

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:
Marco Antonio Jimenez DBA Guiro
Trucking
236 E 1st Street 2729
Calexico, CA 92231

Docket HWCA 2018-7438

CONSENT ORDER

Health and Safety Code
Section 25187

ID No. N/A

Respondent.

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Marco Antonio Jimenez DBA Guiro Trucking (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent is a commercial transporter and is located at 236 E 1st Street 2729, Calexico, CA 92231 (Site).

1.3. Inspection. The Department inspected the Respondent's shipment of used engines and transmissions being exported to Mexico at the U.S. Customs & Border Protection, Calexico East Port of Entry on April 19, 2017.

1.4. Authorization Status. Respondent is a commercial transporter regulated by the Federal Motor Carrier Safety Administration. The Department was granted permission to conduct southbound truck stop inspections at the Calexico East Port of Entry by the U.S Customs & Border Protection.

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 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 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 66262.11 in that on or about April 19, 2017, Respondent failed to make a hazardous waste determination; used oil was contained in the used automotive engines and transmissions. In addition, used oil filters containing used oil were attached to the automotive engines.

2.1.2. Respondent violated Health and Safety Code section 25160(d)(1) and California Code of Regulations, title 22, section 66263.20(a) in that on or about April 19, 2017, Respondent transported a shipment of used automotive engines and

transmissions containing used oil, a Non-RCRA hazardous waste, without preparing a Uniform Hazardous Waste Manifest.

2.1.3. Respondent violated Health and Safety Code section 25163(a) in that on or about April 19, 2017, Respondent transported a shipment of used automotive engines and transmissions containing used oil, a Non-RCRA hazardous waste, without a valid hazardous waste transporter registration issued by the Department.

2.1.4. Respondent violated California Health and Safety Code section 25154 and California Code of Regulations, title 22, section 66263.16(a) in that on or about April 19, 2017, Respondent failed to have their trailer designed and constructed and their contents so limited that under conditions normally incident to transportation, there shall be no releases to the environment. The used automotive engines and transmissions containing used oil and used oil filters were transported on an open top trailer van. The open top trailer van failed to contain the used oil resulting in releases to the trailer floor and concrete floor.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Effective immediately, Respondent shall drain all used oil from used automotive parts, including but not limited to, used automotive engines and transmissions prior to transport. Respondent shall manage the used oil and undrained used oil filters according to State laws and regulations.

3.1.2. Effective immediately, Respondent shall not accept and transport used automotive parts containing used oil unless it is accompanied by a Uniform Hazardous

Waste Manifest.

3.1.3. Effective immediately, Respondent shall not transport hazardous waste, including used oil and undrained used oil filters, without a valid registration issued by the Department. Respondent shall not transfer hazardous waste to a transporter that does not hold a valid hazardous waste transporter registration issued by the Department.

3.1.4 Effective immediately, Respondent shall properly manage all hazardous waste shipments in a way that prevents or minimizes the possibility of any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water, which could threaten human health or the environment.

Respondent shall use leak proof and structurally sound containers to store and transport used automotive parts, including but not limited to used automotive engines and transmissions.

3.1.5. 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 because 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.

4.8. 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 the total sum of \$5,000 dollars. Of which, \$2,000 dollars as an initial payment and \$3,000 dollars in two equal installments of \$1,500 dollars each.

5.2. Initial payment is due within 30 days from the effective date of this Order with the remaining payments due 60 days and 90 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:

Carlo Rodriguez, Unit Chief
San Diego Border Unit
Enforcement and Emergency Response Division
Department of Toxic Substances Control
2375 Northside Drive, Suite 100
San Diego, California 92108

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: 8/8/2018 C

Original signed by Marco Antonio Jimenez

Marco Antonio Jiménez, Owner
Guiro Trucking
Respondent

Dated: 8/8/2018

Original signed by Carlo Rodriguez

Carlo Rodriguez, Unit Chief
Enforcement and Emergency Response Division
Department of Toxic Substances Control