

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Imperial Premix Co., Inc.
330 West Aten Road
Imperial, California 92251
CAC002593841

Respondent.

Docket HWCA No. SCUPA 2009 IM002

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 Imperial Premix Co., Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates and handles hazardous waste at the following site: 330 West Aten Road, in the City of Imperial, County of Imperial (Site).

1.3. Inspection. The Department inspected the Site on May 7 and May 14, 2008.

1.4. Authorization Status. Respondent is a generator of hazardous waste.

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 California Code of Regulations, title 22, section 66262.11(a) in that on or about May 7, 2008, Respondent failed to make a hazardous waste determination of at least four waste piles deposited on the soil.

2.1.2. Respondent violated Health and Safety Code section 25201(a) in that on or about May 7, 2008, Respondent stored hazardous waste containing Zinc and Copper on the soil in at least two waste piles at the Site without a permit or other grant of authorization from the Department.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Respondent has not corrected the violations set forth above and as such Respondent shall enter into a Consent Agreement within 30 days from the effective date of this Order with the Department of Toxic Substances Control. The Consent Agreement is to investigate the lateral and vertical extent of contamination of the waste piles and the lateral and vertical extent of contamination resulting from releases by the waste piles at the site. The Department will contact the Respondent to begin the process of securing the Consent Agreement within 10 days of this Order becoming effective.

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.

3.1.3. Submittals: All submittals from Respondent pursuant to this Order shall be sent to:

Jesus Torres
Senior Hazardous Substance Scientist
DTSC Imperial CUPA
301 Heber Avenue
Calexico, California 92231

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 \$28,000. Of the total due, \$10,000 is a penalty; \$5,000 will be a credit for Respondent or designee, to attend a school approved by the Department, that teaches hazardous waste management; and, \$13,000 shall be a credit for a Supplemental Environmental Project (SEP).

5.2. Supplemental Environmental Project: Respondent has agreed to a \$13,000 SEP to be paid to the Hazardous Incident Response Committee (HIRC) for the creation of a training and/or equipment fund used to provide Federal, State and local agency personnel training in emergency response or for the purchase of equipment. Within thirty (30) days of the effective date of this Order Imperial Premix Co., Inc. shall create a

fund entitled the, "HIRC Environmental Compliance Fund" (Fund) for the express purpose of providing Federal, State, and local agency personnel training in emergency response or in the purchase of equipment. Imperial Premix Co., Inc. shall deposit the sum of thirteen thousand dollars (\$13,000) into the Fund and the accounting shall be administered by Imperial Premix Co., Inc. The monies within the Fund will be authorized for disbursement through the HIRC and disbursed by check by Imperial Premix Co., Inc. to the recipients as designated by the HIRC. The HIRC will authorize the disbursement of monies by Imperial Premix Co., Inc. from the Fund by a majority vote of the members. In the event that Respondent shall fail to complete the SEP, Respondent shall make payment of the \$13,000 to the Department within 31 days of the effective date of this Order. All disbursements from the Fund must be completed within 180 days from the effective date of this Order, unless prior written agreement has occurred between Respondent and the Department.

5.3. Compliance School: Respondent hereby agrees to attend a school acceptable to the Department that teaches hazardous waste management. Attendance must be completed and the Respondent must submit a certificate of completion to the Department within 90 days of the date of this Consent Order. In recognition of this educational investment, Respondent has received a credit of \$5,000.00, provided that the employee(s) satisfactorily completes the class.

If Respondent fails to submit the certificate as required, the penalty is due and payable within 30 days after the 90-day period expires. The period in which to complete the training may be extended by a Department representative, or designee, upon a written request demonstrating good cause from the Respondent.

5.4. Respondent's \$10,000.00 check(s) 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
Attn: Karen Poon

A photocopy of the check(s) shall be sent to:

Jesus Torres
Senior Hazardous Substance Scientist
DTSC Imperial CUPA
301 Heber Avenue
Calexico, California 92231

5.5. 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: May 15, 2009

Original signed by Ray Pedersen

Ray Pedersen, President
Imperial Pre-Mix Company, Inc./ Respondent

Dated: June 1, 2009

Original signed by Roger Vintze

Roger Vintze
Supervising Hazardous Substance Scientist I
DTSC Imperial CUPA