UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Certified Mail No. 7000 0520 0021 6105 7198
Return Receipt Requested

Mr. William F. Connors
Senior Vice President, Compliance
Clean Harbors Buttonwillow, L.L.C.
42 Longwater Drive
Norwell, Mass 02061

OCT 01 2015

Re: Consent Agreement and Final Order
In the Matter of Clean Harbors Buttonwillow, L.L.C.

Dear Mr. Connors:

Please find enclosed the final executed Consent Agreement and Final Order (CA/FO) negotiated between the United States Environmental Protection Agency, Region IX (EPA), and Clean Harbors Buttonwillow, L.L.C., ("CHB"). Please note that the Region is also filing an administrative Complaint against CHB, a copy of which will be transmitted to you separately.

The CA/FO sets out the terms for resolution of the Resource Conservation and Recovery Act (RCRA) administrative civil penalty action against ("CHB") for alleged violations of the hazardous waste management regulations at the CHB facility located at 2500 West Lokern Road, Buttonwillow, California.

CHB's full compliance with the payment terms of this CA/FO will close this matter. If you have any questions regarding the RCRA hazardous waste regulations governing your operations or the rules which govern the proceedings terminated by the enclosed document, please contact Richard Francis of my staff at (415) 972-3342, or Mimi Newton, in the Office of Regional Counsel, at (415) 972-3491.

Sincerely,

for

Douglas K. McDaniel
Chief, Waste and Chemical Section
Enforcement Division

Enclosures
cc: Kristine Green, DTSC; kristine.green@dtsc.ca.gov

** FILED **

30SEP2015 - 04:45PM

U.S.EPA - Region 09

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the matter of:	)	U.S. EPA Docket No.:
	)	RCRA-09-2015-0012
	)	
CLEAN HARBORS	)	CONSENT AGREEMENT
BUTTONWILLOW, L.L.C.,	)	AND
	)	FINAL ORDER
EPA Identification No.	)	PURSUANT TO
CAD 980 675 276	)	40 CFR SECTIONS 22.13
	)	AND 22.18
	)	
	)	
Respondent.	)	
	)	

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA") as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation /Termination or Suspension of Permits, Title 40 of the Code of Federal Regulations ("40 CFR") Part 22. Complainant is the United States Environmental Protection Agency, Region IX ("EPA"). Respondent is Clean Harbors Buttonwillow, L.L.C., ("CHB").

2. CHB owns and operates a hazardous waste treatment, storage and disposal facility, located at 2500 West Lokern Road, Buttonwillow, CA, 93206 (the "Facility"). The Facility's EPA RCRA ID number is CAD 980 675 276. In the course of operations at the Facility, CHB accepts solid and hazardous wastes from generators for treatment and onsite landfill disposal at the Facility.

3. In October of 2010, EPA inspectors conducted an on-site RCRA Compliance Evaluation Inspection at the Facility. The purpose of the inspection was to determine the Facility's compliance with its State-issued hazardous waste permit and applicable federal environmental statutes and regulations, in particular RCRA, as amended, and the regulations in 40 CFR Parts 260 through 279, and the authorized statutory and regulatory requirements adopted by the State of California as part of its authorized hazardous waste program in the California

Health and Safety Code, Division 20 and the California Code of Regulations, Title 22, Division 4.5. Based on the findings EPA made during the inspection and additional information obtained subsequent to the inspection, EPA determined CHB had violated California Health & Safety Code § 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.

4. CHB's RCRA permit, issued by the California Department of Toxic Substances ("DTSC") was effective on April 6, 1996 and was scheduled to expire on April 6, 2006. A permit renewal application for the Facility was submitted to DTSC on October 1, 2005 by CHB, and is currently under review. Until its permit renewal application is acted upon, CHB operates the Facility under the terms and conditions of the expired permit (hereafter referred to as "the 1996 Permit").

5. This Consent Agreement and Final Order ("CAFO"), pursuant to 40 CFR §§ 22.13(b) and 22.18(b)(2), simultaneously commences and concludes this proceeding, wherein EPA alleges that CHB failed to comply with the following requirements of Title 22 of the California Code of Regulations ("22 CCR") and the identified conditions of the 1996 Permit:

   a. 22 C.C.R. § 66265.173(a) (see also 40 C.F.R. § 265.173(a)) and Permit Condition III.A.3. of the 1996 Permit (failure to keep hazardous waste containers closed);

   b. 22 C.C.R. §§ 66262.34(a) and (c) and 66270.1(c) (see also 40 C.F.R. §§ 262.34(a) and (c) and 270.1(c)) (storage of hazardous waste for greater than 90 days in an unpermitted storage unit and failure to clearly mark the date hazardous waste accumulation began on a hazardous waste storage unit);

   c. 22 C.C.R. § 66265.194(b)(1) (see also 40 C.F.R. § 265.194(b)(1)) and Permit Condition III.C.5. of the 1996 Permit (*see also* 40 CFR § 270.1) (failure to have tank spill prevention controls on a hazardous waste storage tank);

   d. 22 C.C.R. § 66265.193(e)(3)(C) (see also 40 C.F.R. § 265.193(e)(3)(iii)) (failure to have tank leak detection system on a hazardous waste storage tank);

   e. 22 C.C.R. § 66265.193(f) (see also 40 C.F.R. § 265.193(f)) (failure to have secondary containment on a hazardous waste storage tank system's ancillary equipment); and

   f. 22 C.C.R. § 66268.40(a) (see also 40 C.F.R. § 268.40(a)), Permit Condition II.B. of the 1996 Permit, and the Facility's Waste Analysis Plan (failure to analyze treated hazardous waste restricted from land disposal for all required hazardous constituents).

These are each violations of Section 3001 *et seq.* of RCRA, 42 U.S.C. § 6921 *et seq.* and State regulations adopted pursuant to the federally-approved California hazardous waste management program.

B. JURISDICTION

6. On August 1, 1992, the State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and 40 CFR Part 271. This authorization was updated on September 26, 2001, (*see* 66 Fed. Reg. 49118, September 26, 2001), and again on October 7, 2011, (*see* 76 Fed. Reg. 62303, October 7, 2011). The authorized program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code ("H&SC"), and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 CCR §§ 66001 *et seq.* The State of California has been authorized for all the regulations referenced in this CAFO. However, the inspection and violations alleged all occurred prior to the most recent, October 7, 2011 State program authorization update and the regulations are cited herein as they were approved by EPA on September 26, 2001.

7. CHB is a "person" as defined in H&SC Section 25118 (see also Section 1004(15) of RCRA, 42 U.S.C. § 6903(15)), and 22 CCR §§ 66260.10 and 66270.2 (see also 40 CFR §§ 260.10 and 270.2).

8. CHB is the "operator" of a facility as defined in 22 CCR § 66260.10 (*see also* 40 CFR § 260.10).

9. CHB is the "owner" of a facility as defined in 22 CCR § 66260.10 (*see also* 40 CFR § 260.10).

10. The Facility is a "hazardous waste facility" as defined in H&SC Section 25117.1 and 22 CCR § 66260.10 (see also the definition of "facility" at 40 CFR § 260.10).

11. CHB is a "generator" of hazardous waste as defined in 22 CCR § 66260.10 (*see also* 40 CFR § 260.10).

12. CHB is engaged in the "storage" of hazardous waste as defined in California H&SC Section 25123 (see also Section 1004(33) of RCRA, 42 U.S.C. § 6903(33)) and 22 CCR § 66260.10 (see also 40 CFR § 260.10).

13. CHB is engaged in the "treatment" of hazardous waste as defined in California H&SC Section 25123.5 (see also Section 1004(34) of RCRA, 42 U.S.C. § 6903(34)) and 22 CCR § 66260.10 (see also 40 CFR § 260.10).

14. CHB is engaged in the "disposal" of solid and hazardous waste as defined in California H&SC Section 25113 (see also Section 1004(3) of RCRA, 42 U.S.C. § 6903(3)) and 22 CCR § 66260.10 (see also 40 CFR § 260.10).

15. CHB generates, treats, stores and disposes of materials that are "wastes" as defined in 22 CCR §§ 66260.10 and 66261.2 (*see also* 40 CFR §§ 260.10 and 261.2).

16. CHB is engaged in the generation, accumulation, storage, treatment and/or disposal of "hazardous waste"[1] as defined in California H&SC Section 25117 (see also Section 1004(5) of RCRA, 42 U.S.C. § 6903(5)) and 22 CCR §§ 66260.10 and 66261.3 (see also 40 CFR §§ 260.10 and 261.3). This hazardous waste includes, but is not limited to, hazardous waste leachate (F039), lead tank bottoms (K052), slop oil emulsion solids (K049), heat exchange bundle cleaning sludge (K050), API separator sludge (K051) and sulfide and cyanide bearing reactive waste (D003), among a variety of others.

17. CHB generates more than 1000 kg. of hazardous waste in any month for the purposes of California H&SC Section 25123.3 and 22 CCR § 66262.34, (*see also* 40 CFR § 262.34).

18. From October 18 through October 22, 2010, EPA conducted a RCRA compliance evaluation inspection ("CEI") at the Facility. Based upon the findings made during the CEI, and additional information obtained subsequent to the CEI, EPA determined that CHB has violated its Hazardous Waste Facility Permit, California H&SC §§ 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.

19. Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.

20. A violation of California's authorized hazardous waste program, found at H&SC §§ 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California's authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.

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[1] The definition of "hazardous waste" contained in the California statute and regulations is broader in scope than the definition contained in RCRA and the federal regulations. Those hazardous wastes regulated under California law, but not regulated under federal law, are known as "California wastes" and the portions of the California statute and regulations governing California wastes were not included in the provisions authorized under RCRA. Thus, EPA enforces California's authorized program but does not enforce those aspects of the California program relating solely to California wastes.

21. Based on the information EPA obtained during and after the CEI, EPA also determined that CHB has violated Sections 3004 and 3005 of RCRA, 42 U.S.C. §§ 6924 and 6925.

22. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921, *et seq.*

23. The Administrator has delegated the authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the EPA Regional Administrator for Region IX, who has redelegated this authority to the Director, Deputy Director, Assistant Directors and Managers of the Enforcement Division.

C. ALLEGED VIOLATIONS

COUNT 1
Failure to Keep Hazardous Waste Containers Closed

24. Paragraphs 1 through 23, above, are incorporated herein by this reference as if they were set forth here in their entirety.

25. 22 CCR § 66262.34 (*see also* 40 CFR § 262.34) allows generators of hazardous waste to accumulate hazardous waste on-site for certain specified time periods without a permit or interim status as long as they comply with specified waste management practices. Generators who do not comply with the waste management requirements must either be eligible for interim status or obtain a permit in order to store hazardous waste in the unit at the facility pursuant to 22 CCR § 66270.1 (*see also* 40 CFR § 270.1).

26. One of the regulatory requirements referenced at 22 CCR §66262.34(a) is that, pursuant to 22 CCR § 66262.34(a)(1)(A), for waste placed in containers, the hazardous waste generator must comply with the applicable requirements of Articles 9, 27, 28 and 28.5 of Chapter 15 of Division 4.5 of the regulations.

27. One of the conditions relating to management of hazardous waste referenced in 22 CCR § 66262.34(a)(1)(A), specifically, one provision found within Article 9 of Chapter 15 of Division 4.5, is the requirement at 22 CCR § 66265.173(a), (see also 40 CFR § 265.173(a)), specifying that owners and operators of facilities that store hazardous waste must keep containers holding hazardous waste closed during storage, except when necessary to add or remove waste.

28. 22 CCR § 66265.173(a) (*see also* 40 CFR §§ 265.173(a) and (b)) requires those who store hazardous waste on-site to ensure that the waste is placed in closed containers, except when adding or removing waste.

29. In addition, Permit Condition III.A.3. of the 1996 Permit provides that "[a] container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste."

30. At the time of the October 2010 inspection, four unpermitted containers storing hazardous waste generated by CHB at the Facility were observed to have open ports and/or lids: Tank No. 3 at Waste Management Unit ("WMU") 28, Tank No. 60 at WMU 34, Tank No. 80 at WMU 35-1, and Tank No. 70 at WMU 35-2. No waste was being added to or removed from any of these containers at the time these observations were made.

31. Therefore, EPA alleges that CHB has failed to keep containers of hazardous waste closed in violation of 22 CCR § 66265.173(a) (see also 40 CFR § 265.173(a)), Permit Condition III.A.3. of the 1996 Permit, authorized requirements of the H&SC, and RCRA.

COUNT 2
Storage of Hazardous Waste for Greater Than 90 Days and
Failure to Mark the Date Hazardous Waste Accumulation Began

32. Paragraphs 1 through 31, above, are incorporated herein by this reference as if they were set forth here in their entirety.

33. Pursuant to H&SC § 25123.3(d), generators must label any container used for the accumulation of hazardous waste with the initial date of accumulation.

34. In addition, one of the regulatory requirements referenced at 22 CCR §66262.34(a)(2) (see also 40 CFR § 262.34(a)(2)), is that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or grant of interim status provided that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

35. Furthermore, pursuant to 22 CCR § 66262.34(a)(3), a generator may accumulate hazardous waste on-site for 90 days or less without a permit or grant of interim status provided that the generator complies with the requirements of subsection 66262.34(f).

36. Pursuant to 22 CCR § 66262.34(f), generators who accumulate hazardous waste onsite without a permit or grant of interim status must mark and make clearly visible for inspection on each container and portable tank the date upon which each period of accumulation begins.

37. At the time of the October 2010 CEI, the inspectors observed four containers of hazardous waste that were each labelled with a hazardous waste accumulation start date that indicated hazardous waste had been stored in the container for

greater than 90 days: Tank No. 3 at WMU 28, Tank No. 70 at WMU 35-1, Tank No. 80 at WMU 35-2 and Tank No. 08 at WMU 35-3.

38. At the time of the October 2010 CEI, the inspectors also observed that the accumulation start date on Tank No. 08 at WMU 35-3 was not clearly marked or visible.

39. Therefore, EPA alleges that CHB has failed to meet the conditions of 22 CCR §§ 66262.34(a) and (c) (see also 40 CFR §§ 262.34(a) and (c)), and has thus violated 22 CCR § 66270.1 (see also 40 CFR § 270.1), authorized requirements of the H&SC, and RCRA.

COUNT 3
Failure to Utilize Spill Prevention Controls

40. Paragraphs 1 through 39, above, are incorporated herein by this reference as if they were set forth here in their entirety.

41. H&SC § 25123.3(d) requires that, if hazardous waste is held onsite for any period of time, the hazardous waste must be held in a container, tank, drip pad, or containment building pursuant to State hazardous waste regulations.

42. In addition, pursuant to 22 CCR § 66262.34(a)(1)(A), for waste placed in tanks, a hazardous waste generator must comply with the applicable requirements of Articles 10, 27, 28, and 28.5 of Chapter 15 of Division 4.5, except sections 66265.197(c) and 66265.200.

43. One of the conditions referenced in 22 CCR § 66262.34(a)(1)(A), specifically, one provision found within Article 10 of Chapter 15 of Division 4.5, is 22 CCR § 66265.194(b)(1), (see also 40 CFR § 265.194(b)(1)). This provision requires that owners and operators of facilities that store hazardous waste in tanks use appropriate controls and practices to prevent spills and overflows from tank or secondary containment systems, including, at a minimum, spill prevention controls such as check valves, or dry disconnect couplings.

44. In addition, the 1996 Permit includes a provision that requires CHB to "use appropriate controls and practices to prevent spills and overflows of tank containment systems" including spill prevention controls. Permit Condition III.C.5.

45. At the time of the October 2010 inspection, the inspectors observed that a plastic hazardous waste leachate accumulation tank at WMU 35, which contained F039 leachate at the time of the inspection, was not equipped with spill prevention controls.

46. Therefore, EPA alleges that, by failing to maintain spill prevention controls at the hazardous waste leachate accumulation tank at WMU 35, CHB has violated 22 CCR § 66265.194(b)(1) (see also 40 CFR § 265.194(b)(1)), Permit Condition III.C.5. of the 1996 Permit, authorized requirements of the H&SC, and RCRA.

COUNT 4
Failure to Install Leak Detection Systems

47. Paragraphs 1 through 46, above, are incorporated herein by this reference as if they were set forth here in their entirety.

48. Another condition referenced in 22 CCR § 66262.34(a)(1)(A), specifically, one provision found within Article 10 of Chapter 15 of Division 4.5, is 22 CCR § 66265.193(e)(3)(C), (see also 40 CFR § 264.193(e)(3)(iii)). This provision requires that double-walled tanks be provided with built-in continuous leak detection systems capable of detecting a release within 24 hours (unless the generator makes a successful demonstration of infeasibility to the Department of Toxic Substances Control).

49. At the time of the October 2010 CEI, the inspectors observed that a plastic hazardous waste leachate accumulation tank at WMU 35 containing F039 leachate at the time of the CEI was not equipped with a continuous leak detection system. The leachate accumulation tank at issue was not the subject of a successful demonstration of infeasibility pursuant to 22 CCR § 66265.193(e)(3)(C), (see also 40 CFR § 265.193(e)(3)(iii)).

50. Therefore, EPA alleges that, by failing to maintain a continuous leak detection system at the hazardous waste leachate storage tank at WMU 35, CHB has violated 22 CCR § 66265.193(e)(3)(C), (see also 40 CFR § 265.193(e)(3)(iii)), authorized requirements of the H&SC, and RCRA.

COUNT 5
Failure to Provide Secondary Containment

51. Paragraphs 1 through 50, above, are incorporated herein by this reference as if they were set forth here in their entirety.

52. One of the conditions referenced in 22 CCR § 66262.34(a)(1)(A) is the requirement at 22 CCR § 66265.193(f), (see also 40 CFR § 265.193(f)), that tank ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of 22 CCR §§ 66265.193(b) and (c), (see also 40 CFR §§ 265.193(b) and (c)).

53. At the time of the October 2010 CEI, the inspectors observed that the ancillary equipment (outlet piping) on a plastic hazardous waste storage tank containing

hazardous waste leachate at WMU 35 was not provided with secondary containment.

54. Therefore, EPA alleges that, by failing to provide secondary containment for the ancillary equipment at the hazardous waste leachate storage tank at WMU 35, CHB has violated 22 CCR § 66265.193(f), (see also 40 CFR § 265.193(f)), authorized requirements of the H&SC, and RCRA.

COUNT 6
Failure to Analyze Treated Hazardous Waste
Restricted from Land Disposal for All Required Hazardous Constituents

55. Paragraphs 1 through 54, above, are incorporated herein by this reference as if they were set forth here in their entirety.

56. Permit Condition IV.A.4.d. of the 1996 Permit states: "All liquids pumped out of [a landfill] cell that has received waste shall be considered as F039 waste in accordance with the requirements of this permit."

57. Permit Condition Part II.B.1. of the 1996 Permit requires CHB to implement the Facility's Waste Analysis Plan ("WAP"). The WAP describes the Facility's waste acceptance criteria that, under WAP Section 3.2.4., specifically apply to waste generated on-site. The two-fold rationale for these procedures is described in the Waste Analysis Plan at Section 3.2.4.3. as "first, to generate data so that Facility management can decide whether the waste is acceptable for receipt, and second, to provide the information necessary for safe, efficient and effective treatment and disposal of the waste."

58. Both the 1996 Permit and the WAP include numerous requirements relating to verification sampling of waste to ensure "that consistency between waste manifest information and the incoming waste stream is maintained" and that "the waste received from a particular generator is the waste expected from the generator." See Permit Condition II.B. of the 1996 Permit and the WAP, generally.

59. Permit Condition II.B.3. of the 1996 Permit, requires that the Permittee "ensure that waste received at a hazardous waste management unit meets the acceptance criteria for that unit and any other criteria specified in the operation plan for the unit. Waste that does not meet any acceptance criteria for a unit may be accepted at the unit on a case-by-case basis provided that: the Permittee conducts all the supplemental analyses applicable to the unit, the results of the analyses indicate that the waste may be accepted at the unit without violating any other condition of the Permit, and the results of the analyses and the decision to accept the waste at the unit are documented in the operating record."

60. WAP Section 3.2.3.1. states: ". . . Treated waste undergoing final placement in a landfill will contain no free liquids, be non-ignitable and non-reactive, and not be

restricted from land disposal as defined in 22 CCR Articles 15 and 40 and/or 40 CFR 268. . ." 22 CCR § 66268.40(a) (see also 40 CFR § 268.40(a)) requires that a prohibited waste identified in the table "Treatment Standards for Hazardous Waste" be land disposed only if it meets the requirements found in the table.

61. Based on CHB's records, the inspectors determined that, during 2009, prior to on-site land disposal of leachate generated at the Facility, leachate samples were not analyzed to verify that all hazardous constituents for F039 leachate were at or below the values found in the Treatment Standards for Hazardous Waste table. In addition, based on CHB's records, the inspectors determined that the CHB used analytical results from subsequent sampling events of newly collected F039 leachate to determine the regulatory status of stored F039 leachate it had previously determined exceeded the treatment standards.

62. Therefore, EPA alleges that, by failing to analyze treated hazardous waste restricted from land disposal for all required hazardous waste constituents, CHB violated Permit Condition II.B. of the 1996 Permit, the WAP, 22 CCR § 66268.40(a) (see also 40 CFR § 268.40(a)), authorized requirements of the H&SC, and RCRA.

D. TERMS OF SETTLEMENT

63. CHB consents to the assessment of a civil penalty of FIFTY THOUSAND DOLLARS ($50,000.00) in full satisfaction of all claims for civil penalties for the violations alleged in Section C of this CAFO. CHB must pay the civil penalty within thirty (30) calendar days of the Effective Date of this CAFO.

64. The aforesaid settlement amount was based upon EPA's consideration of the statutory factors of the seriousness of CHB's violations and any good faith efforts by CHB to comply with all applicable requirements as provided in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), and in accordance with the applicable provisions of the "June 2003 RCRA Civil Penalty Policy." Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as adjusted by 40 CFR Part 19, authorizes a civil penalty of up to THIRTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS ($37,500.00) per day for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 et seq., occurring after January 12, 2009.

E. ADMISSIONS AND WAIVERS OF RIGHTS

65. CHB admits and agrees that the EPA Administrator and Region IX Administrator have jurisdiction and authority over the subject matter of the action commenced in this CAFO and over CHB pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 CFR §§ 22.4 and 22.37. Further, for the purposes of this proceeding, CHB admits to the jurisdictional allegations of facts and law set forth in Section B of this CAFO. CHB consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CAFO and to enforce its terms. Further,

CHB will not contest EPA's jurisdiction and authority to compel compliance with this CAFO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CAFO.

66. CHB neither admits nor denies any allegations of fact or law set forth in Section C of this CAFO. CHB hereby waives any rights it may have to contest the allegations set forth in this CAFO, waives any rights it may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CAFO, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b) and hereby consents to the issuance of this CAFO without adjudication. In addition, CHB hereby waives any rights it may have to appeal the Final Order attached to this Consent Agreement and made part of this CAFO.

F. PARTIES BOUND

67. This CAFO shall apply to and be binding upon CHB and its agents, successors and assigns and upon all persons acting under or for CHB, until such time as the civil penalty required under Section G has been paid. At such time as those matters are concluded, this CAFO shall terminate and constitute full settlement of the federal civil penalty claims alleged herein.

68. No change in ownership or any other legal status relating to the Facility will in any way alter CHB's obligations and responsibilities under this CAFO.

69. CHB shall give prior notice of this CAFO to any successor in interest prior to transfer of ownership or operation of the Facility and shall notify EPA within seven (7) days prior to such transfer until the termination of this CAFO.

70. The undersigned representative of CHB hereby certifies he or she is fully authorized to enter into this CAFO, to execute and to legally bind CHB to it.

G. PAYMENT OF CIVIL PENALTY

71. CHB consents to the assessment of and agrees to pay a civil penalty of FIFTY THOUSAND DOLLARS ($50,000.00) in full settlement of the federal civil penalty claims set forth in this CAFO.

72. CHB shall submit payment of the FIFTY THOUSAND DOLLARS ($50,000.00) civil penalty within thirty (30) calendar days of the Effective Date of this CAFO in accordance with one of the options set forth below:

a. A check sent by regular U.S. Postal Service mail should be made payable to the "Treasurer, United States of America" and addressed to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

b. Wire transfers should be directed to the Federal Reserve Bank of New York as follows –

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

c. A check sent by overnight mail should be payable to the "Treasurer, United States of America" and addressed to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

d. If using ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact – Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 – checking
Environmental Protection Agency
Account 310006
CTX Format

e. An On Line Payment Option is available through the Dept. of Treasury. This payment option can be accessed from the information below:

WWW.PAY.GOV
Enter sfo 1.1 in the search field

Open form and complete required fields.

73. At the time payment is so made, a copy of the check or other form of payment or evidence thereof shall be sent to each of the following Region IX addresses:

Regional Hearing Clerk (ORC-1)
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

and

Richard Francis (ENF 2-2)
Enforcement Division
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

74. All payments shall indicate the name of the Facility, EPA identification number of the Facility, CHB's name and address, and the EPA docket number of this action.

75. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), payment must be received in accordance with the due date set forth in Section D of this CAFO to avoid additional charges. If payment is not received by the due date, interest will accrue on the amount due from the due date at the current rate published by the United States Treasury as described at 40 CFR § 13.11. A late penalty charge of $15.00 will be imposed after thirty (30) calendar days with an additional $15.00 charge for each subsequent thirty (30) day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) calendar days of the due date. CHB will also be liable for stipulated penalties as set forth below for payment not received by the due date.

H. DELAY IN PERFORMANCE/STIPULATED PENALTIES

76. In the event CHB fails to submit the payment to EPA by the time required in this CAFO, CHB shall pay stipulated penalties up to FIVE HUNDRED DOLLARS ($500.00) per day for the first to fifteenth day of delay, up to ONE THOUSAND DOLLARS ($1,000.00) per day for the sixteenth to thirtieth day of delay, and up to FIFTEEN HUNDRED DOLLARS ($1,500.00) per day for each day of delay thereafter.

77. All penalties shall begin to accrue on the date that performance is due or a violation occurs, and shall continue to accrue through the final day of correction

of the noncompliance or completion of the activity. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations.

78. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a written demand by EPA for such penalties. Such demand shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 CFR § 13.11, shall begin to accrue on the unpaid balance at the end of the thirty (30) day period. Unless EPA directs payments pursuant to this CAFO to a different address, any stipulated penalty payment shall be made in accordance with one of the options set forth in Section G above.

79. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CAFO.

80. At the time any penalties owed to EPA under this Section are paid, a copy of the check or other form of payment or evidence thereof shall be sent to Region IX in accordance with Paragraph 73 above.

81. All payments shall indicate the name of the Facility, EPA identification number of the Facility, CHB's name and address, and the EPA docket number of this action.

82. The payment of stipulated penalties shall not alter in any way CHB's obligation to complete the performance required hereunder.

83. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of CHB's failure to comply with any of the requirements of this CAFO.

I. RESERVATION OF RIGHTS

84. EPA expressly reserves all rights and defenses that it may have.

85. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that CHB perform tasks in addition to those required by this CAFO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to CHB's failure to comply with any of the requirements of this CAFO, including without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c). This CAFO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA, the Comprehensive Environmental Response, Compensation and Liability

Act of 1980, as amended ("CERCLA"), or any other statutory, regulatory or common law enforcement authority of the United States.

86. Compliance by CHB with the terms of this CAFO shall not relieve CHB of its obligations to comply with RCRA or any other applicable local, California, or federal laws and regulations.

87. The entry of this CAFO and CHB's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as it relates to CHB's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CAFO.

88. This CAFO is not intended to be nor shall it be construed as a permit. This CAFO does not relieve CHB of any obligation to obtain and comply with any local, California, or federal permits.

89. The penalties specified in this CAFO shall represent civil penalties assessed by EPA and shall not be deducted by CHB or any other person or entity for federal, state or local taxation purposes.

J. OTHER CLAIMS

90. Nothing in this CAFO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the facility.

K. MISCELLANEOUS

91. By signing this CAFO, CHB without admitting or denying them, certifies that CHB is in full compliance with all of the statutory, regulatory and permit requirements that formed the basis for the violations alleged in this CAFO. This certification of compliance is based upon true, accurate, and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

92. This CAFO may be amended or modified only by written agreement executed by both EPA and CHB.

93. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.

94. The Effective Date of this CAFO is the date the CAFO, once signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

09/22/2015
Date

William F. Connors, Sr. Vice President, Compliance
on behalf of Clean Harbors Buttonwillow, L.L.C.

Sept 30, 2015
Date

Kathleen Johnson, Director
Enforcement Division
U.S. Environmental Protection Agency, Region IX

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (U.S. EPA Docket No. RCRA-09-2015-0012) be entered and that CLEAN HARBORS BUTTONWILLOW, L.L.C. pay a civil penalty of FIFTY THOUSAND DOLLARS ($50,000.00) in any of the manners outlined in Section G of this Consent Agreement and Final Order within thirty (30) calendar days of the Effective Date of this Consent Agreement and Final Order. A notice of payment and a copy of the check or other form of payment shall be sent to the EPA Region IX addresses specified in Section G of this Consent Agreement and Final Order at the time payment is made.

This Final Order, once signed, shall be effective immediately upon it being filed with the Regional Hearing Clerk.

09/30/15
Date

Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region IX

CERTIFICATE OF SERVICE

I hereby certify that [redacted], the original [redacted] of the foregoing Complaint, Consent Agreement and Final Order, was filed with the Regional Hearing Clerk, Region IX, and that copies were sent by:

Certified Mail, Return Receipt Requested to:

William F. Conners
Senior Vice President Compliance
Clean Harbors Buttonwillow, L.L.C.
42 Longwater Drive
Norwell, Massachusetts 02061

Oct 1, 2015

Date

Steven Armsey

Steven Armsey
Regional Hearing Clerk
Office of Regional Counsel, Region IX