

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Caesar Torres, dba Fuel Tec
1693 West Phillips Drive
Pomona, California 91766

Docket HWCA 2018-7424

CONSENT ORDER

ID No. CAL000419259

Respondent.

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Caesar Torres, an individual, doing business as Fuel Tec (Respondent) enter into this Consent Order and agree as follows:

1. Respondent transports hazardous waste at 1693 West Phillips Drive, Pomona, California (Site) pursuant to transporter registration number 6497 issued on August 31, 2016.
2. The Department inspected the Site on December 22, 2017 and January 8, 2018.
3. The Department alleges the following violations:
 - 3.1 Respondent violated Health and Safety Code section 25201(a) and did not meet the exempt transfer facility requirements in Title 22, California Code of Regulations section 66263.18, in that on or about December 22, 2017 and January 8, 2018, Respondent conducted truck to truck transfer of non-RCRA hazardous waste diesel fuel without a permit or grant of authorization from the Department.

4. A dispute exists regarding the alleged violations.
5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.
6. Jurisdiction exists pursuant to Health and Safety Code section 25187.
7. Respondent waives any right to a hearing in this matter.
8. This Consent Order shall constitute full settlement of the violations alleged above but does not limit the Department from taking appropriate enforcement action concerning other violations.
9. Respondent admits the violation described in Paragraph 3.1.
10. DTSC reserves its authority under the Hazardous Waste Control Law to (1) enforce this Consent Order; (2) use the violation set forth in Paragraphs 3.1, and Respondent's admission to the violation, to seek enhanced penalties in any subsequent administrative or civil action to show a pattern or course of conduct, or a history of noncompliance; and (3) use the violation alleged in this Consent Order, and Respondent's admission to the violation in any future DTSC permit decision, proceeding, or process.
11. If DTSC seeks to use the violation alleged in this Consent Order, Respondent will not assert any defenses based on the passage of time, including, but not limited to, laches, estoppel, and statute of limitations.

PAYMENTS

12. Respondent shall pay the Department \$18,000.00 as a penalty. The payments shall be paid in (3) three installments. The first installment in the amount

of \$7,000.00 is due payable on October 15, 2018. The second installment in the amount of \$5,500.00 is due payable on January 15, 2019, and the third installment in the amount of \$5,500.00 is due payable on April 15, 2019. Any installment payment that is received by the Department more than 15 days after it is due will be subject to a \$250.00 penalty and such penalty shall be paid by Respondent no later than the due date of the next installment payment. If Respondent is late in making two (2) or more payments or fails to make a full installment payment within thirty (30) days of its due date, then the Department, at its option, may declare the entire balance of the outstanding penalty due and owing.

12.1. If Respondent fails to make any payment timely as provided above, Respondent agrees to pay interest thereon at the rate established pursuant to Health and Safety Code section 25360.1. Respondent further agrees to pay all cost and attorney fees incurred by the Department in pursuing the collection of any sums the payment of which becomes delinquent hereunder.

12.2. Respondent's checks shall be made payable to Department of Toxic Substances Control, 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 shall be sent:

To: Evelina Rayas
Senior Environmental Scientist (Supervisory)
Hazardous Waste Management Program
Enforcement and Emergency Response Division - Chatsworth Office

OTHER PROVISIONS

13. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

14. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil 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.

15. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, 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 Consent Order.

16. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

17. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

18. Authority to Bind: Each person executing this Consent Order represents that he or she has full and legal authority to execute this Consent Order for and on

behalf of the respective party for his he or she is executing this Consent Order and to bind that party.

19. Counterparts: This Consent Order may be executed and delivered in one or more components, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

10-08-18
Dated: 10-08-18

Original Signed

Caesar Torres, Owner
Fuel Tee

Dated: 10/11/2018

Original Signed

Evelina Rayas
Senior Environmental Scientist (Supervisory)
Hazardous Waste Management Program
Enforcement and Emergency Response Division
Chatsworth Office
Department of Toxic Substances Control