



State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

Department of  
Environmental Quality

Alan Matheson  
*Executive Director*

DIVISION OF WASTE MANAGEMENT  
AND RADIATION CONTROL  
Rusty Lundberg  
*Acting Director*

March 8, 2019

Michael Crisenbery, CHMM  
Vice President, Compliance  
Clean Harbors Aragonite  
4879 Spring Grove Ave  
Cincinnati, OH 45232

RE: Public Comment on Proposed STIPULATION AND CONSENT ORDER (No. 1410021)  
UTD 981 552 177

Dear Mr. Crisenbery:

Attached, please find a copy of the proposed STIPULATION AND CONSENT ORDER between the Director of the Division of Waste Management and Radiation Control, and Clean Harbors Aragonite, LLC, which will be available for public review and comment. Also attached is the notice of the public comment period which will be published in the Salt Lake Tribune, the Deseret News, and the Tooele Transcript-Bulletin. The public comment period is scheduled to begin on March 19, 2019, and end on April 18, 2019.

It is anticipated that the proposed STIPULATION AND CONSENT ORDER will be an informational item on the Waste Management and Radiation Control Board's agenda on April 11, 2019, and as an action item for the May 9, 2019, meeting.

If you have any questions, please call Rick Page at (801) 536-0230.

Sincerely,

Rusty Lundberg, Acting Director  
Division of Waste Management and Radiation Control

(Over)

RL/RAP/al

Enclosures: STIPULATION AND CONSENT ORDER No. 1410021 (DSHW-2019-001834)  
Public Notice of Comment Period for Six-Year SCO (DSHW-2019-001828)

c: Jeff Coombs, EHS, Health Officer, Tooele County Health Department  
Bryan Slade, Environmental Health Director, Tooele County Health Department  
Annette Maxwell, USEPA, Region VIII (ENF-RC)  
William Simmons, General Manager, Clean Harbors Aragonite, LLC  
Tyler Lee, Compliance Manager, Clean Harbors Aragonite, LLC

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In the Matter of:	:	<b>STIPULATION AND CONSENT ORDER</b>
	:	
Clean Harbors Aragonite, LLC	:	<b>No. 1410021</b>
Notice of Violation No. 1401002	:	
UTD 981 552 177	:	

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This **STIPULATION AND CONSENT ORDER** is issued by the Director of the Division of Waste Management and Radiation Control (Director) pursuant to the Solid and Hazardous Waste Act (the Act), Utah Code Ann. §19-6-101, *et seq.* The Director has authority to issue such **ORDERS** in accordance with Utah Code Ann. §19-6-112.

**JURISDICTION**

1. The Director has jurisdiction over the subject matter of this **CONSENT ORDER** pursuant to Utah Code Ann. §19-6-112 and jurisdiction over the Aragonite facility, owned and operated by Clean Harbors Aragonite, LLC (CHA). CHA and the Director are the parties to this agreement.
2. The Waste Management and Radiation Control Board has authority to review this **CONSENT ORDER** pursuant to Utah Code Ann. §19-6-104(3)(f) and jurisdiction over CHA.

**FINDINGS**

3. CHA is a Delaware Limited Liability Company licensed to do business in the State of Utah and is a subsidiary of Clean Harbors, Inc., a Massachusetts corporation licensed to do business in the State of Utah. CHA is the owner and operator of the Aragonite facility.
4. CHA is a “person” as defined in Utah Code Ann. § 19-1-103(4) and is subject to all applicable provisions of the Utah Administrative Code, the Act, and the Permit.
5. The Aragonite facility is a commercial hazardous waste incinerator, transfer, and storage facility located in Tooele County, Utah, and is operated under the provisions of the State-issued Hazardous Waste Part B Permit issued on March 30, 1990, as modified (the Permit). The Permit was renewed and reissued, effective May 8, 2000, and again on September 28, 2012.
6. Authorized representatives of the Director conducted a hazardous waste inspection at the Aragonite facility from September 3 through September 12, 2013 (the FY2013 inspection). In addition, the facility self-reported several non-compliance issues during the 2013 fiscal year (October 1, 2012 through September 30, 2013) (FY2013). Based on findings documented during the FY2013 inspection and the self-reported non-compliance, the Director issued NOTICE OF VIOLATION No. 1401002 (the NOV) on April 17, 2014, alleging violations by CHA of its

Permit and the Utah Administrative Code.

7. CHA filed responses to the NOV on May 12, 2014 (DSHW-2014-007092 and DSHW-2014-007109), June 13, 2014 (DSHW-2014-008689), and July 9, 2014 (DSHW-2014-009635).

### ADDITIONAL VIOLATIONS

8. In addition to the violations identified in the NOV, additional violations were documented during a hazardous waste inspection conducted at the Aragonite facility from September 2 through September 16, 2014 (the FY2014 inspection) or were reported by CHA during the 2014 fiscal year (October 1, 2013, through September 30, 2014) (FY2014).
9. In addition to the violations identified in the NOV, additional violations were documented during a hazardous waste inspection conducted at the Aragonite facility from August 31 through September 10, 2015 (the FY2015 inspection) or were reported by CHA during the 2015 fiscal year (October 1, 2014, through September 30, 2015) (FY2015).
10. In addition to the violations identified in the NOV, additional violations were documented during a hazardous waste inspection conducted at the Aragonite facility from August 29 through September 8, 2016 (the FY2016 inspection) or were reported by CHA during the 2016 fiscal year (October 1, 2015, through September 30, 2016) (FY2016).
11. In addition to the violations identified in the NOV, additional violations were documented during a hazardous waste inspection conducted at the Aragonite facility from September 11 through September 28, 2017 (the FY2017 inspection) or were reported by CHA during the 2017 fiscal year (October 1, 2016 through September 30, 2017) (FY2017).
12. In addition to the violations identified in the NOV, additional violations were documented during a hazardous waste inspection conducted at the Aragonite facility from September 10 through September 27, 2018 (the FY2018 inspection) or were reported by CHA during the 2018 fiscal year (October 1, 2017 through September 30, 2017) (FY2018).
13. The violations identified from the FY2014, FY2015, FY2016, FY2017, and FY2018 inspections and the violations reported by CHA during those time periods, occurred in the categories identified in Attachment 1.

### STIPULATION AND CONSENT ORDER

14. The parties now wish to fully resolve the NOV and ADDITIONAL VIOLATIONS without further administrative or judicial proceedings.
15. In full settlement of the violations alleged in the NOV and this **CONSENT ORDER**, CHA shall pay a penalty of \$330,000.00. Payment shall be made within thirty days of entry into this **CONSENT ORDER**. Payment shall be made to the State of Utah, Department of Environmental Quality, Ty Howard, Director, Division of Waste Management and Radiation Control, P.O.Box 144880, Salt Lake City, Utah 84114-4880. This amount has been determined in accordance with the Board's Civil Penalty Policy (Utah Administrative Code R315-102) which considers such factors as the gravity of the violations, the extent of deviation from the rules, the potential for harm to human health and the environment, good

faith efforts to comply and other factors.

16. The person signing this **CONSENT ORDER** on behalf of CHA hereby represents to the Director that he or she has the full legal authorization to do so and agrees that the Director may rely on this representation.

**EFFECT OF CONSENT ORDER**

17. For the purpose of this **CONSENT ORDER**, the parties agree and stipulate to the abovestated facts. The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall not be used by any person related or unrelated to this **CONSENT ORDER** for purposes other than determining the basis of this **CONSENT ORDER**. Nothing contained herein shall be deemed to constitute a waiver by the State of its right to initiate enforcement action, including civil penalties, against CHA in the event of future non-compliance with this **CONSENT ORDER**, with the Act, with the Utah Administrative Code, or with the Permit; nor shall the State be precluded in any way from taking appropriate action should such a situation arise again at the Aragonite facility. However, entry into this **CONSENT ORDER** shall relieve CHA of all liability for violations which did arise or could have arisen with respect to the allegations contained in the NOV and the ADDITIONAL VIOLATIONS in this **CONSENT ORDER**.

**EFFECTIVE DATE**

18. This **CONSENT ORDER** shall become effective upon execution by CHA and the Director.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019

Clean Harbors Aragonite, LLC

Division of Waste Management and Radiation Control

\_\_\_\_\_  
Michael Crisenbery  
Vice President, Compliance

\_\_\_\_\_  
Ty L. Howard, Director

## Attachment 1

### Violation Categories Identified from the FY2014, FY2015, FY2016, FY2017, and FY2018 Inspections, and the Violations Reported by CHA During those Time Periods

- a. Failure to follow proper spill cleanup and/or reporting procedures
- b. Failure to follow proper waste analysis procedures
- c. Failure to properly resolve, document, and report manifest discrepancies
- d. Failure to follow appropriate manifesting requirements
- e. Failure to prepare and submit *Exception Reports*
- f. Failure to follow proper inspection requirements and/or properly document inspections
- g. Failure to conduct all required personnel training and/or properly document training
- h. Failure to maintain emergency equipment as required
- i. Failure to follow proper waste rejection procedures
- j. Failure to comply with the air emission standards for equipment leaks
- k. Storage of flammables and/or cyanides and/or oxidizers in areas not designed or permitted for those materials
- l. Failure to properly track wastes
- m. Failure to properly manage infectious wastes
- n. Failure to comply with the fume management procedures
- o. Failure to calibrate instruments and/or properly document calibrations
- p. Failure to follow the generator requirements for hazardous waste accumulated on-site
- q. Failure to properly manage transfer wastes
- r. Placing incompatible wastes or materials in the same container
- s. Improper stacking of containers
- t. Failure to timely off-load incoming loads of hazardous waste
- u. Failure to maintain adequate aisle space
- v. Exceeding the allowable capacity of tanks T-406 and T-311
- w. Failure to properly manage universal wastes
- x. Incinerating wastes prohibited by the *Land Disposal Restrictions*
- y. Burning off-specification used oil fuel without a permit
- z. Failure to provide required information within a reasonable time
- aa. Improper categorization of wastes
- bb. Improper profiling of wastes for acceptance at the facility
- cc. Failure to conduct compatibility testing prior to commingling wastes
- dd. Storing wastes subject to the *Land Disposal Restrictions* for longer than one year
- ee. Failure to submit reports on time
- ff. Failure to maintain the bulk solids pad in good repair
- gg. Failure to maintain fire doors in compliance with NFPA
- hh. Failure to prepare and submit *Unmanifested Waste Reports*
- ii. Storing containers of incompatible wastes next to each other
- jj. Failure to minimize opening the emergency vent
- kk. Failure to maintain calibration gas certificates on site

NOTICE OF PUBLIC COMMENT ON  
STIPULATION AND CONSENT ORDER  
Clean Harbors Aragonite, LLC  
UTD 981 552 177

The Director of the Division of Waste Management and Radiation Control is proposing to enter into a STIPULATION AND CONSENT ORDER with Clean Harbors Aragonite, LLC, to resolve an outstanding NOTICE OF VIOLATION and other violations which were self-reported and/or discovered during inspections conducted over the past six years. The STIPULATION AND CONSENT ORDER includes a penalty of \$330,000.00.

The public comment period to receive comments on the proposed STIPULATION AND CONSENT ORDER will commence on March 19, 2019, and end on April 18, 2019.

Documents related to this application can be reviewed at the following location:

Division of Waste Management and Radiation Control  
Multi Agency State Office Building  
195 North 1950 West, 2nd Floor  
Salt Lake City, Utah 84116

For the public's convenience, an unofficial copy of the proposed STIPULATION AND CONSENT ORDER and the NOTICE OF VIOLATION are available on the Internet at "<https://deq.utah.gov/waste-management-and-radiation-control/waste-management-radiation-control-public-notice>".

Written comments will be accepted if received by 5:00 p.m. on April 18, 2019, and should be submitted to the address below. Comments can also be hand delivered to the Division address above and must be received by 5:00 p.m. on April 18, 2019.

Ty L. Howard, Director  
Division of Waste Management and Radiation Control  
Department of Environmental Quality  
P.O. Box 144880  
Salt Lake City, Utah 84114-4880

Comments can also be sent by electronic mail to: "[dwmrcpublic@utah.gov](mailto:dwmrcpublic@utah.gov)". Comments sent in electronic format should be identified by putting the following in the subject line: public comment on the Clean Harbors Aragonite STIPULATION AND CONSENT ORDER. All documents included in comments should be submitted as ASCII (text) files or in pdf format.

Under Utah Code Section 19-1-301.5 a person who wishes to challenge a Permit Order may only raise an issue or argument during an adjudicatory proceeding that was raised during the public comment period and was supported with sufficient information or documentation to enable the director to fully consider the substance and significance of the issue.

For further information contact Deborah Ng of the Division of Waste Management and Radiation Control at (801) 536-0200. In compliance with the Americans with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Kimberly Diamond-Smith, Office of Human Resources at (801) 536-4285, Telecommunications Relay Service 711, or by email at "[kdiamondsmith@utah.gov](mailto:kdiamondsmith@utah.gov)".