

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Docket HWCA SCUPA 2014 IM006

Sidewinder Shell & ATV Inc.  
611 Sidewinder Road  
Winterhaven, CA 92283

CONSENT ORDER

Health and Safety Code  
Section 25187

EPA I.D. No. CAL000308431

Respondent.

1. INTRODUCTION

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

1.2. Site. Respondent, operates an underground storage tank (UST) facility at the following site: 611 Sidewinder Road, Winterhaven, CA (Site).

1.3. Inspection. The Department inspected the Site on July 11, 2012, August 30, 2013 and September 6, 2013.

1.4. Authorization Status. Respondent has a valid underground storage tank (UST) operating permit 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:

2.1.1. Respondent violated California Code of Regulation, title 23, section 2715 subdivision (a), in that on or about July 7, 2012, Respondent failed to provide a designated UST operator.

2.1.2. Respondent violated California Code of Regulation, title 23, section 2638, subsection (a), in that on or about July 7, 2012, Respondent failed to conduct the monitoring certification of equipment every twelve months.

2.1.3. Respondent violated Health and Safety Code Section 25292.2, in that on or about September 6, 2013, Respondent failed to maintain evidence of financial responsibility while operating a UST facility.

2.1.4. Respondent violated Health and Safety Code section 25291, subdivision(a)(1) in that on or about September 6, 2013, Respondent failed to keep the primary containment product-tight while operating a UST system.

2.1.5. Respondent violated Health and Safety Code Section 25290.1 in that on or

about September 6, 2013, Respondent failed to properly position the leak detection sensor in the premium unleaded fill sump.

### **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.**

**Respondent shall operate hereafter in a manner that shall prevent recurrences of the violation cited herein.**

**3.2. 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 \$15,050.00. Of the total due, \$3,500.00 is a monetary penalty, \$11,550 shall be deferred provided Respondent does not have any Class I violations within two years of the date of this Order, as determined by re-inspections' by the Department of Respondent's Site any time during the two-year time period. The monetary penalty shall be paid in 6 installments. The first installment shall be paid to the Department no later than 30 days of the effective date of this Order. The final installment shall be no later than 180 days of the effective date of this Order.

5.2. 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: 3-14-14

Original signed by James R. Broxholme

James R. Broxholme ORIGINAL SIGNATURE  
Respondent

Dated: 3/17/14

Original signed by Roger Vintze

Roger Vintze  
Department of Toxic Substances Control