

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Kern Oil & Refining Company
Attn: Mr. Bruce Cogswell
Vice President of Manufacturing
7724 E. Panama Lane
Bakersfield, California 93307-9210

ID No. CAD990724916

Respondent.

Docket HWCA 20103368

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Kern Oil & Refining Company (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats, stores, and offers for transportation hazardous waste at 7724 E. Panama Lane, Bakersfield, California (Site).

1.3. Inspection. The Department inspected the Site on February 9-10, 2011 and April 7, 2011.

1.4. Authorization Status. Respondent operates as a generator of hazardous waste under EPA identification number CAD990724916 and has filed a Hazardous Materials Business Plan with Kern County Environmental Health Department.

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 66262.34(a)(3), in that on or about February 9, 2011, the Respondent failed to mark or label twenty-five (25) out of one hundred four (104) drums containing spent catalyst. The following information was missing: HAZARDOUS WASTE, date of accumulation, composition and physical state of the hazardous waste, particular hazardous property, and the name and address of the person producing the waste. The spent catalyst drums were located in the new hazardous waste drum storage area and had been in the new drum storage location since the last documented change out of spent catalyst with the regenerated catalyst since December 14, 2010. On a re-inspection conducted on April 7, 2011 at the new hazardous waste drum storage area, Kern Oil had remedied the labeling

deficiency for the above-noted 25 drums, however, Kern Oil failed to replace a partially torn off hazardous waste label on one 55-gallon drum containing Kerosene Hydrotreater (KHT) waste with the required information as mentioned above.

2.1.2. Respondent violated California Code of Regulations, Title 22, section 66262.34(c) in that on or about April 7, 2011, Kern Oil accumulated hazardous waste for more than 90 days without a permit or grant of interim status or being granted an extension to the 90 day storage period. During a re-inspection of the new drum storage area, the following was revealed: (1) one 55-gallon drum containing oil/water separator waste had an accumulation start date of December 6, 2010; (2) one 55-gallon drum of cooling tower waste with an accumulation start date of November 23, 2010.

3. SCHEDULE FOR COMPLIANCE

3.1 Respondent shall correct the violations set forth above.

3.1.1 Effective immediately, Respondent shall label all hazardous waste containers throughout the facility as soon as the first hazardous wastes are placed therein. All labels shall be clearly marked with the words "Hazardous Waste" and include the following information: the accumulation start date; composition and physical state of the waste; statement or statements which call attention to the particular hazardous properties of the waste (e.g., flammable, reactive, etc.); name and address of the person producing the waste. Additionally, Kern Oil shall make the necessary corrections when it is discovered that a hazardous waste label is missing, faded and/or is not legible. The Department acknowledges that Respondent provided written notification dated April 27, 2011 and July 1, 2011, indicating that Respondent

conducted the following corrective actions concerning the violations set forth in Section 2.1.1. All identified drums were labeled with correct and required information.

Personnel performed inspection of all accumulation areas to ensure all waste drums were appropriately labeled. Respondent's inspection program now requires verification that all required information is on each waste drum. Respondent has scheduled awareness training to all affected personnel on proper waste storage, labeling and handling requirements.

3.1.2. Effective immediately, Respondent shall dispose of hazardous waste in containers that have exceeded the 90 day storage time limit only to a facility permitted by the Department to accept hazardous waste. These wastes shall be transported from the site only by a currently registered hazardous waste transporter, utilizing a hazardous waste manifest. Hazardous waste manifests shall be kept and maintained on site for review for a minimum of three years. The Department acknowledges that Respondent provided written notification dated April 27, 2011 and July 1, 2011, indicating that Respondent conducted the following corrective actions concerning the violations set forth in Section 2.1.2: The two drums identified with accumulation dates exceeding the 90 day storage period were shipped for disposal on April 20, 2011 on manifest #003931067FLE. Respondent's personnel performed inspection of all accumulation areas to ensure all waste drums were within the 90-day storage period. Respondent has developed a more robust waste drum inventory log to track all drums from point of generation, to manifest number of disposal shipment. Each waste drum is given a unique tracking identifier.

3.1.3. 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 Captions and Headings. Captions and headings used herein are for convenience only and shall not be used in construing this Consent Order.

4.5 Severability. If any provision of this Consent Order is found by a court of competent jurisdiction to be illegal, invalid, unlawful, void or unenforceable, then such provision shall be enforced to the extent that it is not illegal, invalid, unlawful, void, or

unenforceable, and the remainder of this Consent Order shall continue in full force and effect.

4.6. Entire Agreement. This agreement constitutes the entire and only understanding between the Parties regarding the subject matter contained herein and shall supersede any and all prior and/or contemporaneous oral or written negotiations, agreements, representations and understandings and may not be amended, supplemented, or modified, except as provided in this Order. The Parties understand and agree that in entering into this Consent Order, the Parties are not relying on any representations not expressly contained in this Consent Order.

4.7. Counterparts. This Consent Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

5. PENALTY

5.1. Respondent shall pay the Department the total sum of Seventeen Thousand Dollars (\$17,000.00) in administrative penalties.

5.2. Payment of the total sum specified in paragraph 5.1 is due within 30 days from the effective date of this Order.

5.3. Respondent's 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

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

Mr. Ignacio Dominquez,
Supervising Hazardous Substances Scientist
Enforcement and Emergency Response Program
Department of Toxic Substances Control
1515 Tollhouse Road
Clovis, California 93611

And

Ms. Jennifer Connor, Esq.
Office of Legal Counsel
Department of Toxic Substances Control
P. O. Box 806
Sacramento, California 95812-0806

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: 9/19/11

By: Bruce Cogswell
Bruce Cogswell
Vice President of Manufacturing
Kern Oil & Refining Co.
Respondent

Dated: 09/23/11

By: Ignacio R. Dominguez
Ignacio R. Dominguez
Supervising Hazardous Substances Scientist I
Enforcement and Emergency Response Program
Department of Toxic Substances Control