

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Docket SCUPA 2014 IM004

Calexico Unified School District
1085 Andrade Ave
Calexico, California 92231

CONSENT ORDER

Health and Safety Code
Section 25187

EPA I.D. No. CAL000143475

Respondent.

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control Imperial Certified Unified Program Agency (Department) and Calexico Unified School District (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generated and handled hazardous waste at the following site: 1085 Andrade Ave, Calexico, Imperial County (Site).

1.3. Inspection. The Department inspected the Site August 6, 2013.

1.4. Authorization Status. Respondent has a certificate to manage hazardous waste at the Site.

1.5. Jurisdiction. Health and Safety Code, section 25404.1.1, 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 25201 in that on or about June 10, 2008, Respondent stored a total of two 55-gallon drums of used oil, a California-regulated hazardous waste; on or about November 25, 2008, one 55 gallon drum of waste antifreeze; on or about August 18, 2011, two 55 gallon drums of used oil and one 55 gallon drum of waste antifreeze; on or about August 6, 2013, one 250 gallon tote of used oil with no accumulation start date; two 55 gallon drums of oily sludge without authorization by the Department.

2.1.2. Respondent violated California Code of Regulations, title 22 section 66265.173, in that on or about August 6, 2013, Respondent failed to keep closed except when adding or removing hazardous wastes one 250 gallon tote of used oil, one 55 gallon drum of used oil, one 55 gallon drum of waste antifreeze, and two 5 gallon buckets of used oil filters.

2.1.3. Respondent violated California Code of Regulations, title 22, sections 66265.34, in that on or about August 6, 2013, Respondent failed to properly label one 250 gallon tote of used oil, one 55 gallon drum of used oil, one 55 gallon drum of waste antifreeze, four 55 gallon drums of unidentified material, one 55 gallon drum of used oil filters, and two 5 gallon buckets of used oil filters

2.1.4. Respondent violated California Code of Regulations, title 22, section 66265.31, in that on or about August 6, 2013, Respondent disposed into the secondary containment used oil. Used oil is a California-regulated hazardous waste.

2.1.5. Respondent violated Health and Safety Code section 25503.5, in that on or about August 6, 2013, Respondent did not maintain or have accessible a hazardous material business plan.

2.1.6. Respondent violated Health and Safety Code, section 25504(c), in that on or about August 6, 2013, Respondent did not develop and implement a training program that addressed all required elements found in Health and Safety Code, section 25504(b).

2.1.7. Respondent violated Health and Safety Code section 25270.4.5(a), in that on or about August 6, 2013, Respondent did not prepare a Spill Prevention Control and Countermeasures plan in accordance with Part 112 (commencing with section 112.1) of Subchapter D of Chapter 1 of Title 40 of the Code of Federal Regulations.

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.

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

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

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

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

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.

4.8. 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 \$26,500. Of the total due, \$10,000 is a penalty; \$16,500 shall be a credit for Supplemental Environmental Projects (SEP) as described below. The \$10,000 penalty shall be paid to the Department no later than 60 days of the effective date of this Order.

5.2. Supplemental Environmental Projects.

5.2.1. Respondent shall pay \$10,000 within 60 days of the effective date of this Order to the California Compliance School to schedule training within 120 days of the effective date of this Order.

5.2.2. Respondent agrees to an additional SEP, subject to the sole approval of the Department, of \$6,500 to be completed no later than 120 days from the effective date of this Order. If any proposed SEP is not approved by the Department within 120 days from the effective date of this Order, Respondent shall remit, within 130 days from the effective date of this Order, the \$6,500 to the Department in the same manner as described in Paragraph 5.3 of this Order.

5.2.3. Any SEP submitted to the Department by the Respondent must itemize the estimated costs to be incurred. The Department reserves the right to review and disallow estimated costs as unreasonable. All determinations by the Department of

reasonable costs are final.

5.2.4. Any penalty monies not used upon completion of the SEPs must be returned to the Department within 30 days of the Department declaring to the Respondent that the SEPs have concluded. Any unused monies will be sent to the Department as described in Paragraph 5.3 of this Order.

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 92243

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.

