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In the Matter of:	:	
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CLEAN HARBORS ARAGONITE, LLC	:	STIPULATION AND CONSENT ORDER
Notice of Violation and Compliance Order	:	No. 2210117
No. 2205051	:	
UTD 981 552 177	:	

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This **STIPULATION AND CONSENT ORDER** (CONSENT ORDER) is issued by the **DIRECTOR OF THE UTAH DIVISION OF 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 Hazardous Waste Rules R315-260 through R315-273 of the Utah Administrative Code (the Rules).

JURISDICTION

1. The Director has jurisdiction over the subject matter of this CONSENT ORDER pursuant to Utah Code §§ 19-6-107 and 19-6-112 and jurisdiction over the Aragonite facility owned and operated by Clean Harbors Aragonite, LLC (CHA). CHA consents to and will not challenge issuance of this CONSENT ORDER or the Director’s jurisdiction to enter and enforce this ORDER. CHA and the Director are the parties to this agreement.
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. CHA is a Delaware Limited Liability Company registered to conduct business in the State of Utah and is a subsidiary of Clean Harbors, Inc., a Massachusetts corporation also registered to conduct business in the State of Utah. CHA is the owner and operator of the Aragonite facility.
4. 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.
5. 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.
6. Authorized representatives of the Director conducted a hazardous waste inspection at the Aragonite facility from August 30 to September 16, 2021 (the FY2021 inspection). In addition, the facility self-reported several non-compliance issues during the 2021 fiscal year (October 1, 2020, through September 30, 2021).

7. Based on findings documented during the FY2021 inspection and the self-reported non-compliance, the Director issued NOTICE OF VIOLATION AND COMPLIANCE ORDER No. 2205051 (the NOV/CO) on June 24, 2022, alleging violations by CHA of its Permit and the Utah Administrative Code (DSHW-2022-013402).
8. CHA filed a response to the NOV/CO on July 27, 2022 (DSHW-2022-022210).
9. In accordance with the Civil Penalty Policy, Utah Administrative Code R315-102 of the Rules, 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 the NOV/CO.
10. The Director reduced the calculated penalty as a result of self-reporting non-compliance.

STIPULATION AND CONSENT ORDER

11. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve the NOV/CO without further administrative or judicial proceedings.
12. In full settlement of the violations alleged in the NOV/CO (with the exceptions of Violation 13 and Violation 27, which are discussed below), CHA shall pay a penalty of \$90,030.50. CHA shall make payment as follows:
 - 12.01. A cash payment of \$75,030.50 shall be made within thirty days of the effective date of this CONSENT ORDER as described in ¶ 12.02.
 - 12.02. 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.
13. The Director agrees to defer \$10,000.00 of the calculated penalty of \$15,600.00 relating to Violation 13 of the NOV/CO if: (1) CHA immediately removes approval of all currently approved profiles that contain material CHA is not permitted to accept, and (2) CHA investigates the approval process for any future profile that contains material CHA is not permitted to accept and is approved to CHA. CHA will determine the root cause(s) contributing to how the profile was wrongfully approved and document in the facility operating record the corrective actions taken to ensure the root cause(s) does not happen again. This record will be made available to the Division of Waste Management and Radiation Control (Division) upon request.
 - 13.01. If CHA complies with ¶ 13 for a minimum of one year from the effective date of this CONSENT ORDER, the Director agrees to vacate the deferred penalty of \$10,000.
 - 13.02. If the Division finds that CHA fails to comply with ¶ 13 at any point within the year following the effective date of this CONSENT ORDER, CHA shall pay the deferred penalty of \$10,000.00 as described in ¶ 12.02. CHA shall pay the deferred penalty not later than 30 days after the Notice of Violation containing the finding becomes final.

14. During the inspection, CHA immediately corrected the un-containerized waste issue cited as Violation 27 in the NOV/CO. Additionally, in numerous compliance assistance visits throughout the year, inspectors have not witnessed similar violations and agree that this incident is most likely isolated. For these reasons, the Director agrees to defer \$5,000.00 of the calculated penalty of \$10,000.00 relating to Violation 27 of the NOV/CO if: (1) CHA immediately updates operating procedures and training material to ensure that the issues noted in Violation 27 do not recur, and (2) CHA does not store waste pulled from the bulk solids shredder outside of permitted storage henceforth.

14.01. If CHA complies with ¶ 14 for a minimum of one year from the effective date of this CONSENT ORDER, the Director agrees to vacate the deferred penalty of \$5,000.

14.02. If the Division finds that CHA fails to comply with ¶ 14 at any point within the year following the effective date of this CONSENT ORDER, CHA shall pay the deferred penalty of \$5,000.00 as described in ¶ 12.02. CHA shall pay the deferred penalty not later than 30 days after the Notice of Violation containing the finding becomes final.

EFFECT OF CONSENT ORDER

15. For the purpose of this CONSENT ORDER, the parties agree and stipulate to the above stated facts. The obligations in this CONSENT ORDER apply to and are binding upon the Division of Waste Management and Radiation Control and upon CHA and any of CHA's successors, assigns, or other entities or persons otherwise bound by law.

16. 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 CHA 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 of Utah be precluded in any way from taking appropriate action should such a situation arise again at the CHA 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/CO.

PUBLIC PARTICIPATION

17. 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 Administrative 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 consideration indicating the CONSENT ORDER is inappropriate, improper, or inadequate.

EFFECTIVE DATE

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

SIGNATORY

19. The undersigned representative of Clean Harbors Aragonite, LLC certifies that the representative is authorized to enter into this CONSENT ORDER and to execute and legally bind Clean Harbors Aragonite, LLC.

Pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.*, in the *Matter of Clean Harbors Aragonite Notice of Violation and Compliance Order No. 2205051*, the parties hereto mutually agree and consent to *STIPULATION AND CONSENT ORDER No. 2210117* as evidenced below:

CLEAN HARBORS ARAGONITE, LLC

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

Rebecca Underwood, President and EVP

Douglas J. Hansen, Director

Date: _____

Date: _____