

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Docket HWCA SCUPA 2013 IM003

Desert Auto Plaza
634/664 Thomas Lane
El Centro, CA 92243

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 Desert Auto Plaza (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: 634 and 664 Thomas Lane, El Centro, CA (Site)

1.3. Inspection. The Department inspected the Site on May 13, 2011, October 3, 2012, and November 7, 2012.

1.4. Authorization Status. Respondent does have a certificate 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 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, in that on or about May 13, 2011, Respondent disposed a California-regulated hazardous waste, a total of eight aerosol cans and one 2.5-gallon antifreeze container into the trash.

2.3. Respondent violated Health and Safety Code Section 25201(a), in that on or about October 3, 2012, Respondent stored at least 12 aerosol cans, a California-regulated hazardous waste in a plastic bag that was open and without a hazardous waste label affixed to the plastic bag.

2.4. Respondent violated Health and Safety Code Section 25201(a), in that on or about October 3, 2012, Respondent failed to write on a hazardous waste label the date in which hazardous wastes were first being accumulated, the content, name and address of generator, and the physical state of the hazardous waste on the hazardous waste label on a 200-gallon capacity used oil filter metal container.

2.5. Respondent violated Health and Safety Code Section 25201(a), in that on or

about May 13, 2011, Respondent failed to affix hazardous waste labels on ten, five-gallon capacity plastic pails containing used oil filters, a California-regulated hazardous waste.

2.6. Respondent violated California Code of Regulation, title 22, section 66265.173 in that on or about October 3, 2012, Respondent failed to keep closed a 200-gallon hazardous waste container of used oil filters, a California-regulated hazardous waste.

2.7. Respondent violated California Code of Regulation, title 22, section 66265.173 in that on or about May 13, 2011, Respondent failed to keep closed except when adding or removing hazardous wastes ten, 5-gallon plastic pails containing used oil filters and used fuel filter, a California-regulated hazardous.

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 \$15,160.00. Of the total due, \$10,160.00 is a penalty. A \$5,000 credit shall be a for a Supplemental Environmental Project (SEP) whose curriculum is subject to the approval of the Department. 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 shall provide hazardous

waste management training to Imperial County students enrolled in an automotive technician class. Respondent's reimbursable costs cannot exceed \$5,000.00 as a credit to this SEP. Respondent must provide within 30 days of the effective date of this Order a written plan (Plan) which describes the curriculum and provides estimated itemized costs for the hazardous waste management training. The Plan must be submitted to the Department for approval. If the Plan is not approved by the Department within 60 days of the effective date of this Order, Respondent shall immediately remit the \$5,000.00 credit to the Department. Within 30 days after the completion of the training Respondent must provide to the Department the itemized actual costs for the event(s), maintaining receipts for the Department to review and approve. Any residual SEP monies not spent, as solely determined by the Department, must be remitted to the Department within 30 days of the Department completing the review of the actual costs of the training. Any portion of the \$5,000.00 credit which is not approved by the Department in the Plan will be remitted to the Department within 30 days of the conclusion of the scheduled hazardous waste training event. Any monies remitted by Respondent shall include the payment voucher which will include the Docket Number, as shown in the caption of this case.

5.3. 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: 1-10-14

Original signed by David Merrill



David Merrill
Respondent

Dated: 1-10-14

Original signed by Roger Vintze



Roger Vintze
Department of Toxic Substances Control