

**STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL**

In the Matter of:

Clean Harbors Buttonwillow LLC
2500 West Lokern Road
Buttonwillow, California 93206

ID No. CAD980675276

Respondent.

Docket HWCA 20136129

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. **Parties.** The California Department of Toxic Substances Control (Department) and Clean Harbors Buttonwillow LLC (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. **Site.** Respondent operates a Class I permitted treatment, storage, and disposal facility at 2500 West Lokern Road, Buttonwillow, California (Site).

1.3. **Inspection.** The Department inspected the Site on February 26-27, 2013. The Department conducted a follow-up inspection on May 14, 2013 and collected samples on May 15, 2013.

1.4. **Authorization Status.** Respondent is authorized by the Department to operate a Class I treatment, storage, and disposal facility under EPA identification number CAD980675276.

1.5. **Jurisdiction.** Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement

issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Respondent admits the violation as alleged in section 2.1.1 and neither admits nor denies the violation as alleged in section 2.1.2.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondent violated the California Health and Safety Code sections 25189.2(c) and 25201(a), and the California Code of Regulations, title 22, section 66264.31 in that on or about May 15, 2013, Respondent (a) failed to minimize the possibility of an unplanned or non-sudden release of land disposal restricted hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment; and (b) disposed of, or caused the disposal of, land disposal restricted hazardous waste at a point not authorized. To wit: Respondent deposited/discharged/spilled hazardous waste around the facility's Stabilization Treatment Unit. Soil samples taken from the southwestern corner of the Stabilization Treatment Unit's driveway were analyzed and were found to be hazardous for zinc and chromium.

2.1.2. Respondent violated California Health and Safety Code sections 25185(a)(2) and 25189.2(b), California Code of Regulations 66272.1(e), and its Hazardous Waste Facility Permit, Part 1, Standard Conditions, Section I, Inspection and Entry, No. 4, in that on or about May 14, 2013, the Department was unable to complete all sampling activities because of Respondent's internal miscommunication regarding the Department's instructions that the sampling area was not to be disturbed. To wit: On May 14, 2013, the Department's Senior Environmental Scientist, Mr. Larry Ramirez, informed Respondent's Vice President of Landfills West Region, Mr. Brian Olson, and Technical Operations Manager, Mr. Eric Almberg, that soil in the southwestern corner of the Stabilization Treatment Unit's driveway was not to be disturbed because the Department planned to sample the area the following day. However, debris on the soil was moved as a part of the facility's routine maintenance of the area. While the Department was able to collect five samples from the area on May 15, 2013, the volume and number of samples were affected because of the reduced sampling media.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall correct the violations set forth above.

3.1.1. Respondent shall immediately maintain and operate the Stabilization Treatment Unit to prevent any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. Respondent shall immediately cease disposing, or causing the disposal of, hazardous waste around the Stabilization Treatment Unit. Respondent developed a Sampling and Analysis Plan that included

corrective actions concerning the violation set forth in Section 2.1.1. The soil area in the southwest corner of the Stabilization Treatment Unit has since been excavated to an approximate depth of three feet from ground surface, backfilled with clean soil and paved with concrete, with the approval of the Department. Impacted soil from the excavation was treated in the Stabilization Treatment Unit and ultimately disposed of in the on-site secure landfill.

3.1.2. Respondent shall cooperate fully with all the Department of Toxic Substances Control's future sampling activities and shall not remove any sampling media during a compliance evaluation inspection or any other inspection unless expressly approved by the Department in writing. Respondent shall comply with lawful instructions by Department of Toxic Substances Control staff members in the performance of their inspection duties, including sampling. Within 30 days of the effective date of this Order, Respondent shall train staff on proper procedures during an inspection.

3.1.3. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.4. Captions and Headings. Captions and Headings used herein are for convenience only and shall not be used in construing this Consent Order.

4.5. Severability. If any provision of this Consent Order is found by a court of competent jurisdiction to be illegal, invalid, unlawful, void or unenforceable, then such provision shall be enforced to the extent that is not illegal, invalid, unlawful, void, or unenforceable, and the remainder of this Consent Order shall continue in full force and effect.

4.6. Entire Agreement. This agreement constitutes the entire and only understanding between the Parties regarding the subject matter contained herein and shall supersede any and all prior and/or contemporaneous oral or written negotiations, agreements, representations and understandings and may not be amended, supplemented, or modified, except as provided in this Order. The Parties understand and agree that in entering into this Consent Order, the Parties are not relying on any representations not expressly contained in this Consent Order.

4.7. Counterparts. This Consent Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

5. PENALTY

5.1. Respondent shall pay the Department the total sum of thirty-eight thousand and two-hundred and fifty dollars (\$38,250) in administrative penalties.

5.2. Payment of the total sum specified in paragraph 5.1 is due within 30 days from the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to "Department of Toxic Substances Control," shall identify the Respondent and Docket Number as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P.O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Ms. Maria Soria
Environmental Program Manager I (Supervisory)
Enforcement and Emergency Response Division
Department of Toxic Substances Control
700 Heinz Avenue
Berkeley, California 94710-2721

And

Mr. Christopher Cho, Legal Counsel
Office of Legal Affairs
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: 6/16/14 By: Original signed by Eric Gerstenberg
Clean Harbors Buttonwillow LLC
Respondent

Dated: 6/19/14 By: Original signed by Maria Soria
Maria Soria
Environmental Program Manager I (Supervisory)
Enforcement and Emergency Response Division
Department of Toxic Substances Control