on four separate dates and delivered the*

*used oil contaminated with these substances to the TSDF.*

*On another set of occasions, they were found to be in violation of Title 22, 66263.21 of the California Code of Regulations, subsection (a)(1). In September of 2001, the company failed to deliver to the designated facility listed on the manifest the entire quantity of hazardous waste that it had picked up.*

*Next, a violation of the Health and Safety Code, Section 25201, subdivision (a). Between November 3 of 2001 and December 28 of 2001, the company stored hazardous waste in excess of the ten-day period allowed under the transfer facility exemption, and there were four manifests involved in that.*

*I mean, these are, these are simple rules of operation that the company, that are not difficult to follow. And, you know, being in a residential area I think it's, it's even more important to, to do everything by the book, especially when they're not that difficult to do.*

*And then the last set of violations as set forth in the enforcement order are violations of Health and Safety Code Section 25201, subdivision (a), and there were four occasions between July of 2000 and November of 2001. The company stored hazardous waste without a permit or authorization from DTSC without qualifying for the ten-day transfer facility exception. On three of those occasions American Oil picked up hazardous waste in a drum that was delivered to the TSDF in a tanker truck, and on occasion picked up hazardous waste in a pick-up truck that was delivered to the TSDF in a tanker truck.*

*The company was fined \$204,900 by DTSC. The, the reason I'm going through all these, to us it indicates that there was a, a substantial pattern, not just one incident but many incidents, some of which involved falsification, misrepresentation, and, and many violations.*

**Response:**

See Response to Comments #2-2

**Comment #5-3**

*This, this project is set in, on a street that has other companies, businesses, but in back of, of those are where the residential neighborhood begins. To the north there are hundreds of homes along three major streets, those streets being -- Clearfield is the first one to the north, and my estimate today when I went out to the area was that those homes are only about 60 yards away. Then there's another street called Peachtree, and that's parallel to the first one, and then Ranchito. So there were three, maybe four streets parallel to one another, going from south to north. Hundreds of people live there.*

*There's also another street called Cherry Stone, which is off of Clearfield, which kind of parallels Saticoy, as well. And then to the south there's an apartment along Woodland, and that's, that's to the south of the railroad tracks. But there's also a, a retirement center that's very close, perhaps 100 yards, and that's on Woodland. And it's, it's a little bit north and east of the facility. And then there are some other apartments along Woodland to the north. So there are a lot of people who live here, even though at first blush it looks like it's just a commercial area. It's, it is more than that if, if you walk the area and see that these, these homes are closer than you think.*

**Response:**

See Response to Comments #2-6

**Comment #5-4**

*CEH has three more concerns. This is getting into the particular project itself, and they are spelled out on pages four and five of the letter. The first, the first one is that the, the permit is deficient in allowing the hazardous waste to be stored in a truck trailer instead of a tank. The, the point here is that the tank has, is much safer and, and contains much more higher standards regarding corrosion, engineering, seismic evaluation, bolting, secondary containment, operating requirements, spill and overfill prevention controls, and inspections, which are set forth in California Code of Regulations, Title 22, Section 66264.190 to 195, and having a, a -- the waste stored in a truck trailer does not provide all those protections. So in terms of, of the mitigation measure, that should be looked at.*

**Response:**

See Response to Comments #2-3

**Comment #5-5**

*The next point is the secondary containment must be provided by impervious materials and must contain the volume of the largest storage tank in the area. And Title 22 regulations for secondary containment of tank systems require that the containment be sufficiently impervious to contain leaks and oils. The containment for the unloading and trailer storage areas uses the walls of the adjacent building as portions of the containment. We believe, maybe we can have some feedback or in your written response you can let us know, that they're made of cinderblock. If that's true, cinderblocks are, they're more porous, so our suggestion would be that the walls would need to be sealed with some coating to make it impervious. So that, that could be looked at.*

**Response:**

See Response to Comment #2-4

**Comment #5-6**

*The next point in this section is that the – it gets a little bit more technical in terms of the, the number of gallons, and I'd like to read this portion to you. "The unloading areas for used oil and storage area for the 7,000 gallon tanker trailer will share containment, if necessary. The containment areas are comprised of the walls of the buildings and various berms. Some of the berms allow flow between the two containment areas if liquid were to collect high enough in either one, while other berms would prevent flow from the overall containment area to the facility parking area."*

*I think we would agree on all that.*

*"The Title 22 regulations for secondary containment require that the containment have enough capacity to hold either ten percent of the aggregate volume of all containers within its boundaries, or the capacity of the largest container, whichever is greater."*

*And I provide -- the citation to the California Code of Regulations is here, Section 66264.193(e). "Here, in this case, the unloading area has the containment capacity of 6,732 gallons, which is enough to hold a total release from the size of the truck that will be unloading in that area. However, the storage area for the 7,000 gallon tanker trailer has a containment capacity of 4,713 gallons, which is not enough to hold a total release from the tanker trailer. In the event of a total release from the tanker trailer, once the containment in the area of the trailer reached a certain level, it would overflow into the containment area for the unloading area."*

*The last point on, on this topic is, is that the berm on the north end of the containment area for the 7,000 gallon trailer is only six inches high. Perhaps that's not enough. It should be looked at.*

**Response:**

See Response to Comment #2-5

**Comment #5-7**

*The -- and finally, the City of Los Angeles has a conditional use permit process which the company must go through. They must apply for a conditional use permit as part of, of their operations and their project proposal here. And we've, we've looked into some of those requirements and some are similar to what you*

*should be looking at, as well. And it goes back to the initial comments that I made that to encourage public involvement and participation in the planning, siting and permitting of hazardous waste management facilities, that is a major objective of this county hazardous waste management plan, as well as operating in a manner which protects the public health and the environment. Which is, of course, what you're looking, your interest is in, as well.*

*So the, the company is going to have to apply for a CUP and we're, we're asking that the, this project approval be conditioned upon the successful application of the conditional use permit being granted by the city after they've had an opportunity to look at it.*

**Response:**

See Response to Comment #2-6

**Comment #5-8**

*We've made six recommendations on page five, and just to conclude these comments, that -- the one that the, the comments, the documents be provided in Spanish, and that we believe will facilitate more public participation. And that the comment period should -- DTSC should extend the comment period and provide another community meeting following distribution of the project's documents into Spanish.*

*Second, that the project should be modified to prevent hazardous waste from being stored in a, in a trailer, should be stored in a tank subject to the stricter requirements.*

*Third, that the storage areas be sealed to make the walls impervious.*

*Fourth, that DTSC should look at the issue of the storage area and whether there's enough containment capacity.*

*Fifth, the berm on the north end should be enlarged. '*

*And sixth, to condition approval of the project conditioned on the company obtaining their conditional use permit from the City of Los Angeles.*

*Thank you for the opportunity to speak to you on behalf of the Center for Environmental Health.*

**Response:**

See Response to Comments #2-7 to #2-12.

**Comment #5-9**

*Oh, one last request. If, if you can provide me with the mailing list for this hearing, because it is, it is a concern that nobody is here to, to -- so we can just take a look at it, and also perhaps we can also offer some suggestions, if we have any, on that for the future, so that we do have some meaningful participation by the community. Thank you.*

**Response:**

DTSC has already provided a copy of the mailing list to Mr. Freund.