

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Arco AM/PM #82860
1025 Kloke Road
Calexico, CA 92231

EPA I.D. No.CAL000336606

Respondent.

Docket HWCA SCUPA 2014 IM007

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control Imperial Certified Unified Program Agency (Department) and Arco AM/PM #82860 (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent, operates an underground storage tank (UST) facility at the following site: 1025 Kloke Road, Calexico, CA (Site).

1.3. Inspection. The Department inspected the Site on November 12, 2013.

1.4. Authorization Status. Respondent has a valid underground storage tank (UST) operating permit 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:

2.1.1. Respondent violated Health and Safety Code section 25290.1 in that on or about November 12, 2013, Respondent failed to properly position the leak detection sensor in the two unleaded fill sumps.

2.1.2. Respondent violated Health and Safety Code section 25292.2, in that on or about November 12, 2013, Respondent failed to maintain evidence of Financial Responsibility while operating a UST facility.

2.1.3. Respondent violated Health and Safety Code section 25291, subdivision (e), in that on or about November 12, 2013, Respondent failed to keep the middle unleaded gasoline sump clear from debris and liquid while operating a UST system.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. This violation has been corrected to the satisfaction of the Department.

3.1.2. This violation has been corrected to the satisfaction of the Department.

3.1.3. This violation has been corrected to the satisfaction of the Department.

Respondent has corrected the violation set forth above.

Respondent shall operate hereafter in a manner that shall prevent recurrences of the violation 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. Respondent shall pay the Department a total penalty of \$10,540.00. Of the total due, \$2,000.00 is a monetary penalty, \$8,540 shall be deferred provided Respondent does not have any Class I violations within one years of the date of this Order, as determined by a re-inspection by the Department any time during the one year time period. The monetary penalty shall be paid within one year of the date of this Order.

5.2. 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: 4-14-14

Original signed by Nasir Wali
Nasir Wali
Respondent

Dated: 4-14-14

Original signed by Roger Vintze
Roger Vintze
Department of Toxic Substances Control