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In the Matter of:	:	
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Utah State University	:	STIPULATION AND CONSENT ORDER
Notice of Violation and	:	No. 2207086
Compliance Order No. 2108087	:	
UTD000651653	:	

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This **STIPULATION AND CONSENT ORDER** (CONSENT ORDER) is issued by the Director of the Division Waste Management and Radiation Control (Director) pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.*, and Utah Administrative Code (UAC) R315 (the Rules).

JURISDICTION

1. The Director has jurisdiction over the subject matter pursuant to Utah Code §§ 19-6-107 and 19-6-112 and jurisdiction over Utah State University (USU). USU consents to and will not challenge issuance of this CONSENT ORDER or the Director’s jurisdiction to enter and enforce this CONSENT ORDER. The Director and USU are parties to this CONSENT ORDER.
2. The Waste Management and Radiation Control Board has authority to review and approve or disapprove this CONSENT ORDER pursuant to Utah Code § 19-6-104(1)(e).

FINDINGS

3. USU 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 or UAC) and the Act.
4. USU operates a public university in Logan, Utah, that generates listed and characteristic hazardous wastes as defined in the Act and the Rules from laboratories, a printing plant, a warehouse, a vehicle maintenance facility, and other plant operations facilities on the approximately 400-acre property.
5. USU also generates hazardous waste at Utah State University – Blanding; Utah State University – Eastern in Price, Utah; Utah State University – Space Dynamic Laboratory in Logan, Utah; Utah State University – Kaysville; Utah State University – Caine; Utah State University – Vernal; and Utah State University – Nephi Vet Diagnostic Lab.
6. On December 12, 2016, USU submitted a universal waste “Drum-Top Lamp Crusher Registration Application” (Application), UT-DTLC-001, (DSHW-2016-015129). Based on the information certified in the Application on February 8, 2017, the Division of Waste Management and Radiation Control (Division) confirmed that USU’s Application was in compliance with the application requirements of UAC R315-273-13.

7. On August 11, 2021, authorized representatives (inspectors) of the Director conducted a hazardous waste compliance evaluation inspection at the Utah State University in Logan, Utah.
8. On February 28, 2022, inspectors also conducted a compliance evaluation inspection at Utah State University – Vernal (UTR000014282).
9. On March 1, 2022, inspectors conducted a compliance evaluation inspection at Utah State University – Nephi Vet Diagnostic Lab (UT000015396).
10. On December 16, 2021, the Director issued a Notice of Immediate Action Required, suspending the Division’s February 8, 2017, determination that USU was in compliance with the application requirements of UAC R315-273-13 for its “Bulb Eater, Model 55-VSR-U” or “drum top lamp crusher” and suspended authorization to operate the drum top lamp crusher.
11. On January 14, 2022, USU submitted a response to the Notice of Immediate Action Required stating, in part, that “no further bulbs will be crushed” and proposing to “decommission, decontaminate and discard the Drum Top Fluorescent Light Tube Crusher and area surrounding the crusher.”
12. Based on findings documented during the inspections and records review, on April 8, 2022, the Director issued Notice of Violation and Compliance Order No. 2108087 (NOV/CO) (DSHW-2022-000277) to USU alleging violations of the Rules.
13. On May 6, 2022, USU submitted a response to the NOV/CO No. 2108087 (DSHW-2022-010482), stating, in part:
 - 13.1. “All USU fluorescent light tube crushing activities (#UT-DTLC-001) were discontinued on September 3, 2021.”
 - 13.2. “Fluorescent light tube crusher decommission[ing] and decontamination [] was completed on March 8, 2022.”
14. After consideration of facts provided in USU’s May 6, 2022, response to the NOV/CO No. 2108087 (DSHW-2022-010482), the Director decided not to pursue a penalty for Violations 3 and 5.
15. In accordance with the Civil Penalty Policy, Utah Admin. 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, the Director calculated and proposed a penalty based on the violations alleged in NOV/CO No. 2108087.

STIPULATION AND CONSENT ORDER

16. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve NOV/CO No. 2108087 without further administrative or judicial proceedings.

17. In full settlement of the violations alleged in NOV/CO No. 2108087, the Director calculated a total penalty of \$62,599.00 but has decided to assess a total penalty of **\$28,409.00**.
 - 17.1. The Director has decided not to pursue penalties for Violations 3 and 5. This brought the total penalty calculated to \$62,209.00.
 - 17.2. The total penalty calculated for violations associated with the operation of the drum-top crusher (Violations 10, 11, 12, and 13) is \$46,800.00. The Director has decided to assess a penalty of \$13,000.00 for all four drum-top crusher violations (Violations 10, 11, 12, and 13) and waive the remaining \$33,800.00. This brought the total penalty calculated to **\$28,409.00**.
 - 17.3. USU shall pay a monetary penalty of **\$2,840.90**. Payment shall be made within 30 days of the effective date of this CONSENT ORDER. Payment shall be made to the State of Utah, Department of Environmental Quality, c/o Douglas J. Hansen, Director, Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880.
 - 17.4. The amount of **\$25,568.10** may be credited toward the \$28,409.00 stipulated penalty if, within two years of the effective date of this CONSENT ORDER, USU completes a Supplemental Environmental Project (SEP) related to the installation of solar panels on an existing parking garage at Utah State University. This SEP is expected to increase green electrical generation capacity by 40,460 kilowatt hours per year, which equates to approximately 53 pounds per year reduction in PM₁₀ indirect emissions associated with energy use. Fifty cents will be applied toward the credit amount for every SEP dollar spent by USU.
 - 17.5. To document appropriate penalty credit of the SEP, within 30 days of completing this SEP, USU shall provide a breakdown of its costs to implement the SEP to the Director, demonstrating that it equals or exceeds **\$51,136.20**. If USU spends less than **\$51,136.20** in performing the SEP, fifty cents of each dollar spent will be applied toward the \$25,568.10 credit. In the case of an outstanding balance, USU shall make a cash payment to the Director to cover the difference between USU's costs and the \$25,568.10 credit.

EFFECT OF CONSENT ORDER

18. For the purpose of this **CONSENT ORDER**, the parties agree to and stipulate to the above stated facts. The obligations in the CONSENT ORDER apply to and are binding upon the Division of Waste Management and Radiation Control and upon USU and any of USU's successors, assigns, or other entities or persons otherwise bound by law.
19. 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 Utah of its right to initiate enforcement action, including civil penalties, against USU in the event of future non-compliance with this CONSENT ORDER, with the Act, or with the Rules; nor shall the State of Utah be precluded in any way from taking appropriate action should such a situation arise again at the USU main campus in Logan or any satellite locations. However, entry into this

CONSENT ORDER shall relieve USU of all liability for violations which did arise or could have arisen with respect to the allegations contained in NOV/CO No. 2108087.

EFFECTIVE DATE

- 20. This CONSENT ORDER shall become effective upon the date of execution by the Director.

PUBLIC PARTICIPATION

- 21. 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 his consent if any comment received during the Comment Period discloses facts or considerations indicating this CONSENT ORDER is inappropriate, improper, or inadequate.
- 22. The Waste Management and Radiation Control Board has authority to review and approve or disapprove this CONSENT ORDER pursuant to Utah Code Section 19-6-104(1)(e).

SIGNATORY

- 23. The undersigned representative of Utah State University certifies the person is authorized to enter into this CONSENT ORDER and to execute and legally bind Utah State University.

Pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.*, and Utah Administrative Code R315, the parties hereto mutually agree and consent to the STIPULATION AND CONSENT ORDER as evidenced below:

UTAH STATE UNIVERSITY

STATE OF UTAH
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL

David T. Cowley, Vice President for Finance
and Administrative Services

Douglas J. Hansen, Director

Date: _____

Date: _____