

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Spreckels Sugar Company, Inc.
395 West Keystone Road
Brawley, California 92227
CAD008494460

Respondent.

Docket HWCA No. SCUPA 2010 IM001

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 Spreckels Sugar Company, 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: 395 West Keystone Road, in the City of Brawley, County of Imperial (Site).

1.3. Inspection. The Department inspected the Site on April 28, 29 and April 30, 2009.

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.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondent violated Health and Safety Code, section 25507 in that on or about April 28, 2009, Respondent failed to report a release of a hazardous materials to the appropriate agencies. Specifically, an unknown quantity of Fuel Oil #6 was released from an 84,000 gallon Above Ground Storage Tank. The timing of the release is unknown, but Respondent discovered the release no later than April 28, 2009, and attempted to excavate the contaminated soil. The Department and the California Emergency Management Agency were not notified of the hazardous materials release until the Department quoted text from the Health and Safety Code in the investigation report dated December 15, 2009.

2.1.2. Respondent violated California Code of Regulations, title 22, section 66265.16 (a-e) in that on or about April 28, 2009, Respondent failed to provide written documentation that training for all new employees and annual training, including refresher courses, for all employees in Emergency Response Procedures for those employees that handle "Hazardous Waste".

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. On March 9, 2010, Respondent reported the release of hazardous materials to the appropriate agencies, originally discovered by the Department on April 28, 2009. Respondent is in compliance with section 2.1.1.

3.1.2. Respondent has not corrected the violations set forth above in sections 2.1.2 as such Respondent shall within a period of 90 calendar days provide proof that training for all new employees and annual training, including refresher courses, for all employees (that handle Hazardous Waste) in Emergency Response Procedures in the event of a release or threatened release of a hazardous waste, has been provided. Such training must include how to identify a hazardous waste. Written documentation of training includes employee names, job titles and job descriptions. Written documentation also includes a brief outline of program and dates of training. Written documentation of training shall also be kept for at least 3 years.

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.

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

Jesus Torres
Senior Hazardous Substance Scientist
DTSC Imperial CUPA
627 Wake Avenue
El Centro, California 92243

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 \$18,000. Of the total due, \$7,000 is a penalty; \$3,000 will be a credit for Respondent or designee, to attend a school approved by the Department, that teaches hazardous waste

management; and, \$8,000 shall be a credit for a Supplemental Environmental Project (SEP).

5.2. Supplemental Environmental Project: Respondent has agreed to a \$8,000 SEP to be paid to the Imperial Valley Regional Occupational Program (IVROP) to increase community awareness of environmental issues. Within thirty (30) days of the effective date of this Order, Respondent shall make payment to IVROP at the following address:

Imperial Valley Regional Occupational Program
687 State Street
El Centro, California 92243
Attn: Lupe F Garcia, Program Assistant

In the event that Respondent shall fail to complete the SEP, Respondent shall make payment of the \$8,000 to the Department within 30 days of failing to complete the SEP.

5.3. Compliance School: Respondent hereby agrees to send at least three (3) employees to the California Compliance School (Modules I-V). Attendance must be completed and the Respondent must submit a Certificate of Satisfactory Completion issued by the California Compliance School to the Department for three employees within 180-days of the effective date of this Consent Order. In recognition of this educational investment, Respondent has received a credit of \$3,000, provided that the employee(s) satisfactorily completes the class.

If Respondent fails to submit the certificates as required, the \$3,000 is due and payable within 30 days after the 180-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 shall pay the Department \$7,000 of the penalty in 5.1 check(s) shall be made payable to Department of Toxic Substances Control within 30 days from the effective date of this Order, check(s) 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: Cashier

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

Jesus Torres
Senior Hazardous Substance Scientist
DTSC Imperial CUPA
627 Wake Avenue
El Centro, California 92243

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: June 22, 2011

Original signed by Gary Hamlin
Gary Hamlin
District Manager
Spreckels Sugar Company, Inc.

Dated: June 24, 2011

Original signed by Roger Vintze
Roger Vintze
Supervising Hazardous Substance Scientist I
DTSC Imperial CUPA