UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

MAY 15 2018

Via Email

Jessica Pennington
Director of Safety and Environmental Compliance
Emerald Transformer Western States, LLC
4509 State Hwy 83
Defuniak Springs, Florida 32433

Joe Christopher
Facility Environmental Manager
Emerald Transformer Los Angeles, LLC
5756 Alba Street
Los Angeles, California 90058

Re: Clean Harbors Los Angeles, LLC Change in Ownership, Change in Facility Name and Change in Financial Assurance Mechanism of TSCA PCB Commercial Storage Facility - U.S. EPA ID# CAD 050806850

Dear Ms. Pennington and Mr. Christopher,

The United States Environmental Protection Agency, Region 9 (U.S. EPA) is responding to your notification regarding the change in ownership, change of financial assurance mechanism, and facility name change of the Clean Harbors Los Angeles, LLC facility located at 5756 Alba Street in Los Angeles, California (Facility). The Facility was formerly owned and operated by Clean Harbors Los Angeles, LLC (CHLA), subject to an Approval for Commercial Storage of Polychlorinated Biphenyl (PCBs) (TSCA Approval or Approval) issued in October 24, 2013 pursuant to Section 6(e)(1) of the Toxic Substances Control Act and 40 Code of Federal Regulations (CFR) Part 761. We are approving the Facility ownership and name change, but corrections must be made to the financial assurance documents.

Background – Facility Ownership and Name Change

Your November 2, 2017 letter states that as a result of the transaction by which Emerald Transformer Western States, LLC acquired the parent company of Clean Harbors Los Angeles, LLC, this LLC is changing its name to Emerald Transformer Los Angeles LLC (ETLA). Also as a result of this transaction, Clean Harbors Inc. no longer wishes to provide financial assurance for the Facility. In response to our request for clarification on the ownership of the Facility, you submitted information that states that ETLA has been and remains the owner of the building and land, as well as the operator of the Facility. Section 2.4 of the revised Application states that Emerald Transformer Los Angeles LLC is a wholly owned subsidiary of Emerald Transformer Western States, LLC and the parent's officers own and operate all the related subsidiaries. In a letter dated December 7, 2017 you provided a clean copy along with a markup copy of the TSCA Storage Application to identify what information has changed in relation to the above transaction. On January 30, 2017, you submitted a pdf of the Closure Cost Certification signed by Joe L. Christopher. ETLA also submitted financial assurance documents.

Approval – Facility Ownership and Facility Name Change

Based on the information and documents provided to us, U.S. EPA will amend the TSCA Approval to change the facility name from Clean Harbors Los Angeles, LLC to Emerald Transformer Los Angeles, LLC (ETLA) and pursuant to Section VI Part B of the TSCA Approval, U.S. EPA consents to the transfer of ownership of Transformer Services Holdco, LLC from Clean Harbors, Inc. to Emerald Transformer Western States, LLC.

Based on the information and documents provided to us, U.S. EPA considers the ownership change of Transformer Services Holdco, LLC as changes in ownership or operational control of the Facility as listed in

Appendix G of the Approval as a Class I modification, and the facility name change an administrative and informational change of the Facility as listed in Appendix G of the Approval as a Class I modification.

Pursuant to Subsection VI.A.2.b.ii of the TSCA Approval, CHLA must provide notification to all persons on the Facility mailing list within 90 days of EPA's approval of this transfer and name change (i.e., within 90 days of the date of this letter).

As a condition to this Approval of the Facility name change, ETLA must submit Form 7710-53, "Notification of PCB Notification Activity," including the new facility name and any other updated information as it pertains to Emerald Transformer Western States. To ensure that this form is processed in a timely manner, please submit this form via email to ORCRPCBs@epa.gov and cc Madison Sanders-Curry, of my staff on the email.

The current TSCA Approval remains in effect until 10 years after the October 24, 2013 signing date, unless modified, renewed, suspended or terminated in accordance with 40 CFR Part 761 or the Approval conditions. Emerald Transformer Los Angeles, LLC shall continue to comply with and operate in accordance with (1) all terms and conditions of the TSCA Approval, (2) plans incorporated by reference into the TSCA Approval, and (3) the PCB regulations at 40 C.F.R. Part 761 including any future modifications.

If there is any future change in ownership of the property or the proposed transfer of the right to operate PCB management activities at the Facility, including transfer of ownership or control of ETLA or Transformer Services Holdco LLC, then U.S. EPA expects to be informed in accordance with Section VI Part B of the TSCA Approval.

The TSCA Approval does not relieve Emerald Transformer Los Angeles, LLC from compliance with all applicable federal, state and local regulatory requirements, notwithstanding their inclusion within the terms and conditions of the Approval.

Background - Change in Financial Assurance Mechanism

In the November 2, 2017 letter from Emerald Transformer to U.S. EPA, Emerald Transformer stated that as a result of the transaction, Clean Harbors Inc. no longer wishes to provide financial assurance for the CHLA facility. Emerald Transformer has since provided documentation for an alternative financial assurance mechanism to replace the current mechanism in place for U.S. EPA review which includes:

1. Standby Trust Agreement submitted on April 5, 2018 (Standby Trust)
2. Performance Bond dated March 13, 2018 with a Surety's bond number of 1153705 (Performance Bond)

Comments on Financial Assurance Mechanism

After review of the Standby Trust and Performance Bond, U.S. EPA has deemed the documentation insufficient. Additional information and appropriate documents must be correctly submitted before U.S. EPA can act on the request for change in financial assurance.

- Language in the Standby Trust does not contain the current language for standby trusts for PCB storage facilities as provided by U.S. EPA September 26, 2017. A properly executed and properly submitted Standby Trust Agreement must be submitted to U.S. EPA Region 9 with the bond. An originally signed duplicate of the trust agreement must be submitted to U.S. EPA Region 9 with the surety bond. See 40 C.F.R. §§ 765(g)(3) and 264.143(c)(1) and 264.143(c)(3)(i). See the enclosed Standby Trust Agreement for the current language.
- Under the section "EPA Identification Number, name, address… indication closure and post-closure amount separately]:" of the Performance Bond, in addition to facility information already included, the amount and type of obligation should be included. If only Closure or Post Closure applies, then only that obligation should be specified within this section.
- In the first paragraph on Page 2 of the Performance Bond that reads, "Now, Therefore, the conditions of this obligation are such that…" has omitted the following language, "pursuant to all applicable laws, statues, rules, and regulations, as such laws, statutes, rules, and regulations may be amended." The

Performance Bond must include the language that was previously omitted and properly submit the Performance Bond with the Standby Trust.

- On Page 4 of the Performance Bond, the regulations reference to "40 CFR 761.65(g)(3) in the last sentence should be changed to 40 CFR 264.151(c).

If you have questions or concerns, please contact Madison Sanders-Curry of my staff at (415) 972-3855 or sanders-curry.madison@epa.gov.

Sincerely,

Jeff Scott, Director
Land Division

Enclosures: Standby Trust Agreement

STANDBY TRUST AGREEMENT

This TRUST AGREEMENT (the "Agreement") is entered into as of [*insert date*] by and between [*insert name of owner or operator*], a [*insert State*] [*insert "corporation", "partnership", "association", or "proprietorship"]* (the "Grantor"), and [*insert name of corporate trustee or a national bank*], (the "Trustee"), incorporated in the State of _____.

Whereas, the United States Environmental Protection Agency ("EPA"), an agency of the United States Government, has established certain regulations applicable to the Grantor requiring that an owner or operator of a PCB commercial storage facility shall provide assurance that funds will be available when needed for closure or post-closure care of the facility.

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility or facilities identified herein, and

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this Agreement, and the Trustee is willing to act as trustee,

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement: (a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor. (b) The term " Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities and Cost Estimates. This Agreement pertains to the facilities and cost estimates identified on attached Schedule A [*on schedule A, for each facility list the EPA Identification Number, name and address of the facility(ies), and the current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement*].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund (the "'Fund") for the purpose of assuring compliance with the closure and post-closure care requirements established by EPA for the facilities identified on Schedule A. Accordingly, the Fund is established for the benefit of parties that conduct work consistent with the approved closure and or post closure plan. The Grantor and the Trustee acknowledge that the Fund and all expenditures from the Fund shall be to fulfill the legal obligations of the Grantor under such regulations, and not any obligation of EPA.

The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible, nor shall it undertake any responsibility, for the amount or adequacy of any additional payments necessary to discharge any liabilities of the Grantor established by EPA, nor shall the Trustee have any duty to collect such additional amounts from the Grantor.

Section 4. Payment for Closure and Post-Closure Care.

The Trustee shall make payments from the Fund only for closure and post-closure care of the facilities covered by this Agreement only after EPA has advised the Trustee that work has been completed that complies with the requirements of 40 C.F.R. § 761, Subpart D, and the terms of the EPA Approval under § 761, Subpart D that specifies closure and post-closure care activities. The Trustee shall not refund to the Grantor any amounts from the

Fund unless and until EPA has advised the Trustee that the closure and/or post-closure care activities have been successfully completed. The Trustee shall not release any funds to the Grantor that are necessary to cover expenditures for any closure or post-closure care activities covered by this Agreement that remain uncompleted.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; *except that:*

(a) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government;

(b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and

(c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and,

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U. S. C. 80a-1 *et seq.,* including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depositary with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality

thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements
of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the appropriate EPA Regional Administrator or Director, Office of Resource Conservation and Recovery ("ORCR") a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the EPA Regional Administrator or Director, ORCR shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement of any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation
for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the EPA Regional Administrator, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the EPA Regional Administrator Director, ORCR to the Trustee shall be in writing, signed by the EPA Regional Administrators of the Regions in which the facilities are located, or their designees, or the Director, ORCR, or

his/her designees and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or EPA hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or EPA, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the appropriate EPA Regional Administrator or Director, ORCR, by certified mail within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the appropriate EPA Regional Administrator OR Director, ORCR, or by the Trustee and the appropriate EPA Regional Administrator or Director, ORCR if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the EPA Regional Administrator or Director, ORCR, or by the Trustee and the EPA Regional Administrator or Director, ORCR if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the EPA Regional Administrator Director, ORCR issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of _____.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective representatives duly authorized and their seals to be hereunto affixed and attested as of the date first above written.

GRANTOR	TRUSTEE
_____	_____
By: _____	By: _____

[Print name]

Its: _____

[Title]

Attest:

_____

Its: _____

[Title]

[SEAL]

[Print name]

Its: _____

[Title]

Attest:

_____

Its: _____

[Title]

[SEAL}

CERTIFICATION OF ACKNOWLEDGMENT [*The following represents an example of the certification of acknowledgement which must accompany the trust agreement as required under 40 CFR § 264.151(a)(2). State requirements may differ on the proper content of this acknowledgment.*]

Before me came the individual whose identity I confirmed as _____, and whose true signature is set forth above; wherefor have I set my hand and seal this _____ day of _____, 20__.

_____

Notary Public