

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Docket HWCA SCUPA 2016 IM003

C & G Farms Inc.
804 Anza Road
Calexico, California 92231

CONSENT ORDER

Health and Safety Code
Section 25187

EPA No. CAL000267156

Respondent.

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control Imperial Certified Unified Program Agency (Department) and C & G Farms Inc.

(Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates hazardous wastes at the following site: 804 Anza Road, Calexico, California 92231 (Site).

1.3. Inspection. The Department inspected the Site on August 5, 2014.

1.4. Authorization Status. Respondent does have a certificate to manage hazardous waste 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. The Respondent violated California Code of Regulation, title 22, section 66265.173(a), in that on or about August 5, 2014, Respondent did not keep closed the following containers: Ten, 55-gallon drums containing used oil; 30, 5-gallon pails containing residual used oil; one, 32-gallon container containing used oil; two, 5-gallon plastic containers containing used oil filters; and five, 275-gallon totes.

2.1.2. The Respondent violated California Code of Regulation, title 22, section 66262.34(f)(3), in that on or about August 5, 2014, Respondent failed to label 5, five-gallon plastic pails containing used oil; one, 32-gallon container containing used oil; 11, 55-gallon drums containing used oil; and five, 275-gallon plastic totes containing used oil.

2.1.3. The Respondent violated Health and Safety Code section 25201, in that on or about August 5, 2014, Respondent stored 11, 55-gallon drums containing used oil; 30, 5-gallon pails containing used oil; one, 32-gallon use oil container; two, 5-gallon

bucket containing used oil filters; and finally five, 275-gallon totes.

2.1.4. The Respondent violated California Code of Regulations, title 19, section 2731(c), in that on or about August 5, 2014, Respondent failed to test and maintain fire extinguishers as necessary and checked annually.

2.1.5. The Respondent violated California Health and Safety Code section 25505(a)(4), in that on or about August 5, 2014, Respondent did not develop nor implement an employee training plan for new employees, with an annual refresher for all employees regarding emergency procedures in the event of a release or threatened release of a hazardous material.

2.1.6. The Respondent violated California Code of Regulations, title 22, section 66262.23 (a)(3) and 66262.40(a), in that on or about August 5, 2014, Respondent did not have hazardous waste manifests or bill of lading onsite for at least three years.

2.1.7. The Respondent violated California Health and Safety Code, section 25507(a), in that on or about August 5, 2014, Respondent did not submit, or have available the hazardous material business plan.

2.1.8. The Respondent violated Health and Safety Code section 25404(e)(4), in that on or about August 5, 2014, Respondent did not upload hazardous material business plan into CERS. The hazardous material business plan was not entered into CERS completely until November 4, 2014.

2.1.9. The Respondent violated California Code of Regulations, title 22, section 66265.31, in that on or about August 5, 2014, Respondent failed to maintain the facility in a manner to minimize releases of hazardous wastes or hazardous waste

constituents. Specifically used oil and diesel was spilled at various locations in the barn and outside the barn where the used oils and diesel were being managed.

2.1.10. The Respondent violated California Code of Regulation, title 22, section 66266.130 (c) (3) and (4), in that on or about August 5, 2014, Respondent failed to store the used oil filters in a closed container and for no more than one year from the date of initial accumulation.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent Shall comply with the following:

3.1.1. Violation 2.1.1 has been corrected to the satisfaction of the Department.

3.1.2. Violation 2.1.2 has been corrected to the satisfaction of the Department.

3.1.3. Violation 2.1.3 has been corrected to the satisfaction of the Department.

3.1.4. Violation 2.1.4 has been corrected to the satisfaction of the Department.

3.1.5. Violation 2.1.5 has been corrected to the satisfaction of the Department.

3.1.6. Violation 2.1.6 has been corrected to the satisfaction of the Department.

3.1.7. Violation 2.1.7 has been corrected to the satisfaction of the Department.

3.1.8. Violation 2.1.8 has been corrected to the satisfaction of the Department.

3.1.9. Violation 2.1.9 has been corrected to the satisfaction of the Department.

3.1.10 Violation 2.1.10 has been corrected to the satisfaction of the Department.

3. 2. Respondent shall make all payments at the time(s) and in accordance 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 \$23,000.00. Of the total due, \$13,000.00 is a penalty and \$10,000.00 shall be credited against the total of \$23,000.00 for Respondent's performance of a Supplemental Environmental Project (SEP) as described below. The remaining monetary penalty of \$13,000.00 shall be paid

to the Department no later than twelve months from the effective date of this Order at a rate of \$1,083.33 per month.

5.2. Supplemental Environmental Project: Respondent has agreed to provide monies from this settlement, not to exceed \$10,000, towards a hazardous waste/hazardous materials training program in Imperial County, subject to the approval of the Department, within 90 days from the effective date of this Order. Respondent shall prepare a written plan (Plan) within 45 days from the effective date of this Order describing the steps in which the hazardous waste/hazardous materials training program will occur and provide an estimated itemized cost for implementing the training program. This Plan is subject to the approval of the Department prior to implementation. Respondent shall provide a receipt for the costs incurred upon a request from the Department. Respondent agrees to remit any unspent portion of the \$10,000 credit to the Department within 60 days of the conclusion of the hazardous waste/hazardous materials training program and shall identify the Respondent and Docket Number, as shown in the caption of this Order. In the event unforeseen events preclude the scheduling or implementation of the supplemental environmental program within 120 days of the effective date of this Order, Respondent shall be excused from performing the SEP and shall remit the additional \$10,000 to the Department in the manner already described.

5.3. 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: 12/5/16

original signed by Carlos Amaral

Carlos Amaral
Respondent

Dated: 12/5/16

original signed by Roger Vintze

Roger Vintze
Department of Toxic Substances Control