

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Docket HWCA SCUPA 2011 IM004

Burrtec Waste Industries, Inc.
9890 Cherry Avenue
Fontana, Ca 92335

CONSENT ORDER

Health and Safety Code
Section 25187

EPA I.D. No.CAC002673020

Respondent.

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control Imperial Certified Unified Program Agency (Department) and Burrtec Waste Industries, Incorporated (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent, received, handled, and disposed hazardous waste at the following site: 935 West Highway 86, Salton City, Imperial County (Site)

1.3. Inspection. The Department inspected the Site on June 18, July 29 and August 16, 2011 and on various dates thereafter.

1.4. Authorization Status. Respondent does not have a State permit, certificate, registration, authorization, or interim status to manage hazardous waste 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 contends that it received such waste from a third party which did not disclose the hazardous waste nature of such waste. 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 25201(a), in that on or about May 6, 11, 12 and twice on May 13, 2011 for a total of five separate instances, Respondent did accept a California-regulated hazardous waste, tire fluff bi-product from an auto tire recycling operation, consisting of polyester sidewall reinforcing fiber, pieces of steel reinforcing belting and incidental tire rubber dust totaling 80 tons, into the Salton City Landfill.

2.3. Respondent violated Health and Safety Code Section 25201(a), in that on or about May 6, 11, 12 and twice on May 13, 2011 for a total of five separate instances, Respondent did allow the disposal of a California-regulated hazardous waste, tire fluff bi-product from an auto tire recycling operation, consisting of polyester sidewall reinforcing fiber, pieces of steel reinforcing belting and incidental tire rubber dust totaling 80 tons into the Salton City landfill.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1 Respondent has corrected the violation set forth above. Respondent shall operate hereafter in a manner that shall prevent recurrences of the violation cited herein.

3.1.2. 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 \$52,500.00. Of the total due, \$26,500.00 is a penalty. The Department shall be reimbursed \$10,000 for their administrative costs. It is understood by the parties that this amount may differ from the actual costs incurred by the Department in overseeing these activities or in implementing this Consent Agreement. Finally, \$16,000 shall be a credit for a Supplemental Environmental Project (SEP). The penalty shall be paid to the Department no later than 30 days of the effective date of this Order.

5.2. Supplemental Environmental Project: Respondent has agreed to plan, organize, implement, remove and dispose of any hazardous wastes collected at a household hazardous waste collection within the Salton Community Service District area, Imperial County area, not to exceed \$16,000.00 in costs reflected as a credit to this settlement. Respondent must first provide within 30 days of the effective date of this Order a written plan (Plan) to the Department describing the steps in which the household hazardous waste collection event(s) will occur, providing estimated itemized costs for the implementation of the household hazardous waste collection and the eventual removal of hazardous wastes collected from the Site to an approved facility(s). Upon the conclusion of the household hazardous waste collection event(s) Respondent must provide to the Department within 60 days the itemized costs for the event(s), maintaining receipts for the Department to review upon request. The first household

hazardous waste collection event must occur within 120 days of the effective date of this Order. The Plan is subject to the approval of the Department prior to implementation. Any portion of the \$16,000.00 credit which is not spent as itemized in the Plan for the household hazardous waste collection event(s) will be remitted to the Department of Toxic Substances Control within 60 days of the conclusion of the scheduled household hazardous waste collection event(s) and shall identify the Respondent and Docket Number, as shown in the caption of this case,.

5.3. Respondent's check(s) for the penalty 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 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:

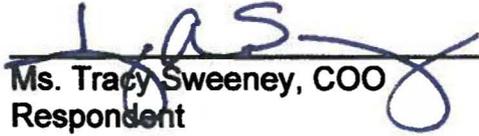
Roger Vintze
Branch Chief
DTSC Imperial CUPA
627 Wake Avenue
El Centro, California 92244

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: 5-20-13


Ms. Tracy Sweeney, COO
Respondent

Dated: 5/23/13


Roger Vintze
Department of Toxic Substances Control