

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Docket SCUPA 2015 IM001

Elms Equipment Rental, Inc.
580 East Dealwood Road
El Centro, California 92243

OAH: 2016020177

CONSENT ORDER

EPA I.D. No. CAL000366527

Health and Safety Code
Section 25187

Respondent.

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control Imperial Certified Unified Program Agency (Department) and Elms Equipment Rental, Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent conducts business at the following site: 580 Dealwood Road, El Centro, California 92243 (Site).

1.3. Inspection. The Department inspected the Site on November 2, November 3 and December 7, 2011.

1.4. Authorization Status. Respondent has been issued a certificate from the department and is a generator of hazardous waste.

1.5. Jurisdiction. Health and Safety Code, sections 25187 and 25404.1.1, authorize 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. This Order shall not be deemed as an admission of the violations alleged below.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondent violated Health and Safety Code section 25201 and 25189.2 in that on or about November 2, November 3 and December 7, 2011, Respondent caused the disposal of treated wood waste an unauthorized location;

2.1.2. Respondent violated Health and Safety Code sections 25510 in that on or about November 2, November 3 and December 7, 2011, Respondent caused the release of treated wood waste, a hazardous material and a California-regulated hazardous waste;

2.1.3. Respondent violated Health and Safety Code sections 25187(a)(1) and 25189.2 and California Code of Regulations, title 22, section 66265.31 in that on or about November 2, November 3 and December 7, 2011, Respondent

failed to maintain and operate its facility in a manner that minimized releases of hazardous waste (treated wood waste) or hazardous constituents to soil which could threaten human health or the environment;

2.1.4. Respondent violated California Code of Regulations, title 22, section 66265.16, in that on or about November 2, November 3 and December 7, 2011, Respondent failed to provide any hazardous waste training specific to treated wood waste to their employees prior to the management of the utility poles as resizing was undertaken by Respondent employees.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

Within six months of the execution of this Order, Respondent shall enter into a Voluntary Cleanup Agreement with the Department to provide oversight of a qualified independent third party to investigate and remove any remaining treated wood waste where the processing of the utility poles occurred.

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 \$24,000. The \$24,000 penalty shall be paid to the Department in monthly payments of \$2,000 per month commencing 30 days of the effective date of this Order using the attached Payment Voucher. All payments must be made within 12 months from the date of this Order.

5.2. 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
Environmental Program Manager I (Supervisor)
DTSC Imperial CUPA
627 Wake Avenue
El Centro, California 92243

5.3. 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. There is no penalty for prepayment of the full penalty within 12 months of the effective date of this Order.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: 6/10/16

adY S^eY WTkElms Respondent

Elms Equipment Rental, Inc.
Respondent

Dated: 6/10/16

original signed by Roger Vint

Roger Vintze
Department of Toxic Substances Control