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In the Matter of: : **STIPULATION AND CONSENT**
 : **ORDER**
Clean Harbors Aragonite, LLC (CHA) : **No. 2004048**
Notice of Violation No. 2001004 :
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 pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code §19-6-101, et seq. The Director has authority to issue such ORDERS in accordance with Utah Code § 19-6-112.

JURISDICTION

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

FINDINGS

3. Clean Harbors Aragonite, LLC (CHA) is a Delaware Limited Liability Company registered to do business in the State of Utah and is a subsidiary of Clean Harbors, Inc., a Massachusetts corporation also registered 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 § 19-1-103(4) and is subject to all applicable provisions of the Utah Administrative Code (the Rules), 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 most recently on September 28, 2012.
6. Authorized representatives of the Director conducted a hazardous waste inspection at the Aragonite facility from September 9 through September 26, 2019 (the FY2019 inspection). In addition, the facility self-reported several non-compliance issues during the 2019 fiscal year (October 1, 2018 through September 30, 2019). Based on findings documented during the FY2019 inspection and the self-reported non-compliance, the Director issued NOTICE OF VIOLATION

No. 2001004 (the NOV) on April 8, 2020, alleging violations by CHA of its Permit and the Utah Administrative Code.

7. The U.S. Environmental Protection Agency (EPA) informed the Division that on August 23, 2019, EPA sent a “Request for Information” to Clean Harbors Environmental Services (DSHW-2019-018483) requesting waste profiles associated with certain identified waste at CHA and other Clean Harbors facilities. On January 7, 2020, EPA notified Division staff that EPA received 6,648 waste profiles from Clean Harbors in response to EPA’s August 23, 2019, Request for Information.
8. On or about April 13, 2021, the Director agreed with EPA to postpone further enforcement actions related to CHA’s use of generic profiles until such time that EPA has notified the Division that EPA’s review of the Clean Harbors waste profiles described in paragraph 7 is complete and EPA has determined whether it will take any related enforcement actions.
9. CHA filed a response to the NOV on April 29, 2020 (DSHW-2020-006766). CHA submitted additional information related to the NOV on June 1, 2020 (DSHW-2020-008054). CHA further addressed violations cited in the NOV on September 28, 2020 (DSHW-2020-013944). On January 14, 2021 (DSHW-2021-000883) and February 28, 2021 (DSHW-2021-003458), CHA expanded its position related to its continued use of generic waste profile.

STIPULATION AND CONSENT ORDER

10. The parties now wish to fully resolve Notice of Violation No. 2001004 (NOV) without further administrative or judicial proceedings as follows:
 - 10.1. The parties have not resolved Notice of Violation No. 2001004, Violation 7, related to CHA’s use of generic profiles.
 - 10.2. As a result of finding 8, the Director withdraws Notice of Violation No. 2001004, Violation 7. In accordance with applicable laws, the Director may reinstate Notice of Violation No. 2001004, Violation 7 at some future time.
 - 10.3. Within 90 days of the effective date of this CONSENT ORDER, CHA hereby stipulates to document in real time all wastes that leave the facility, all waste that is received at the facility, including waste that later returned following shipment offsite, and all wastes that leave the facility to go to a third-party receiving facility. The documentation may be accomplished by tracking these shipments in the waste tracking system or by tracking them separately in such a way that a list of these wastes and the applicable tracking information can be readily provided to inspectors upon request.
 - 10.4. In addition to paragraphs 10.1 through 10.3, in full settlement of the remaining violations alleged in NOV No. 2001004, CHA shall pay a penalty of \$80,630.00 (eighty thousand six hundred thirty dollars). 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, c/o 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 Division's Civil Penalty Policy (R315-102 of the Rules), which considers such factors as the gravity of the violation, 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.

EFFECT OF CONSENT ORDER

11. For the purpose of this CONSENT ORDER, the parties agree and stipulate to the above stated 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 actions, including civil penalties, against CHA (i) related to reinstatement of Notice of Violation No. 2001004, Violation 7 or (ii) in the event of future non-compliance with this CONSENT ORDER, with the Act, with the Rules, 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 except as related to withdrawn Violation 7.
12. This CONSENT ORDER shall be subject to public notice and comment for a period of at least 30 days ("Comment Period") in accordance with Utah Admin. Code R315-124-34. The Director reserves the right to withdraw or withhold its consent if any comment received during the Comment Period disclose facts or consideration indicating the **CONSENT ORDER** is inappropriate, improper, or inadequate.

CONSENT ORDER SIGNATORY

13. The CHA signatory below, certifies that he is authorized to sign, obligate, and enter into this CONSENT ORDER, on behalf of Clean Harbors Aragonite, LLC to resolve NOV No. 2001004.

EFFECTIVE DATE

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

Dated this _____ day of _____, 2021.

CLEAN HARBORS ARAGONITE,
LLC

DIVISION OF WASTE MANAGEMENT AND
RADIATION CONTROL

Eric Gerstenberg, President

Douglas J. Hansen, Director