

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

New West Petroleum, LLC  
1831 16<sup>th</sup> Street,  
Sacramento, CA 95814

Respondent.

Docket Number 03-05-940627

ENFORCEMENT ORDER

Health and Safety Code  
Section 25187

INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to New West Petroleum, LLC. (Respondent).

1.2. Site. Respondent generates hazardous waste at the following sites: (Site).

- New West Petroleum/ Exxon Station 1043, 911 East Vista Way, Vista, CA 92084
- New West Petroleum/ Exxon Station 1017, 695 El Cajon Boulevard, El Cajon, CA 92020
- New West Petroleum, 3551, Avenida Encinas, Carlsbad, CA 93008
- New West Petroleum, 5145, Avenida Encinas, Ste. A Carlsbad, CA 92008

Respondent generates hazardous waste at numerous sites. 1.3. Generator. The

Respondent generates the following hazardous waste: automotive fluids, and water contaminated with gasoline.

1.4. Jurisdiction. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the

---

New West Petroleum, LLC

Enforcement Order  
Docket Number 03-05-940627

Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

### DETERMINATION OF VIOLATIONS

2. The Department has determined that:

2.1. The Respondent violated Health and Safety Code section 25163(a)(1) in that on at least 75 occasions between April, 2001, and November, 2002, Respondent transferred custody of hazardous waste to a transporter who did not hold a valid registration from the Department. Exhibit 1 is a list of hazardous waste manifests for wastes generated by the Respondent, that were transported by Jenal Engineering Corp. (Jenal) to a facility operated by Jenal. At the times listed above, Jenal did not have a registration issued by the Department.

2.2. The Respondent violated Health and Safety Code, section 25160(b)(1) and California Code of Regulations, title 22, sections 66262.20(a) in that on at least 75 occasions between April, 2001, and November, 2002, Respondent shipped hazardous waste and failed to complete hazardous waste manifests for each of those shipments prior to shipment. Exhibit 1 is a list of hazardous waste manifests for wastes generated by the Respondent, that were transported by Jenal. Jenal completed the hazardous waste manifests for Respondent when the wastes were shipped from a facility operated by Jenal.

### SCHEDULE FOR COMPLIANCE

3. Based on the foregoing Determination of Violations, IT IS HEREBY ORDERED THAT:

3.1.1. Immediately upon receipt of this Order, and for all times thereafter, Respondent shall transfer custody of hazardous waste only to transporters that hold a valid registration issued by the Department in compliance with Health and Safety Code section 25163 (a) (1).

3.1.2. Immediately upon receipt of this Order, and for all times thereafter, Respondent shall only transfer hazardous waste to a transporter with a valid hazardous waste manifest in conformance with Health and Safety Code section 25160 (b) (1) and Respondent shall retain two copies of the hazardous waste manifest when shipping hazardous waste, and shall submit one of those copies to the Department as required by California Code of Regulations, title 22, section 66262.40(a).

3.2. Submittals. All submittals from a Respondent pursuant to this Order shall be sent simultaneously to:

Phillip Blum  
Task Force Support and Special Investigations Branch  
Department of Toxic Substances Control  
1011 N. Grandview Ave.  
Glendale, CA 91201

3.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

3.4. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.5 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. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.6 Site Access: Access to the sites shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

3.7. Data and Document Availability. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way

pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order.

3.8 Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.9 Extension Request: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.10 Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

#### OTHER PROVISIONS

4.1. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

4.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, 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.

4.4. Time Periods. "Days" for purposes of this Order means calendar days.

### PENALTY

5. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondent's penalty at \$21,000. Payment is due within 30 days from the effective date of the Order. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Respondent shall deliver the penalty payment 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 shall be sent to:

Phillip Blum, Unit Chief  
Task Force Support and Special Investigations Branch  
Department of Toxic Substances Control  
1011 N. Grandview Ave.  
Glendale CA 91201

### RIGHT TO A HEARING

6. Respondent may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondent.

EFFECTIVE DATE

7. This Order is final and effective twenty days from the date of mailing, which is the date of the cover letter transmitting the Order to Respondent, unless Respondent requests a hearing within the twenty-day period.

Date of Issuance: January 19, 2006

Phillip Blum, P.E.  
Unit Chief, Southern California Unit  
Task Force Support and Special  
Investigations Branch  
Department of Toxic Substances Control  
1011 North Grandview Avenue  
Glendale, California 91201