UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 Ross Avenue
Dallas, Texas 75202-2733

April 25, 2014

Via Certified Mail – Return Receipt Requested – 7007 0780 0000 0295 8472 and e-mail – mcdonaldm@cleanharbors.com

Michael R. McDonald
Assistant General Counsel
Clean Harbors Environmental Services, Inc.
P.O. Box 9149
42 Longwater Drive
Norwell, MA 02061

Re: Clean Harbors El Dorado, L.L.C., Docket No. RCRA-06-2014-0906

Dear Mike:

Enclosed is a fully executed file-stamped copy of the Consent Agreement and Final Order (CAFO) in the above-entitled case. Please note that the effective date of the CAFO is the date that the CAFO is filed with the Regional Hearing Clerk. Thank you for your assistance in resolving this matter. If you have any questions, please feel free to call me at (214) 665-8074.

Sincerely,

Evan L. Pearson
Senior Enforcement Counsel

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
2014 APR 25 AM 8:57
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:	)	
CLEAN HARBORS EL DORADO, L.L.C. EL DORADO, ARKANSAS	)	DOCKET NO. RCRA-06-2014-0906
RESPONDENT	)	

CONSENT AGREEMENT AND FINAL ORDER

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency (EPA), Region 6 (Complainant), and Clean Harbors El Dorado, L.L.C. (Respondent), in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order (CAFO).

I. PRELIMINARY STATEMENT

1. This proceeding for the assessment of civil penalties and a compliance order is brought by EPA pursuant to Section 3008 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928, as amended by the Hazardous and Solid Waste Amendments of 1984, and is simultaneously commenced and concluded by the issuance of this CAFO pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) & (3) and 22.37.

2. EPA provided notice of this action to the State of Arkansas before issuing this CAFO, as required by Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

3. For the purposes of this proceeding, the Respondent admits the jurisdictional allegations contained in this CAFO; however, the Respondent neither admits nor denies the specific factual allegations contained in this CAFO.

4. The Respondent explicitly waives any right to contest the allegations and any right to appeal the proposed Final Order set forth herein, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

5. Compliance with all the terms and conditions of this CAFO shall resolve only those violations which are set forth herein.

6. The Respondent consents to the assessment and payment of the civil penalty in the amount and by the method set forth in this CAFO.

7. The Respondent consents to the issuance of this CAFO, including any conditions stated herein and to the issuance of the Compliance Order contained in this CAFO.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. PRELIMINARY ALLEGATIONS

8. "Person" is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) as "an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body and shall include each department, agency, and instrumentality of the United States."

9. "Person" is defined in Arkansas Pollution Control and Ecology Commission Regulation 23 (APCEC Reg. 23) § 260.10 [40 C.F.R. § 260.10], as "an individual, corporation, company, firm, partnership, association, trust, joint stock company, joint venture, state or federal agency or instrumentality, county, city, town, or municipal authority, trust venture or any other legal entity, or combination of entities however organized."

10. The Respondent is a Delaware limited liability company authorized to do business in the State of Arkansas.

11. The Respondent is a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and APCEC Reg. 23 § 260.10 [40 C.F.R. § 260.10].

12. "Operator" is defined in APCEC Reg. 23 § 260.10 [40 C.F.R. § 260.10] as "an individual or individuals charged with the responsibility of managing or operating a hazardous waste management facility, including the responsibility for assuring the operation of said facility is in accordance with the provisions of this hazardous waste management regulation."

13. "Owner" is defined in APCEC Reg. 23 § 260.10 [40 C.F.R. § 260.10], as "the person who owns a facility or part of a facility."

14. "Owner or operator" is defined in 40 C.F.R. § 270.2, as "the owner or operator of any facility or activity subject to regulation under RCRA."

15. "Facility" is defined in APCEC Reg. 23 § 260.10 [40 C.F.R. § 260.10] as meaning "(1) all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them)."

16. The Respondent owns and operates certain real property comprising more than 300 acres located at 309 American Circle in El Dorado, Union County, Arkansas and the structures, other appurtenances, and improvements on the property used for the treatment and storage of hazardous waste (Facility).

17. The Respondent's operations at the Facility include the commercial storage and treatment, by incineration, of a wide variety of hazardous wastes received from offsite generators, including wastes listed as hazardous waste in APCEC Reg. 23 §§ 264.31 & 261.32 [40 C.F.R. §§ 261.31 and 261.32].

18. The Respondent also generates hazardous wastes as a result of the hazardous waste treatment activities it performs at the Facility.

19. The Facility identified in Paragraph 16 is a "facility" as that term is defined by APCEC Reg. 23 § 260.10 [40 C.F.R. § 260.10].

20. The Respondent is the "owner" and "operator," of the Facility, as those terms are defined by APCEC Reg. 23 § 260.10 [40 C.F.R. § 260.10] and 40 C.F.R. § 270.2.

21. The Facility has been operated continuously as a commercial hazardous waste management facility since approximately 1980, when Respondent [then known as ENSCO, Inc. (ENSCO)] received interim status authorization under RCRA.

22. ENSCO operated the Facility under RCRA interim status authorization until receiving a final RCRA permit (RCRA Permit 10H) in 1988.

23. In 2001, ENSCO changed its name to Teris, L.L.C., and Arkansas Department of Environmental Quality (ADEQ) transferred RCRA Permit No. 10H to Teris, L.L.C. (d/b/a ENSCO).

24. In August 2006, Clean Harbors, Inc. acquired Teris, L.LC., and in 2007, changed its name to Clean Harbors El Dorado, L.L.C.

25. In March 2008, ADEQ issued RCRA Hazardous Waste Renewal Permit No. 10H-RN1 (RCRA Permit) for the Facility to Clean Harbors El Dorado, L.L.C.

26. The Respondent is authorized under its RCRA Permit to incinerate more than 500 types of wastes listed as hazardous in APCEC Reg. 23 §§ 264.31 & 261.32 [40 C.F.R. §§ 261.31 and 261.32].

27. EPA conducted a RCRA compliance inspection of the Facility in May and June 2009 (2009 Inspection).

28. EPA conducted a RCRA compliance inspection of the Facility on November 1 - 4, 2011 (2011 Inspection).

B. VIOLATIONS

Count 1 - Failure to Make a Hazardous Waste Determination (APCEC Reg. 23 § 262.11 [40 C.F.R. § 262.11]

29. Pursuant to APCEC Reg. 23 § 262.11 [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in APCEC Reg. 23 § 261.2, must determine if that waste is a hazardous waste using the following method:

(a) He should first determine if the waste is excluded from regulation under § 261.4.

(b) He must then determine if the waste is listed as a hazardous waste in Subsection D of § 261.

(c) For purposes of compliance with § 268, or if the waste is not listed in Subsection D of § 261, the generator must then determine whether the waste is identified in Subsection C of § 261 by either:

(1) Testing the waste according to the methods set forth in Subsection C of § 261, or according to an equivalent method approved by the Commission under § 260.21; or

(2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

(d) If the waste is determined to be hazardous, the generator must refer to sections 264, 265, 266, 267, 268, and 273 of this regulation for possible exclusions or restrictions pertaining to management of his specific waste.

30. "Generator" is defined in APCEC Reg. 23 § 260.10 [40 C.F.R. § 260.10] as "any person, by site, whose act or process produces hazardous waste identified or listed in Section 261 of this regulation or whose act first causes a hazardous waste to become subject to regulation."

31. In the regular course of its commercial hazardous waste management operations at the Facility, the Respondent generates solid waste as defined by APCEC Reg. 23 § 261.2 [40 C.F.R. § 261.2].

32. The Respondent is subject to regulations applicable to generators of solid and hazardous waste, including the requirement under APCEC Reg. 23 § 262.11 [40 C.F.R. § 262.11] to make a hazardous waste determination for each solid waste generated by the Facility.

33. The Respondent uses a system of air pollution control devices to treat exhaust generated by the Facility's hazardous waste incinerator. In 2003, the Respondent began operating a saturator (an air pollution control device) to treat exhaust from the Facility's hazardous waste incinerator. The saturator cools and condenses the incinerator exhaust and generates waste sludge comprised of a mixture of liquids and solids ("Saturator Sludge").

34. APCEC Reg. 23 § 260.10 [40 C.F.R. § 260.10] defines "sludge" as "any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant."

35. The Saturator Sludge is a "sludge" as that term is defined by APCEC Reg. 23 § 260.10 [40 C.F.R. § 260.10].

36. APCEC Reg. 23 § 260.10 [40 C.F.R. § 260.10] defines "treatment" as "any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-

hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume."

37. Since 2003, the Respondent has treated the Saturator Sludge in an area of the Facility called the "Brine Unit." Treatment of the Saturator Sludge in the Brine Unit includes removal of solids by filtration, precipitation and removal of metals, and volume reduction by heating and evaporation. After it is treated in the Brine Unit, the Saturator Sludge is a concentrated calcium chloride brine ("Saturator Brine").

38. From on or about 2003 through February 2012, the Respondent sold the Saturator Brine for use as drilling fluid and make up water in oil and gas well drilling, completion and remediation applications.

39. APCEC Reg. 23 § 260.10 [40 C.F.R. § 260.10] defines "disposal" as "the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters."

40. APCEC Reg. 23 § 261.2(a)(1)(A) [40 C.F.R. § 261.2(a)(1)(A)] defines "solid waste" as "any discarded material that is not excluded by § 261.4(a) or that is not excluded by a variance granted under §§ 260.30 and 260.31."

41. APCEC Reg. 23 § 261.2(a)(2) [40 C.F.R. § 261.2(a)(2)] defines "discarded material" as "any material which is: (i) "[a]bandoned", as explained in paragraph (b) of this section; or (ii) "[r]ecycled", as explained in paragraph (c) of this section; (iii) [c]onsidered "inherently waste-like", as explained in paragraph (d) of this section; or (iv) [a] "military munition" identified as a solid waste in § 266.202.

42. Pursuant to APCEC Reg. 23 § 261.2(b) [40 C.F.R. § 261.2(b)], "materials are solid waste if they are "abandoned" by being: (1) [d]isposed of; or (2) [b]urned or incinerated; or (3) [a]ccumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated."

43. Pursuant to APCEC Reg. 23 § 261.2(c) [40 C.F.R. § 261.2(c)] "materials are solid wastes if they are "recycled" – or accumulated, stored, or treated before recycling – as specified in paragraphs (c)(1) through (4) of this section."

44. The Saturator Sludge is "discarded material" as defined by APCEC Reg. 23 § 261.2(a)(2) [40 C.F.R. § 261.2(a)(2)] and is not excluded from the definition of solid waste by APCEC Reg. 23 § 261.4(a) [40 C.F.R. § 261.4(a)] or by a variance under APCEC Reg. 23 § 260.30 or § 260.31 [40 C.F.R. § 260.30 or § 260.31].

45. Pursuant to APCEC Reg. 23 § 261.2(b) [40 C.F.R. § 261.2(b)], the Saturator Sludge is solid waste because it is "abandoned" by being "treated" in the Brine Unit before being "disposed of."

46. Pursuant to APCEC Reg. 23 § 261.2(c)(1) [40 C.F.R. § 261.2(c)(1)], the Saturator Sludge is a solid waste when it is recycled and sold for use as an oil and gas well drilling fluid or make up water because it is recycled to make a product that is applied to or placed on the land.

47. Pursuant to APCEC Reg. 23 § 261.2(e)(2) [40 C.F.R. § 261.2(e)(2)], because the use or reuse of the Saturator Sludge to make oil and gas well drilling fluid or make up water is a use to make a product that is applied to the land, the Saturator Sludge is not excluded from the definition of solid waste by APCEC Reg. 23 § 261.2(e)(1) [40 C.F.R. § 261.2(e)(1)].

48. Pursuant to APCEC Reg. 23 § 261.3(a) [40 C.F.R. § 261.3(a)], "hazardous waste" is a solid waste if it exhibits any of the characteristics of hazardous waste (ignitability, corrosivity,

reactivity, or toxicity) identified in Subsection C of Section 261 (§§ 261.20-261.24), is a listed hazardous waste pursuant to Subsection D of Section 261 (§§ 261.30-261.37), or is a mixture of a solid waste and one or more hazardous wastes.

49. Pursuant to the "derived from rule" in APCEC Reg. 23 § 261.3(c) [40 C.F.R. § 261.3(c)], "[u]nless and until it meets the criteria of paragraph (d) of this section: (1) a hazardous waste will remain a hazardous waste. (2)(i) Except as otherwise provided in paragraph (c)(2)(ii), (g) or (h) of this subsection, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation run-off) is a hazardous waste."

50. The Saturator Sludge is a solid waste generated from the treatment, by incineration, of a wide variety of listed and characteristic hazardous wastes. It is a listed hazardous waste under the "derived-from rule" in APCEC Reg. 23 § 261.3(c) [40 C.F.R. § 261.3(c)].

51. The Respondent has failed to make a hazardous waste determination of the Saturator Sludge as required by APCEC Reg. 23 § 262.11 [40 C.F.R. § 262.11].

52. Therefore, the Respondent has violated APCEC Reg. 23 § 262.11 [40 C.F.R. § 262.11] by failing to make a hazardous waste determination.

Count 2 - Unpermitted Hazardous Waste Storage and Treatment in the Brine Unit (RCRA Section 3005(a) and (e), APCEC Reg. 23 § 270.1 [40 C.F.R. § 270.1])

53. Pursuant to Sections 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and APCEC Reg. 23 § 270.1 [40 C.F.R. § 270.1], a RCRA permit or interim status is required for the treatment, storage or disposal of hazardous waste.

54. APCEC Reg. 23 § 270.1(c) [40 C.F.R. § 270.1(c)] provides, in part: "RCRA requires a permit for the "treatment," "storage" and "disposal" of any "hazardous waste" as identified or

listed in § 261 of this regulation. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. . . ."

55. The Respondent's operation of the Brine Unit involves treatment of the Saturator Sludge in one or more hazardous waste management units.

56. Hazardous waste treatment activities in the Brine Unit include the use of tanks, presses and other equipment to remove solids and some of the toxic metals from the Saturator Sludge by processes including filtration and precipitation, and to reduce the volume of the Saturator Sludge by processes including heating and evaporation.

57. Pursuant to Module I.A. of the Respondent's RCRA Permit, "[a]ny storage/ treatment/ disposal of hazardous waste which requires a permit and which is not specifically authorized in this Permit is prohibited."

58. The Respondent did not apply for or obtain authorization under its RCRA Permit to treat hazardous waste in the Brine Unit.

59. Since approximately 2003, the Respondent has stored and treated Saturator Sludge in tanks and equipment in the Brine Unit without authorization under its RCRA Permit.

60. Therefore, the Respondent has violated RCRA § 3005(a) and (e), 42 U.S.C. § 6925(a) and (e), and APCEC Reg. 23 § 270.1(c) [40 C.F.R. § 270.1(c)] by storing and treating Saturator Sludge in tanks and equipment in the Brine Unit without authorization under its RCRA Permit.

Count 3 - Failure to Comply with Land Disposal Restrictions (APCEC Reg. 23 Section 268 Subsection A [40 C.F.R. Part 268 Subpart A])

61. APCEC Reg. 23 Section 268 [40 C.F.R. Part 268] restricts land disposal of certain hazardous wastes and provides requirements which apply to persons who generate or transport

hazardous waste and owners and operators of hazardous waste treatment, storage, or disposal facilities.

62. The Respondent is required to comply with requirements for generators and treatment facilities in APCEC Reg. 23 Section 268, Subsection A [40 C.F.R. Part 268, Subpart A] with respect to its management of the Saturator Sludge and the Saturator Brine.

63. APCEC Reg. 23 § 268.2(c) [40 C.F.R. § 268.2(c)] defines "land disposal" as placement in or on the land, except in a corrective action management unit or staging pile, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault, or bunker intended for disposal purposes.

64. Use of the Saturator Sludge to make an oil and gas well drilling fluid or make up water results in "land disposal" as defined by APCEC Reg. 23 § 268.2(c) [40 C.F.R. § 268.2(c)].

65. APCEC Reg. 23 § 268.7(a)(1) [40 C.F.R. § 268.7(a)(1)] requires a generator of hazardous waste to determine if the waste must be treated before it can be land disposed by determining if the hazardous waste meets the treatment standards for land disposal in APCEC Reg. 23 §§ 268.40, 268.45, or 268.49 [40 C.F.R. §§ 268.40, 268.45, or 268.49].

66. The Respondent has failed to determine if the Saturator Brine or the Saturator Sludge must be treated before land disposal. Therefore, the Respondent has violated APCEC Reg. 23 § 268.7(a)(1) [40 C.F.R. § 268.7(a)(1)].

67. APCEC Reg. 23 § 268.7(a)(8) [40 C.F.R. § 268.7(a)(8)] requires generators to "retain on-site a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to this section for at least three years from the date that the waste that is the

subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal . . . ."

68. The Respondent has failed to generate or maintain records required by APCEC Reg. 23 § 268.7(a)(8) [40 C.F.R. § 268.7(a)(8)], including determinations of whether the Saturator Sludge or Saturator Brine meet applicable land disposal treatment standards. Therefore, Respondent has violated APCEC Reg. 23 § 268.7(a)(8) [40 C.F.R. § 268.7(a)(8)].

69. APCEC Reg. 23 § 268.7(b)(1) & (2) [40 C.F.R. § 268.7(b)(1) & (2)] requires a treatment facility to determine if its hazardous waste must be treated before it can be land disposed by determining if the hazardous waste meets the treatment standards for land disposal.

70. The Respondent failed to determine if the Saturator Brine must be treated before land disposal. Therefore, the Respondent has violated APCEC Reg. 23 § 268.7(b)(1) & (2) [40 C.F.R. § 268.7(b)(1) & (2)].

71. APCEC Reg. 23 § 268.7(b)(3) & (4) [40 C.F.R. § 268.7(b)(3) & (4)], require treatment facilities to provide an initial land disposal restriction ("LDR") notification and certification when sending waste to a land disposal facility and to keep a copy of the notification and certification in the treatment facility's file.

72. Since it began operating the Brine Unit in 2003, the Respondent has failed to provide the required LDR notification and certification to parties purchasing or using the Saturator Brine. Therefore, Respondent has violated APCEC Reg. 23 § 268.7(b)(3) &(4) [40 C.F.R. § 68.7(b)(3) & (4)].

Count 4 - Failure to Comply with Air Emission Standards for Permitted Hazardous Waste Tanks (APCEC Reg. 23 Section 264 Subsection CC [40 C.F.R. Part 264 Subpart CC])

73. At the Facility, the Respondent treats, stores or disposes of hazardous waste that contains at least 10 percent organic compounds and has a volatile organic content of greater than 500 parts per million by weight.

74. As the owner and operator of the Facility, and under Module II.R.1 of its RCRA Permit, the Respondent is required to comply with APCEC Reg. 23 Section 264 Subsection CC [40 C.F.R. Part 264 Subpart CC governing air emissions from tanks, surface impoundments and containers, with respect to its storage and treatment of hazardous waste in tanks at the Facility.

75. APCEC Reg. 23 § 264.1084 [40 C.F.R. § 264.1084] provides standards that apply to the control of air pollutant emissions from hazardous waste storage and treatment tanks.

76. The Respondent is required, pursuant to APCEC Reg. 23 § 264.1084(b)(2) [40 C.F.R. § 264.1084], to control air pollutant emissions from its permitted hazardous waste storage tanks by using Tank Level 2 controls in accordance with APCEC Reg. 23 § 264.1084(d) [40 C.F.R. § 264.1084(d)].

77. Pursuant to APCEC Reg. 23 § 264.1084(d)(3) [40 C.F.R. § 264.1084(d)(3)], "[o]wners and operators controlling air pollutant emissions from a tank using Tank Level 2 controls shall use one of the following tanks: . . . (3) [a] tank vented through a closed-vent system to a control device in accordance with the requirements specified in paragraph (g) of this section."

78. Pursuant to APCEC Reg. 23 § 264.1084(g)(1)(iv) [40 C.F.R. § 264.1084(g)(1)(iv)], "a closed-vent system and control device shall be designed and operated in accordance with the requirements of § 264.1087 of this subsection."

79. Pursuant to APCEC Reg. 23 § 264.1084(g)(3)(ii) [40 C.F.R. § 264.1084(g)(3)(ii)], "[t]he owner or operator shall inspect and monitor the air emission control equipment in accordance with the following procedures: . . . (ii) The closed-vent system and control device shall be inspected and monitored by the owner or operator in accordance with the procedures specified in § 264.1087 of this subsection."

80. APCEC Reg. 23 § 264.1087 [40 C.F.R. § 264.1087] provides requirements applicable to each closed-vent system and control device used to control air emissions in accordance with Subsection CC.

81. Pursuant to APCEC Reg. 23 § 264.1087(c)(1) [40 C.F.R. § 264.1087(c)(1)], the control device shall meet the following requirements: "(1) the control device shall be one of the following devices: (i) [a] control device designed and operated to reduce the total organic content of the inlet vapor stream vented to the control device by at least 95 percent by weight; (ii) [a]n enclosed combustion device designed and operated in accordance with the requirements of § 264.1033(c) of this part; or (iii) [a] flare designed and operated in accordance with the requirements of § 264.1033(d) of this part."

82. The Respondent uses carbon adsorption systems (carbon canisters) installed on its permitted hazardous waste storage and treatment tanks as a control device to comply with APCEC Reg. 23 § 264.1087(c)(1) [40 C.F.R. § 264.1087(1)].

83. Pursuant to APCEC Reg. 23 § 264.1087(c)(3)(i) [40 C.F.R. § 264.1087(c)(3)(i)], the "owner or operator using a carbon adsorption system to comply with paragraph (c)(1) of this section shall operate and maintain the control device in accordance with the following requirements: (i) Following the initial startup of the control device, all activated carbon in the

control device shall be replaced with fresh carbon on a regular basis in accordance with the requirements of § 264.1033(g) or § 264.1033(h) of this part."

84. APCEC Reg. 23 § 264.1033(h)(1) [40 C.F.R. § 264.1033(h)] provides requirements applicable to carbon canisters that do not regenerate the carbon bed directly onsite in the control device.

85. The carbon canisters the Respondent uses do not regenerate the carbon bed directly onsite in the control device.

86. Pursuant to APCEC Reg. 23 § 264.1033(h) [40 C.F.R. § 264.1033(h)], "[a]n owner or operator using a carbon adsorption system such as a carbon canister that does not regenerate the carbon bed directly onsite in the control device shall replace the existing carbon in the control device with fresh carbon on a regular basis by using one of the following procedures: (1) Monitor the concentration level of the organic compounds in the exhaust vent stream from the carbon adsorption system on a regular schedule, and replace the existing carbon with fresh carbon immediately when carbon breakthrough is indicated. The monitoring frequency shall be daily or at an interval no greater than 20 percent of the time required to consume the total carbon working capacity established as a requirement of § 264.1035(b)(4)(iii)(G), whichever is longer. (2) Replace the existing carbon with fresh carbon at a regular, predetermined time interval that is less than the design carbon replacement interval established as a requirement of § 264.1035(b)(4)(iii)(G)."

87. From at least 2009 until February 2013, the Respondent failed to monitor carbon canisters on one or more of its permitted hazardous waste storage tanks daily or at a frequency no greater than 20% of the time required to consume the total carbon working capacity of the

canister established as a requirement of APCEC Reg. 23 § 264.1035(b)(4)(iii)(G) [40 C.F.R. § 264.1035(b)(4)(iii)(G)].

88. From January 7, 2009 through November 29, 2011, there were 44 instances totaling 77 days where the Respondent failed to replace spent carbon with fresh carbon in its carbon canisters immediately when monitoring results indicated carbon breakthrough had occurred.

89. Therefore, the Respondent has violated APCEC Reg. 23 §§ 264.1087(c)(3)(i) & 264.1033(h) [40 C.F.R. §§ 264.1087(c)(3)(i) & 264.1033(h)].

III. COMPLIANCE ORDER

90. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), the Respondent is hereby **ORDERED** to take the following actions and provide evidence of compliance within the time period specified below:

A. RCRA Permit Modification

1. Within ninety (90) days of the effective date of this CAFO, the Respondent shall submit to ADEQ, with a copy to EPA, an application for a RCRA Permit Modification to permit the Brine Unit in accordance with APCEC Regulation 23 §§ 270.10 – 270.16, 270.23 – 270.25, 270.27, and 270.30 – 270.33 [40 C.F.R. §§ 270.10 – 270.16, 270.23 – 270.25, 270.27, and 270.30 – 270.33]. The Brine Unit includes the following equipment, which the Respondent shall include its Permit Application:

a. Clarifier Tank 108TNK563A;
b. Clarifier Tank 108TNK563;
c. Frac 1 108TNK594 Brine Storage;
d. Frac 2 108TNK595 Brine Storage;
e. Frac 3 108TNK542;
f. Frac 4 108TNK633 Finished Brine;
g. Brine Unit Skid consisting of the Heat Exchanger and Vapor Body system with supporting circulating pumps;

h. Brine Building consisting control room and 3 filter presses (New Jersey, JWI 1 and JWI 2); and
i. Containment liner system.

2. The permit application shall also include relevant requirements of APCEC Regulation 23 § 264, §§ I through O and AA through CC, and Regulation 23 § 270 [40 C.F.R. Part 264, Subparts I through O and AA through CC, and 40 C.F.R. Part 270] that are appropriate for permitting any miscellaneous units that are part of the Brine Unit.

3. The Respondent shall also request that the issued RCRA permit modification include the following:

a. Appropriate recordkeeping and reporting requirements; and

b. Any applicable risk-based terms and conditions necessary to protect human health and the environment.

4. The failure to timely submit a Permit Modification to ADEQ and EPA within the deadline set forth in Paragraph 90.A.1 shall result in the termination of the Respondent's authorization to operate the Brine Unit unless that deadline has been extended pursuant to Section IV.G (Force Majeure).

5. The Respondent must respond to any Notice of Deficiency (NOD), with a copy to EPA, within the time period specified by the ADEQ. In the event that the Respondent fails to submit a timely and complete NOD response, the Respondent's authorization to operate the Brine Unit shall terminate on the NOD response deadline unless that deadline has been extended pursuant to Section IV.G (Force Majeure).

6. By no later than fifteen (15) months from the effective date of this CAFO, the Respondent must complete all permitting requirements and obtain issuance from ADEQ of a final RCRA Permit for the Brine Unit. In the event that ADEQ does not issue a RCRA Permit

for the Brine Unit by the above deadline, the Respondent's authorization to operate the Brine Unit terminates on that date, unless that deadline has been extended pursuant to Section IV.G (Force Majeure). The Respondent may seek relief under the provisions of Section IV.G of this CAFO (Force Majeure) for any delay in the performance of any such obligations resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if the Respondent has submitted a timely and complete application and has taken all other actions necessary to obtain such permit or approval.

B. EPA Review and Comment on RCRA Permit

1. Nothing in this CAFO shall limit EPA's rights under applicable environmental laws or regulations, including, but not limited to, Section 3005(c)(3) of RCRA, 42 U.S.C. § 6925(c)(3), 40 C.F.R. § 270.32 and 40 C.F.R. § 271.19, to review, comment, and incorporate appropriate requirements of Regulation 23, § 264 [40 C.F.R. Part 264] directly into the permit or establish other permit conditions that are based on those parts; or take action under Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), against the Respondent on the ground that the RCRA permit for the Brine Unit does not comply with a condition that the EPA Region 6 Regional Administrator in commenting on the permit application or draft permit stated was necessary to implement approved State program requirements, whether or not that condition was included in the issued permit. If the Respondent disputes an action taken by EPA pursuant to 40 C.F.R. § 270.32 or 40 C.F.R. § 271.19, the Defendant may invoke Dispute Resolution in accordance with Section IV.F of this CAFO.

C. Brine Unit Upgrades

1. Within fifteen (15) months of the effective date of this CAFO, the Respondent shall complete the following activities at the Brine Unit:

a. Complete replacement of the containment liner including expansion of the liner to include the 20' x 20' basin under brine building;
b. Refurbishment of the floor drains and FRP piping in the brine building;
c. Repair of containment berms at ground level of brine building;
d. Add wall siding to certain areas of the brine building to prevent rain water from entering building;
e. Replace both supply and return cooling tower water lines;
f. Add cover to Hot Well tank;
g. Add drip/containment pans by circulation pumps;
h. Add splash shields to filter press;
i. Repair high level alarms on tanks; and
j. Repair general leakage to pumps, valves, and seals.

D. Submissions

1. In all instances in which this Compliance Order requires written submissions to EPA and ADEQ, each submission must be accompanied by the following certification:

> "I certify under penalty of law to the best of my knowledge and belief, that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

All submissions must be certified on behalf of the Respondent by the signature of a person authorized to sign a permit application or a report under 40 C.F.R. § 270.11.

IV. TERMS OF SETTLEMENT

A. CIVIL PENALTY

91. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the seriousness of the alleged violations, the Respondent's good faith efforts to comply with the applicable regulations, and the June 2003 RCRA Civil Penalty Policy, it is hereby **ORDERED**

that the Respondent Clean Harbors El Dorado, L.L.C. be assessed a civil penalty of **FIVE HUNDRED EIGHTY-ONE THOUSAND, TWO HUNDRED THIRTY-SIX DOLLARS ($581,236)**. The Respondent shall pay the assessed civil penalty within thirty (30) days of the effective date of this CAFO.

92. The Respondent shall pay the assessed civil penalty by certified check, cashier's check, or wire transfer, made payable to "Treasurer, United States of America, EPA - Region 6". Payment shall be remitted in one of three (3) ways: regular U.S. Postal mail (including certified mail), overnight mail, or wire transfer. For regular U.S. Postal mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service, e.g. Fed Ex), the check(s) should be remitted to:

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Phone No. (314) 418-1028

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 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"

PLEASE NOTE: Docket number RCRA-06-2014-0906 shall be clearly typed on the respective checks to ensure proper credit. If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference the Respondent's name and address, the case name, and docket number of the CAFO. If payment is made by wire transfer, the wire transfer instructions shall reference the Respondent's name and address, the case name, and docket number of the CAFO. The Respondent shall also send a simultaneous notice of such payment, including a copy of the check and transmittal letter, or wire transfer instructions to the following:

Chief, Compliance Enforcement Section (6EN-HE)
Hazardous Waste Enforcement Branch
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Lorena Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

The Respondent's adherence to this request will ensure proper credit is given when penalties are received in the Region.

93. The Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

94. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective

date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

95. EPA will also assess a $15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional $15.00 for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. PARTIES BOUND

96. The provisions of this CAFO shall apply to and be binding upon the parties to this action, their officers, directors, agents, employees, successors, and assigns. The undersigned representative of each party to this CAFO certifies that he or she is fully authorized by the party whom he or she represents to enter into the terms and conditions of this CAFO and to execute and to legally bind that party to it.

C. ADDITIONAL REQUIREMENTS

97. The Respondent shall undertake the following additional requirements:

A. Within twenty-four (24) months of the effective date of this CAFO, the Respondent shall complete Tank Venting System Project as set forth below. The purpose of the Tank

Venting System Project is to vent the tanks listed in Paragraph 97.B below to the secondary combustion chamber of the facility's hazardous waste incinerator.

B. The following tanks shall be vented to the secondary combustion chamber (SCC) of the facility's hazardous waste incinerator.

Tank Number	Location/Designation	Volume
2	Lower tank farm west	153,332 gallons
3	Lower tank farm west	153,332 gallons
4	Lower tank farm west	153,332 gallons
8	Lower tank farm east	54,882 gallons
9	Lower tank farm east	54,882 gallons
10	Lower tank farm east	54,882 gallons
11	Lower tank farm east	54,882 gallons
12	Day feed tank farm	20,726 gallons
13	Day feed tank farm	20,726 gallons
14	Day feed tank farm	20,726 gallons
15	Day feed tank farm	20,726 gallons
602	Day feed tank farm	20,726 gallons
603	Day feed tank farm	20,726 gallons
604	Day feed tank farm	20,726 gallons
605	Day feed tank farm	20,726 gallons
606	Day feed tank farm	20,726 gallons
608	Day feed tank farm	20,726 gallons
609	Day feed tank farm	20,726 gallons

C. Each tank will have a flame arrester mounted on its top, with a pressure/vacuum relief vent (conservation vent) mounted on top of the flame arrester. The manifold line will be connected to the Conservation Vent. The manifold line will allow the vapors to be drafted toward the SCC. Each tank will vent the vapors into the manifold independently as the vapor pressure is each tank demands. Under normal conditions, all vapors will be drafted toward the SCC by the 600 fan. In the case of failure of the 600 fan the vapors will be drafted toward the Central Carbon system by a dedicated fan. In the case of a planned shutdown for maintenance, the vapors will be drafted toward the Central Carbon system by a dedicated fan.

D. The Central Carbon system will be comprised of two 3000# carbon filter tanks and two 400# Siemens carbon filters (or equivalent). If needed, the vapors are drafted by the dedicated Central Carbon System fan toward either the north or south 3000# carbon filter tanks for VOC capture. The two 3000# tanks allow for extra capacity if carbon change-out is required. An additional backup is also available by using the two 400# carbon filters.

E. The Respondent may seek relief under the provisions of Section IV.G of this CAFO (Force Majeure) for any delay in the performance of any such obligations resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if the Respondent has submitted a timely and complete application and has taken all other actions necessary to obtain such permit or approval.

D. STATUS REPORTS

98. The Respondent shall submit quarterly reports to EPA until the Respondent has completed all activities required by this CAFO. The quarterly reports are due on May 1 (for the period from January 1 – March 31), August 1 (for the period from April 1 – June 30), November 1 (for the period from July 1 – September 30), and February 1 (for the period from October 1 – December 31). Upon completion of all activities required by this CAFO, the Respondent shall submit a Final Status Report within thirty (30) days from completion of the final activity. The Status Reports will cover the activities set forth in Sections III and IV.C, and shall include, at a minimum, the following information:

A. A description and estimate of the percentage of the work completed;

B. Summaries of all contacts with representatives of the local community, public interest groups, ADEQ, or other State governmental agencies during the reporting period that relate to activities set forth in Sections III and IV.C;

C. Summaries of all problems or potential problems encountered during the reporting period; and

D. Projected work for the next reporting period.

E. The Status Reports must be accompanied by the following certification:

> "I certify under penalty of law to the best of my knowledge and belief, that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

All submissions must be certified on behalf of the Respondent by the signature of a person authorized to sign a permit application or a report under 40 C.F.R. § 270.11.

F. The reports required under this Section shall be sent to the following:

Guy Tidmore, Chief
Compliance Enforcement Section (6EN-HE)
Hazardous Waste Enforcement Branch
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733
Attention: Roxanne King

E. STIPULATED PENALTIES

99. In addition to any other remedies or sanctions available to EPA, the Respondent shall pay stipulated penalties in the following amounts for each day during which each failure or refusal to comply with the requirements of this CAFO continues:

Period of Noncompliance	Penalty Per Violation Per Day
1st through 15th day	$ 1,500
16th through 30th day	$ 2,500
31st day and beyond	$ 5,000

Penalties shall accrue from the date of the noncompliance until the date the violation is corrected, as determined by EPA.

100. The Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of Paragraph 92 herein. Interest and late charges shall be paid as stated in Paragraphs 94 - 95 herein.

101. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of the Respondent's violation of this CAFO or of the statutes and regulations upon which this agreement is based, or for the Respondent's violation of any applicable provision of law.

F. DISPUTE RESOLUTION

102. If the Respondent objects to any decision or directive of EPA in regard to Section III or IV.C, the Respondent shall notify the following persons in writing of its objections, and the basis for those objections, within thirty (30) calendar days of receipt of EPA's decision or directive:

Associate Director
Hazardous Waste Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Chief, RCRA Enforcement Branch (6RC-ER)
Office of Regional Counsel
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

103. The Associate Director of the Hazardous Waste Enforcement Branch or his/her designee (Associate Director), and the Respondent shall then have an additional thirty (30) calendar days from EPA's receipt of the Respondent's written objections to attempt to resolve the dispute. If an agreement is reached between the Associate Director and the Respondent, the

agreement shall be reduced to writing and signed by the Associate Director and the Respondent and incorporated by reference into this CAFO.

104. If no agreement is reached between the Associate Director and the Respondent within that time period, the dispute shall be submitted to the Director of the Compliance Assurance and Enforcement Division or his/her designee (Division Director). The Division Director and the Respondent shall then have a second 30-day period to resolve the dispute. If an agreement is reached between the Division Director and the Respondent, the resolution shall be reduced to writing and signed by the Division Director and the Respondent and incorporated by reference into this CAFO. If the Division Director and the Respondent are unable to reach agreement within this second 30-day period, the Division Director shall provide a written statement of EPA's decision to the Respondent, which shall be binding upon the Respondent and incorporated by reference into the CAFO.

105. If the Dispute Resolution process results in a modification of this CAFO, the modified CAFO must be approved by the Regional Judicial Officer and filed pursuant to Section IV.I (Modifications).

106. The invocation of dispute resolution procedures under this Section shall not extend, postpone, or affect in any way, any obligations of the Respondent under this CAFO, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first day of noncompliance, but payment shall be stayed pending resolution of the dispute. If the Respondent does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section IV.E.

G. FORCE MAJEURE

107. A "force majeure event" is any event beyond the control of the Respondent, their contractors, or any entity controlled by the Respondent that delays the performance of any obligation under this CAFO despite the Respondent's best efforts to fulfill the obligation. "Best efforts" includes anticipating any potential force majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay to the greatest extent possible. "Force Majeure" does not include the Respondent's financial inability to perform any obligation under this CAFO, but does include any delays attributable to the ADEQ's permitting process.

108. The Respondent shall provide notice orally or by electronic or facsimile transmission as soon as possible, but not later than 72 hours after the time the Respondent first knew of, or by the exercise of due diligence, reasonably should have known of, a claimed force majeure event. The Respondent shall also provide written notice, as provided in Section IV.H of this CAFO, within seven days of the time the Respondent first knew of, or by the exercise of due diligence, reasonably should have known of, the event. The notice shall state the anticipated duration of any delay; its cause(s); the Respondent's past and proposed actions to prevent or minimize any delay; a schedule for carrying out those actions; and the Respondent's rationale for attributing any delay to a force majeure event. Failure to give such notice shall preclude the Respondent from asserting any claim of force majeure.

109. If the Complainant agrees that a force majeure event has occurred, the Complainant may agree to extend the time for the Respondent to perform the affected requirements for the time necessary to complete those obligations. An extension of time to perform the obligations affected by a force majeure event shall not, by itself, extend the time to perform any other

obligation. Where the Complainant agrees to an extension of time, the appropriate modification shall be made pursuant to Section IV.I of this CAFO.

110. If the Complainant does not agree that a force majeure event has occurred, or does not agree to the extension of time sought by the Respondent, the Complainant's position shall be binding, unless the Respondent invokes Dispute Resolution under Section IV.F of this CAFO. In any such dispute, the Respondent bear the burden of proving, by a preponderance of the evidence, that each claimed force majeure event is a force majeure event; that the Respondent gave the notice required by the paragraph above, that the force majeure event caused any delay the Respondent's claimed was attributable to that event; and that the Respondent exercised their reasonable best efforts to prevent or minimize any delay caused by the event. If the Respondent carries this burden, the delay at issue shall be deemed not to be a violation of the affected obligation of this CAFO.

H. NOTIFICATION

111. Unless otherwise specified elsewhere in this CAFO, whenever notice is required to be given, whenever a report or other document is required to be forwarded by one party to another, or whenever a submission or demonstration is required to be made, it shall be directed to the individuals specified below at the addresses given (in addition to any action specified by law or regulation), unless these individuals or their successors give notice in writing to the other parties that another individual has been designated to receive the communication:

Complainant:

Chief, Compliance Enforcement Section (6EN-HE)
Hazardous Waste Enforcement Branch
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733
Attention: Roxanne King

Respondent

Clean Harbors El Dorado, L.L.C.
42 Longwater Drive
Norwell, MA 02061
Attn: General Counsel

I. MODIFICATION

112. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except as otherwise specified in this CAFO, or upon the written agreement of the Complainant and the Respondent, and approved by the Regional Judicial Officer, and such modification or amendment being filed with the Regional Hearing Clerk.

J. RETENTION OF ENFORCEMENT RIGHTS

113. EPA does not waive any rights or remedies available to EPA for any other violations by the Respondent of Federal or State laws, regulations, or permitting conditions.

114. Except as herein provided, nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, hazardous substances on, at or from the Respondent's facility. Furthermore, nothing in this CAFO shall be construed or to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

115. The Complainant reserves all legal and equitable remedies available to enforce the provisions of this CAFO. This CAFO shall not be construed to limit the rights of the EPA or United States to obtain penalties or injunctive relief under RCRA or under other federal or state laws, regulations, or permit conditions.

116. In any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other appropriate relief relating to this Facility, the Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the Complainant or the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

117. This CAFO is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. The Respondent is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits. The Respondent's compliance with this CAFO shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The Complainant does not warrant or aver in any manner that the Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the RCRA or with any other provisions of federal, State, or local laws, regulations, or permits.

K. INDEMNIFICATION OF EPA

118. Neither EPA nor the United States Government shall be liable for any injuries or damages to person or property resulting from the acts or omissions of the Respondent, their officers, directors, employees, agents, receivers, trustees, successors, assigns, or contractors in carrying out the activities required by this CAFO, nor shall EPA or the United States Government be held out as a party to any contract entered into by the Respondent in carrying out the activities required by this CAFO.

L. COSTS

119. Each party shall bear its own costs and attorney's fees. Furthermore, the Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

M. TERMINATION

120. At such time as the Respondent believes it has completed all of the requirements of this CAFO, they may request that EPA concur whether all of the requirements of this CAFO have been satisfied. Such request shall be in writing and shall provide the necessary documentation to establish whether there has been full compliance with the terms and conditions of this CAFO. EPA will respond to said request in writing within ninety (90) days of receipt of the request. This CAFO shall terminate when all actions required to be taken by this CAFO have been completed, and the Respondent has been notified by the EPA in writing that this CAFO has been satisfied and terminated.

M. EFFECTIVE DATE

121. This CAFO, and any subsequent modifications, become effective upon filing with the Regional Hearing Clerk.

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

FOR THE RESPONDENT:

Date: 4/17/2014

Clean Harbors El Dorado, L.L.C.

FOR THE COMPLAINANT:

Date: 4·24·14

John Blevins
Director
Compliance Assurance and
Enforcement Division

V. FINAL ORDER

Pursuant to the Section 3008 of RCRA, 42 U.S.C. § 6928, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right or EPA or the United States to pursue appropriate injunctive relief or other equitable relief for criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect the Respondent's (or their officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the Compliance Order and terms of settlement as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 4-25-14

Ben J. Harrison
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of April, 2014, the original and one copy of the foregoing Consent Agreement and Final Order (CAFO) was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that true and correct copies of the CAFO were sent to the following by Certified Mail – Return Receipt Requested # 7010 0780 0000 0295 8472

Michael R. McDonald
Assistant General Counsel
Clean Harbors Environmental Services, Inc.
P.O. Box 9149
42 Longwater Drive
Norwell, MA 02061

Evan C. Pearson