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In the Matter of:	:	STIPULATION AND CONSENT ORDER
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Tooele Army Depot - South Area	:	No. 2212140
Notice of Violation and Compliance Order	:	
No. 2208088	:	
UT 521 009 0002	:	

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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** pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.*

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 Tooele Army Depot South Area (TEAD-S) owned and operated by the U.S. Army. TEAD-S will not challenge issuance of this **CONSENT ORDER** or the Director’s jurisdiction to enter and enforce this **ORDER**. TEAD-S and the Director are the parties to this agreement.

FINDINGS

2. TEAD-S, formerly the Deseret Chemical Depot (DCD), is a U.S. Army facility located in Rush Valley, Tooele County, Utah. TEAD-S operates under the provisions of their hazardous waste Part B Permit, (“Permit”) most recently renewed and reissued by the Director on August 18, 2015.
3. TEAD-S 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.
4. Authorized representatives of the Director (inspectors) conducted a hazardous waste inspection at TEAD-S on May 31, 2022 (the FY2022 inspection).
5. Based on findings documented during the FY 2022 inspection, on September 1, 2022, the Director issued Notice of Violation and Compliance Order (NOV/CO) No. 2208088 which alleged violations of the Act, the Rules, and the Permit.
6. On September 27, 2022, TEAD-S filed a response to NOV/CO No. 2208088. In their response, TEAD-S consented to the findings presented in the NOV/CO and provided evidence of corrective actions the facility took to correct and prevent recurrence of the violations. The Division has reviewed these corrective actions and agrees that TEAD-S appropriately addressed each violation.
7. In accordance with the Civil Penalty Policy, Utah Admin. 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 No. 2208088.

STIPULATION AND CONSENT ORDER

8. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve NOV/CO No. 2208088 without further administrative or judicial proceedings.
9. In full settlement of the violations alleged in NOV/CO No. 2208088, TEAD-S shall pay a penalty of \$1,976.00 (one thousand nine hundred seventy-six dollars). Payment shall be made within thirty 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.
10. TEAD-S anticipates that all obligations arising under this order will be fully funded. However, any requirement for the payment or obligation of funds by TEAD-S established by the terms of this order shall be subject to the availability of funds, and no provision herein shall be interpreted to require obligation of funds in violation of the Anti-Deficiency Act (ADA), 31 USC sec. 1341. In cases where payment or obligation of funds would constitute a violation of the ADA, TEAD-S will notify the Director of the unavailability of funds, in writing, within seven days of becoming aware of the lack of funding. The notification will also include a plan to meet the obligations arising under this order within six months of the original payment date established in Paragraph 9 or proof of finances demonstrating TEAD-S cannot meet the obligations within six months of the original payment date established in Paragraph 9.

EFFECT OF CONSENT ORDER

11. 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 TEAD-S and any of TEAD-S's successors, assigns, or other entities or persons otherwise bound by law.
12. 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 TEAD-S 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 TEAD-S facility. However, entry into this CONSENT ORDER shall relieve TEAD-S of all liability for violations which did arise or could have arisen with respect to the allegations contained in NOV/CO No. 2208088. Each party shall bear its own costs and fees, if any.

EFFECTIVE DATE

13. This CONSENT ORDER shall become effective upon the date of execution by the Director of the Division of Waste Management and Radiation Control (Director).

PUBLIC PARTICIPATION

14. 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 the CONSENT ORDER is inappropriate, improper, or inadequate.

SIGNATORY

15. The undersigned representative of TEAD-S certifies they are authorized to enter into this CONSENT ORDER and to execute and legally bind TEAD-S.

Pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.*, in the *Matter of Tooele Army Depot - South Area Notice of Violation and Compliance Order No. 2208088*, the parties hereto mutually agree and consent to STIPULATION AND CONSENT ORDER No. 2212140 as evidenced below:

TOOELE ARMY DEPOT
SOUTH AREA

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

Eric B. Dennis, Colonel
U.S. Army Commanding

Douglas J. Hansen, Director

Date: _____

Date: _____