

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

DTSC Docket No. [_____]

In the Matter of:

BKK Class I
Landfill 2210 South
Azusa Ave. West
Covina, CA 91792

Working Parties:

BKK Working Group, and its
individual members

Respondents:

Persons, corporations or other
entities identified in Exhibit A
as a Settling Respondent

**[PROPOSED]
ADMINISTRATIVE CONSENT ORDER AND
SETTLEMENT AGREEMENT – *DE MINIMIS*
CONTRIBUTORS**

Health and Safety Code sections
25358.3 and 25360.6

Comprehensive Environmental Response,
Compensation, and Liability Act (CERCLA)
sections 107 and 113

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I. INTRODUCTION

1.1 Parties. The California Environmental Protection Agency, Department of Toxic Substances Control (“DTSC”), the BKK Working Group, including each member identified in Exhibit C (“BWG”), and the persons (as that term is defined in section 101(21) of the Comprehensive Environmental Response, Compensation, and Liability Act [“CERCLA”] [42 U.S.C. § 9601(21)], and section 25319 of the Health and Safety Code) identified in Exhibit A as a Settling Respondent (“Settling Respondent” or “Settling Respondents”) hereby enter into this Administrative Consent Order and Settlement Agreement – *De Minimis* Contributors (the “Order and Agreement”) and agree to the Order and Agreement’s terms and conditions. DTSC, the BWG, and Settling Respondents are together referred to herein as the “Parties.” The BWG and each Settling Respondent consents to and will not contest DTSC’s jurisdiction to enter into this Order and Agreement or the authority of DTSC to implement or enforce the Order and Agreement’s terms.

1.2 The Parties agree that this Order and Agreement constitutes (1) an administrative consent order between DTSC and Settling Respondents, and (2) a private settlement between the BWG and Settling Respondents, to resolve (a) Settling Respondents’ liability under section 107 and 113 of CERCLA (42 U.S.C. §§ 9607, 9613), and under section 25360 of the Health and Safety Code, for response costs incurred at the “Site,” as defined in Paragraph 1.4, and Paragraph 2.1, subparagraph (q) of this Order and Agreement; and (b) Settling Respondents’ liability to the BWG.

1.3 The Parties agree that by entering into this Order and Agreement, actions undertaken by Settling Respondents and the BWG in accordance with this Order and Agreement do not constitute an admission of law, fact, or any liability by any Settling Respondent or the BWG. The BWG and Settling Respondents do not admit, and retain the right to controvert in any subsequent proceedings, other than the proceedings to implement or enforce this Order and Agreement, the validity of the Statement of Facts, Conclusions of Law, or Determinations contained in this Order and Agreement.

1.4 Subject Property/Site. This Order and Agreement applies to the BKK Class I Landfill, leachate treatment plant, service roads, and related pollution control equipment located at 2210 South Azusa Avenue, West Covina, California 91792, and to the areal extent of contamination that originated from releases on the foregoing property (hereinafter, the “Site”). Specifically, the Site encompasses the “Subject Property” and “Class I Landfill Investigation Area” as those terms are specifically defined in the Second and/or Third Partial Consent Decrees. The closed Class I (hazardous waste) Landfill is part of the 583-acre facility described by the Government Survey Method as: that portion of Rancho La Puente in the City of West Covina, County of Los Angeles known as Lot 3, as shown on a record of survey recorded in Book 85, pages 10 through 12 inclusive, on file in the Office of the County Recorder (“BKK Facility”). The BKK Facility also contains a closed Class III (municipal waste) Landfill and other related landfill infrastructure. A map showing the BKK Facility is attached as Exhibit B. This Order and Agreement relates solely to the Site, as that term is defined above and below, and does not include the closed Class III Landfill.

1.5 Jurisdiction. This Order and Agreement is entered into by the Parties pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act (“HSAA”), Health and Safety Code sections 25358.3, 25360, and 25360.6, and CERCLA sections 107 and 113 (42 U.S.C. §§ 9607, 9613).

1.5.1 Health and Safety Code section 25358.3 authorizes DTSC to require any responsible party to perform or pay for appropriate response actions necessary to protect the public health or welfare or the environment when there may be an imminent and substantial endangerment because of a release or threatened release of a hazardous substance.

1.5.2. Health and Safety Code section 25360 and CERCLA section 107 (42 U.S.C. § 9607) authorize DTSC to recover from responsible parties the response costs DTSC incurs.

1.5.3. Health and Safety Code section 25360.6 authorizes DTSC to enter into a *de minimis* settlement with a responsible party if the settlement involves only a minor portion of the response costs at a facility, and the amount of hazardous substances and toxic or hazardous effects of the hazardous substances contributed by the responsible party is minimal in comparison to the amount and effects of other hazardous substances at the Site.

1.6 Statement of Purpose. By entering into this Order and Agreement, the mutual objectives of DTSC, the BWG, and Settling Respondents are:

- a. To reach a final settlement among the Parties with respect to each Settling Respondent’s alleged liability in connection with the Site that allows each Settling Respondent to resolve that Settling Respondent’s alleged civil liability under sections 107 and 113 of CERCLA (42 U.S.C. §§ 9607, 9613), and sections 25360 and 25360.6 of the Health and Safety Code, by paying that Settling Respondent’s fair share of response costs incurred and to be incurred by DTSC and the BWG in connection with the Site, thereby reducing litigation relating to the Site;
- b. To resolve any alleged claims of each Settling Respondent that could have been asserted against DTSC or the BWG with respect to the Site;
- c. To minimize the remaining administrative and judicial enforcement activities concerning the Site by resolving the alleged liability of a substantial number of responsible parties with respect to the Site; and
- d. To provide covenants not to sue and contribution protection for each Settling Respondent in connection with the Site pursuant to section 113(f) of CERCLA (42 U.S.C. § 9613(f)), and section 25360.6(b) of the Health and Safety Code, on the terms set forth herein.

II. DEFINITIONS

2.1 Unless otherwise expressly provided herein, terms used in this Order and Agreement that are defined in CERCLA, the HSAA, or in regulations promulgated under CERCLA or the HSAA shall have the meaning assigned to them therein. The following definitions are incorporated into this Order and Agreement:

- a. "BWG" shall mean the BKK Working Group, an unincorporated association, the current members of which are identified in Exhibit C. Each reference to the BWG in this document shall pertain to each of the BWG members individually and collectively as a group.
- b. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.
- c. "Contributed" shall mean disposed, arranged for the disposal or treatment, or arranged with a transporter for transport for the disposal or treatment, of a hazardous substance.
- d. "Day" shall mean a calendar day. In computing any period of time under this Order and Agreement, where the last Day would fall on a Saturday, Sunday, federal holiday, or California state holiday, the period shall run until the close of business on the next working Day.
- e. "*De Minimis* Party" shall mean any person (as that term is defined in section 101(21) of CERCLA [42 U.S.C. § 9601(21)], and section 25319 of the Health and Safety Code) that Contributed no more than 4,000 tons of material containing hazardous substances to the Site, except if DTSC determines that the hazardous substances Contributed by such person are significantly more toxic or of significantly greater hazardous effect than other hazardous substances at the Site, that such person does not qualify as a *De Minimis* Party.
- f. "DTSC" shall mean the California Department of Toxic Substances Control and any successor agency.
- g. "Effective Date" shall have the same meaning as defined below in Section XVI.
- h. "HSAA" shall mean the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code section 25300 et seq.
- i. "Interest" shall mean interest at the rate specified in section 25360.1, subdivision (a), of the Health and Safety Code.
- j. "Order and Agreement" shall mean this Administrative Consent Order and Settlement Agreement – *De Minimis* Contributors and all exhibits attached hereto.

- k. “Paragraph” shall mean a portion of this Order and Agreement identified by an Arabic numeral or an upper or lower-case letter.
- l. “Party” or “Parties” shall, individually or collectively, mean DTSC, the BWG, and/or each Settling Respondent, as applicable.
- m. “Person” shall have the same meaning as assigned to it in both section 101(21) of CERCLA (42 U.S.C. § 9601(21)), and section 25319 of the Health and Safety Code.
- n. “RCRA” shall mean the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 et seq.
- o. “Second Disbursement Amendment” shall mean the Second Disbursement Amendment to the Third Partial Consent Decree that the Parties lodged with the court in *Cal. Dep’t of Toxic Substances Control v. Am. Honda Motor Co., Inc.*, Case No. 2:15-CV-00729-DDP-AJW (C.D. Cal. Oct. 26, 2020).
- p. “Section” shall mean a portion of this Order and Agreement identified by a Roman numeral.
- q. “Site” shall mean the BKK Class I Landfill located at 2210 South Azusa Avenue, West Covina, California 91792, and includes the Class I Landfill, the leachate treatment plant, the service roads, related pollution control equipment, and the areal extent of contamination that originated from releases on the foregoing property. The Site encompasses the term “Subject Property” and “Class I Landfill Investigation Area” as those terms are used in the Amended First, Second, and/or Third Partial Consent Decrees and does not include the closed Class III Landfill.
- r. “Third-Party Escrow Account” shall mean the Third-Party Settlement PRP Escrow Account described in Section VI of the Second Disbursement Amendment.

III. DTSC’S STATEMENT OF FACTS

3.1 Paragraphs 3.2 through 3.11 contain a summary of the Site’s background as alleged by DTSC that, for purposes of this Order and Agreement, the BWG and Settling Respondents neither admit nor deny.

3.2 Liability of Settling Respondent. Each Settling Respondent Contributed one or more hazardous substances to the Site. As such, each Settling Respondent is potentially liable pursuant to section 25323.5(a) of the Health and Safety Code, and section 107(a) of CERCLA (42 U.S.C. § 9607(a)).

3.2.1 As to each Settling Respondent, information currently known to DTSC does not indicate the amount of material containing hazardous substances that that Settling Respondent Contributed to the Site exceeds 4,000 tons. In addition, information

currently known to DTSC does not indicate that the hazardous substances Contributed by each Settling Respondent are significantly more toxic or of significantly greater hazardous effect than other hazardous substances at the Site. Therefore, for purposes of this Order and Agreement, each Settling Respondent is a *De Minimis* Party. (Health & Safety Code § 25360.6.)

3.2.2 The volume of material containing hazardous substances attributed to each Settling Respondent was calculated based on records kept by the owner and operator of the Site, BKK Corporation (“BKK Corp.”), and records maintained by DTSC and DTSC’s predecessor agency, the Department of Health Services. Each Settling Respondent’s volumetric allocation is specified in Exhibit A, a Summary of *De Minimis* Settlement Amounts.

3.2.3 No Settling Respondent has incurred any response costs in connection with the Site or reimbursed DTSC for response costs in connection with the Site.

3.3 Site Location. The Site is part of the BKK Facility located in the city of West Covina, California. The BKK Facility consists of a closed Class I hazardous waste landfill, a closed Class III municipal landfill, a leachate treatment plant which serves both landfills, leachate and gas collection systems, a cogeneration plant, flare stations, and other related landfill infrastructure. This Order and Agreement relates solely to the Site as that term is defined in Section II above.

3.4 Site History. From approximately the 1960s to the mid-to-late 1980s, the Site accepted municipal waste, commercial waste, and/or hazardous waste, including, without limitation, asbestos and/or asbestos-containing materials and/or asbestos-containing construction materials. Approximately 5.18 million tons of documented material containing hazardous substances was Contributed to the Site, in addition to millions of tons of municipal and/or commercial waste. Wastes at the Site include hazardous substances as defined in section 101(14) of CERCLA (42 U.S.C. § 9601(14)), and sections 25316 and 25317 of the Health and Safety Code.

3.5 In October 2004, BKK Corp. informed DTSC that BKK Corp. lacked the financial resources to continue performing post-closure care of the Site as required by RCRA (42 U.S.C. § 6926), and the Hazardous Waste Control Law (Health & Safety Code § 25100 et seq.).

3.6 As a result of the release or threatened release of hazardous substances from the potential cessation of post-closure care, DTSC undertook response actions at the Site to ensure the continued day-to-day operation and maintenance of the Site, and to perform critical tasks.

3.7 In December 2004, DTSC issued an Imminent and Substantial Endangerment Determination and Order and Remedial Action Order, Docket No. I/SE-D 04/05-004 (“ISE Order”), to BKK Corp. and approximately fifty (50) potentially responsible parties, requiring those potentially responsible parties to, among other things, (a) perform response actions at the Site, including taking over essential Site

operation and maintenance activities, and (b) reimburse DTSC for certain response costs.

In 2004, a number of potentially responsible parties named in the ISE Order came together to form the BWG. Additional potentially responsible parties have since joined the BWG. Currently, the BWG is comprised of sixty (60) members, as set forth in Exhibit C. Since 2004, DTSC and the BWG (through BWG's individual members) have entered three judicially approved consent decrees requiring the BWG (through BWG's individual members) to finance and perform response activities at the Site with DTSC oversight.

On October 31, 2005, DTSC filed a complaint against certain members of the BWG. (*Cal. Dep't of Toxic Substances Control v. Am. Honda Motor Co.*, Case No. CV-05-7746 CAS (C.D. Cal. Oct. 31, 2005).) On February 8, 2006, DTSC lodged an Amended First Consent Decree with the United States District Court for the Central District of California ("Court"), which was entered by the Court on March 9, 2006. The Amended First Consent Decree required the BWG (through BWG's individual members) to, among other things: (a) perform environmental response actions at the Site, including "Essential Activities" as that term is defined in the Amended First Consent Decree; (b) perform required critical tasks; and (c) reimburse DTSC for certain response costs.

On May 10, 2010, DTSC filed a second complaint against certain members of the BWG. (*Cal. Dep't of Toxic Substances Control v. Am. Honda Motor Co.*, Case No. CV-10-03378 (C.D. Cal. May 10, 2010).) At the same time, DTSC lodged a Second Consent Decree with the Court, which was entered by the Court on August 10, 2010. The Second Consent Decree requires the BWG (through BWG's individual members) to, among other things, perform environmental response actions at the Site, including investigations and Essential Activities; and to reimburse DTSC for certain response costs. The Second Consent Decree also requires the BWG (through BWG's individual members) to conduct an Engineering Evaluation/Cost Analysis ("EE/CA") of the landfill systems at the Site. Currently, the BWG is undertaking the EE/CA process.

On February 2, 2015, DTSC filed a third complaint against certain members of the BWG. (*Cal. Dep't of Toxic Substances Control v. Am. Honda Motor Co.*, Case No. 2:15-CV-00729-R-AJW (C.D. Cal. Feb. 2, 2015) as amended.) At the same time, DTSC lodged a Third Partial Consent Decree with the Court, which was entered by the Court on July 24, 2015. The Third Partial Consent Decree requires the BWG (through BWG's individual members) to, among other things, perform environmental response actions at the Site, including groundwater monitoring, investigations, and Essential Activities; and to reimburse DTSC for certain response costs. The Third Partial Consent Decree also requires the BWG (through BWG's individual members) to conduct a Remedial Investigation/Feasibility Study of potential groundwater contamination resulting from the Class I Landfill ("Groundwater RI/FS"). The BWG (through BWG's individual members) is currently conducting the Groundwater RI/FS. Together, the EE/CA and Groundwater RI/FS will detail the cleanup objectives and recommend a final cleanup remedy at the Site.

3.8 Hazardous Substances at the Site. Waste containing hazardous substances that were disposed of at the Site include, but are not limited to, acid and

alkaline solutions and sludges, cyanide wastes, contaminated soils, drilling muds, heavy metal solutions, oils, paint wastes, plating solutions, pesticides, polychlorinated biphenyls (PCBs), phenolic wastes, halogenated solvents, acetone, benzene, chlorobenzene, chromium, copper, cyanide, lead, mercury, toluene, vinyl chloride, and xylenes.

3.9 Each Settling Respondent Contributed materials containing hazardous substances to the Site in an amount not exceeding 4,000 tons per Settling Respondent. Each Settling Respondent's volumetric allocation is specified in Exhibit A.

3.10 Response Costs Incurred. In performing response actions, DTSC and the BWG have incurred, and will continue to incur, response costs at, or in connection with, the Site that are recoverable pursuant to Health and Safety Code section 25360, CERCLA section 107 (42 U.S.C. § 9607), and/or CERCLA section 113 (42 U.S.C. § 9613). As of June 30, 2020, DTSC's outstanding response costs in connection with the Site totaled \$72,367,080.00. DTSC's costs are not inconsistent with the National Contingency Plan ("NCP"). The BWG's explanation of the BWG's own response costs is contained in Paragraph 4.4 below.

3.11 Future Response Costs. DTSC estimates that the total response costs to be incurred in the future at or in connection with the Site will be approximately \$869,286,436.00. Of that sum, outstanding estimated future response costs for recovery total \$784,943,636.99. The payment required to be made by each Settling Respondent as indicated in Exhibit A is a minor portion of the total amount of the response costs that have been, and will continue to be, incurred.

IV. THE BWG'S STATEMENT OF FACTS

4.1 Paragraphs 4.2 through 4.5 contain a summary of the factual background as alleged by the BWG, that for purposes of this Order and Agreement, DTSC and Settling Respondents neither admit nor deny.

4.2 Incorporate by Reference. The BWG incorporates by reference Paragraphs 3.2 through 3.7 above.

4.3 According to historical BKK Corp. records, each Settling Respondent Contributed hazardous substances to the Site. To date, no Settling Respondent has incurred any response costs at the Site, nor has any Settling Respondent paid its fair share of response costs incurred by the BWG at the Site.

4.4 The BWG has incurred and will incur response costs recoverable pursuant to sections 107 and 113 of CERCLA (42 U.S.C. §§ 9607, 9613) at or in connection with the Site in a manner consistent with the NCP. The BWG and BWG's individual members have incurred \$147,178,551.27 in past response costs at the Site. The past costs incurred related to the Second and Third Partial Consent Decrees are as of June 30, 2020; all other past response costs are as of December 31, 2020.

4.5 The composition of the BWG has changed over time and continues to change. New members pay an interim allocated share of past and ongoing costs. Each member of the BWG has incurred necessary response costs consistent with the NCP.

V. CONCLUSIONS OF LAW

Based on DTSC's Statement of Facts set forth above and on the administrative record for the Site, DTSC has determined that:

5.1 The Site is a "site" as that term is defined in Health and Safety Code section 25323.9, where "site" has the same meaning as the term "facility" as defined in section 101(9) of CERCLA (42 U.S.C. § 9601(9)).

5.2 Each Settling Respondent is a "Person" as that term is defined in section 101(21) of CERCLA (42 U.S.C. § 9601(21)), and section 25319 of the Health and Safety Code.

5.3 Each Settling Respondent is a "responsible party" as defined in Health and Safety Code section 25323.5, by reference to section 107(a) of CERCLA (42 U.S.C. § 9607(a)).

5.4 Each Settling Respondent is potentially liable pursuant to section 107(a) of CERCLA (42 U.S.C. § 9607(a)).

5.5 There has been an actual or threatened "release" of a "hazardous substance" at the Site, as those terms are defined in sections 101(22) and (14), respectively, of CERCLA (42 U.S.C. §§ 9601(14), (22)) and Health and Safety Code sections 25320 and 25316, respectively.

5.6 Response actions have, and continue to be, conducted by DTSC and the BWG to address the actual or threatened release of a hazardous substance from the Site, and to protect public health and safety and the environment.

5.7 The actual or threatened release of a hazardous substance at the Site has caused or may cause the incurrence of response costs by DTSC and the BWG within the meaning of section 107(a) of CERCLA (42 U.S.C. § 9607(a)).

VI. DETERMINATION AND ORDER

6.1 Based on DTSC's Statement of Facts and the Conclusions of Law set forth above, DTSC hereby determines that prompt settlement with Settling Respondents is practicable and in the public interest within the meaning of section 25360.6 of the Health and Safety Code, and section 107 of CERCLA (42 U.S.C. § 9607). The amount of hazardous substances and the toxic or other hazardous effects of the hazardous substances Settling Respondent Contributed to the Site are minimal in comparison to other hazardous substances at the Site. Based on the foregoing, and in consideration of

the promises and covenants set forth in this Order and Agreement, the following is hereby AGREED TO AND ORDERED:

VII. SETTLEMENT PAYMENT, SIGNATURE, AND FAILURE TO MAKE PAYMENT

7.1 Calculation of Payment. Each Settling Respondent's payment to settle its potential CERCLA and HSAA liability in connection with the Site under this Order and Agreement is based on that Settling Respondent's share, by weight, of the total hazardous substances Contributed to the Site. Each Settling Respondent's payment includes an amount for: (a) past response costs incurred at or in connection with the Site; (b) the orphan share covering the share of liability attributable to bankrupt, insolvent, or unidentifiable responsible parties and the share that cannot be allocated to any party, for example due to an illegible manifest; (c) projected future response costs to be incurred at or in connection with the Site; and (d) a premium to cover the risks and uncertainties associated with this settlement, including, but not limited to, the risk that total response costs incurred or to be incurred at or in connection with the Site will exceed the estimated total response costs upon which Settling Respondents' payments are based and uncertainty about the orphan share for the Site.

7.1.1 From October 1, 2004 through June 30, 2020, DTSC incurred \$94,610,864.00 in past response costs. As of June 30, 2020, \$72,367,080.00 of those costs remain outstanding. Additionally, the BWG has incurred \$147,178,551 in past response costs. The past response costs incurred by the BWG relating to the First, Second, and Third Partial Consent Decrees were incurred between March 9, 2006 and June 30, 2020; all other past costs were incurred between November 1, 2004 through December 31, 2020. DTSC and the BWG's combined outstanding past response costs total \$219,545,631.27. A premium is not assessed against this amount but a portion of the orphan share and unallocable share of the past costs are reallocated to Settling Respondents.

7.1.2 The projected future response costs to be incurred at the Site after July 1, 2020, total \$869,286,436.00. As of June 30, 2020, outstanding projected future response costs total \$784,943,636.99. A premium of 125% is added to the outstanding projected future costs, and a portion of the orphan share and unallocable share of the premium-adjusted future costs are reallocated to the Settling Respondents.

7.1.3 The total tonnage of materials containing hazardous substances deposited at the Site is 5,180,786 tons. Due to the orphan (15%) and non-allocable (3%) shares (18% total), the adjusted tonnage due to non-viable recovery is 82% of 5,180,786 tons, which equals 4,248,245 tons. The one-ton percentage share for viable recovery is $1 \div 4,248,245$, which equals 0.0000235391%. The following formula is used to calculate each Settling Respondent's payment amount:

<p style="text-align: center;"><u>Past Costs</u></p> <p><i>DTSC and the BWG's combined outstanding past costs × one-ton percentage share for viable recovery:</i></p> <p style="text-align: center;">\$219,545,631.27 × 0.0000235391% =</p> <p style="text-align: center;">\$51.68 (per-ton share of past costs)</p>	+	<p style="text-align: center;"><u>Future Costs with Settlement Premium</u></p> <p><i>Outstanding estimated future costs × one-ton percentage share for viable recovery:</i></p> <p style="text-align: center;">\$784,943,636.99 × 0.0000235391% = \$184.77 (per-ton share of future costs)</p> <p><i>125% markup for early cash out settlement premium:</i></p> <p style="text-align: center;">\$184.77 × 125% = \$230.96 (per-ton settlement premium)</p> <p><i>Per-ton share of future costs + markup for early cash out settlement premium:</i></p> <p style="text-align: center;">\$184.77 + \$230.96 =</p> <p style="text-align: center;">\$415.73 (per-ton share of future costs with 125% early cash out settlement premium)</p>	=	<p style="text-align: center;">\$467.41 total per-ton rate</p> <p style="text-align: center;">(\$51.68 + \$415.73)</p>
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**\$467.41 total per-ton rate × Settling Respondent's tonnage =
Settling Respondent's payment amount**

A calculation of Settling Respondents' payment amounts is included in Exhibit A.

7.2 Signature by Settling Respondent. Each Settling Respondent has submitted to DTSC a fully and properly executed original signature page for this Order and Agreement entitled "Consent and Authorization for Agreement to Settle with DTSC and the BWG" ("Consent Form"), each of which is incorporated into this Order and Agreement as if fully set forth herein. A model Consent Form is attached as Exhibit D.

7.3 Payment by Settling Respondent. In consideration of the terms agreed upon herein, each Settling Respondent shall pay the sum designated as that Settling Respondent's settlement amount in Exhibit A within fifteen (15) Days of receipt of notice from DTSC of the Effective Date of this Order and Agreement. The settlement amount shall be split into two payments: 10% of the settlement payment will be paid directly to

DTSC to reimburse DTSC's past costs, and the remainder will be paid into a Temporary Holding Account established by the BWG. From the Temporary Holding Account, settlement proceeds will be distributed (1) to the Third-Party Escrow Account and reserved to fund implementation of the selected response actions at the Site, and (2) to reimburse certain costs incurred by DTSC and the BWG related to this Order and Agreement as specified in the Second Disbursement Amendment.

7.3.1 Payment to DTSC. Each Settling Respondent shall pay 10% of its designated settlement amount (as indicated in Exhibit A) by one of the following methods:

(a) By Cashier's or Certified Check mailed to:

California Department of Toxic Substances Control
Accounting Section – Cashiering Unit (FLR 21-1)
Attention: Cashier
P.O. Box 806
Sacramento, California 95812-0806

The cashier's or certified check shall be made payable to the "California Department of Toxic Substances Control." The payment shall identify the following: (1) Site Code #300012-SM; (2) the name(s) of the Settling Respondent(s), as identified in Exhibit A, for whom payment is being made; and (3) the DTSC Docket Number (to be provided by DTSC in DTSC's notice of the Effective Date of this Order and Agreement following public review and comment).

Within one Day of mailing the cashier's or certified check, Settling Respondent shall also email a copy of the cashier's or certified check to BKKPRPSupport@dtsc.ca.gov, mlawrence@pathforwardconsult.com, and BKKThirdPartyInitiative@morganlewis.com.

(b) By Wire Transfer to DTSC:

If payment to DTSC is made by wire transfer, Settling Respondent shall email accounting@dtsc.ca.gov *one day prior* to making the wire transfer to notify DTSC that a wire transfer will be sent. Settling Respondent's email shall identify the following: (1) the amount of the transfer; (2) Site Code #300012-SM; (3) the name(s) of the Settling Respondent(s), as identified in Exhibit A, for whom payment is being made; and (4) the DTSC Docket Number (to be provided by DTSC in DTSC's notice of the Effective Date of this Order and Agreement following public review and comment).

DTSC's banking institution to which the wire transfer is to be made is as follows:

Bank of America, Sacramento Government Services, Unit 1436
555 Capitol Mall, Suite 1555
Sacramento, CA 95814

The information for the account to which the wire transfer is to be made is as follows:

Financial Institution:	Bank of America, San Francisco, CA
ABA Routing Number:	0260-0959-3
Beneficiary:	State of California
Beneficiary Information:	State Treasurer's Demand Deposit Account
Beneficiary Account No.:	14993-24597

7.3.2 Payment to Third-Party Escrow Account. Each Settling Respondent shall pay the remaining 90% of its designated settlement amount (as indicated in Exhibit A), into the Temporary Holding Account for distribution into the Third-Party Escrow Account by one of the following methods:

(a) By Cashier's or Certified Check mailed to:

Third-Party Settlement PRP Escrow Account – Holding
City National Bank
Attn: Alex Mak, Custody Service #715-01
555 S. Flower Street, 11th Floor
Los Angeles, CA 90071

The cashier's or certified check shall be made payable to the "Third-Party Settlement PRP Escrow Account – Holding."

Within one Day of mailing the cashier's or certified check, Settling Respondent shall also email a copy of the cashier's or certified check to BKKPRPSupport@dtsc.ca.gov, mlawrence@pathforwardconsult.com, and BKKThirdPartyInitiative@morganlewis.com.

(b) By Wire Transfer to the Third-Party Escrow Account:

The Third-Party Escrow Account's banking institution to which the wire transfer is to be made is as follows:

City National Bank
555 S. Flower Street, 11th Floor
Los Angeles, CA 90071

The information for the account to which the wire transfer is to be made is as follows:

Financial Institution:	City National Bank
ABA Routing Number:	122016066
Beneficiary:	Third-Party Settlement PRP Escrow Account – Holding
Beneficiary Account No.:	102181469
For Further Credit to:	48562610 Third-Party Settlement PRP Escrow Account – Holding; Attn: Alex Mak

7.4 Settling Respondents' Failure to Make Payment. If a Settling Respondent fails to make payment within fifteen (15) Days after receipt of notice from DTSC of the Effective Date of this Order and Agreement, that Settling Respondent shall pay Interest on the unpaid balance, which shall accrue between the expiration of the 15-Day period allowed for payment and the date of receipt of the unpaid balance. Failure to provide timely payment in accordance with the terms of this Order and Agreement may constitute a material breach of this Order and Agreement.

VIII. CERTIFICATION OF SETTLING RESPONDENT

8.1 Certification of Settling Respondent. By signing the Consent Form and thereby entering into the terms and conditions of this Order and Agreement, each Settling Respondent certifies pursuant to section 25360.6(c) of the Health and Safety Code, that, to the best of Settling Respondent's knowledge and belief, Settling Respondent:

- a. Has not Contributed more than 4,000 tons of materials containing hazardous substances to the Site;
- b. Has conducted a reasonable investigation for any information Settling Respondent has within Settling Respondent's possession or control, or is aware of, concerning Settling Respondent's ownership, possession, generation, treatment, transportation, or disposal of a hazardous substance at, to, or in connection with, the Site;
- c. Has disclosed to DTSC any information within Settling Respondent's possession or control, or that Settling Respondent is aware of, regarding wastes Settling Respondent sent or Contributed to the Site that is not included in the volumetric allocation of waste attributable to Settling Respondent as noted in Exhibit A; and
- d. Has and will comply fully with any and all of DTSC's requests for information regarding the Site pursuant to sections 25358.1, 25360.6(c), and 25367 of the Health and Safety Code.

8.2 If Settling Respondent fails to comply with the terms of this Order and Agreement or if this certification is false or, in any material respect, inaccurate, DTSC may, in addition to other available remedies or sanctions, pursue Settling Respondent for all response costs incurred or to be incurred by DTSC in connection with the Site, including Interest.

IX. COVENANT NOT TO SUE BY DTSC

9.1 In consideration of the payment made by Settling Respondent under Section VII of this Order and Agreement, and except as expressly provided in Section X of this Order and Agreement, DTSC covenants not to sue or take administrative action

against Settling Respondent pursuant to section 107 of CERCLA (42 U.S.C. § 9607) or section 25360 of the Health and Safety Code to:

- a. Recover DTSC's response costs related to the Site; or
- b. Require Settling Respondent to conduct response actions, including removal or remedial actions, related to the release and/or threatened release of hazardous substances at or from the Site.

9.2 This covenant is conditioned upon the satisfactory performance by Settling Respondent of all of Settling Respondent's obligations under this Order and Agreement, and the veracity of information provided to DTSC by Settling Respondent relating to Settling Respondent's involvement with the Site and with regard to Settling Respondent's certification as described in Section VIII of this Order and Agreement. This covenant shall take effect on the Effective Date of this Order and Agreement and shall remain in effect so long as Settling Respondent is in full compliance with Settling Respondent's obligations under this Order and Agreement.

X. RESERVATION OF RIGHTS BY DTSC

10.1 DTSC reserves, and this Order and Agreement is without prejudice to, all rights and claims of DTSC against Settling Respondent with respect to all matters not expressly included within the covenant in Section IX. This reservation includes, but is not limited to:

- a. Liability for failure to meet a requirement of this Order and Agreement;
- b. Criminal liability;
- c. Liability for damages to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- d. Liability based on the ownership or operation of the Site by Settling Respondent, or upon Settling Respondent's disposal, arrangement for the disposal or treatment, or arrangement with a transporter for transport for the disposal or treatment, of a hazardous substance or waste at or in connection with the Site after the Effective Date of this Order and Agreement; and
- e. Liability arising from Settling Respondent's (or Settling Respondent's subsidiary or affiliated entity's) past, present, or future disposal, arrangement for the disposal or treatment, or arrangement with a transporter for transport for the disposal or treatment, of a hazardous substance or waste at or in connection with the Site that is both: (1) not from a facility or specific location identified as owned or operated by Settling Respondent in Exhibit A, and (2) not included in the volume of material containing hazardous substances attributed to Settling Respondent in Exhibit A.

10.2 Notwithstanding any other provision in this Order and Agreement, DTSC reserves the right to modify this Order and Agreement, institute a judicial proceeding under federal and state law, or take administrative action if information is discovered that indicates Settling Respondent no longer qualifies as a *De Minimis* Party in connection with the Site because the amount, or toxic or hazardous effects of the hazardous substances Settling Respondent Contributed to the Site was not minimal in comparison to the amount or effect of other hazardous substances at the Site.

10.3 Nothing in this Order and Agreement is intended as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which DTSC may have against any Person not a party to this Order and Agreement.

10.4 Nothing in this Order and Agreement diminishes the right of DTSC, pursuant to sections 113(f)(2) and (3) of CERCLA (42 U.S.C. §§ 9613(f)(2)-(3)), to recover response costs from, or compel performance of response actions by, any Person not a party to this Order and Agreement. Nor does anything in this Order and Agreement diminish the right of DTSC, pursuant to sections 113(f)(2) and (3) of CERCLA (42 U.S.C. §§ 9613(f)(2)-(3)), to enter into a settlement agreement that provides contribution protection pursuant to section 113(f)(2) of CERCLA (42 U.S.C. § 9613(f)(2)) to any Person not a party to this Order and Agreement.

10.5 Nothing in this Order and Agreement is intended, nor shall it be construed, to preclude DTSC from exercising DTSC's authority under any law, statute, or regulation. Furthermore, nothing in this Order and Agreement is intended, nor shall it be construed, to preclude any other state agency, department, board or entity, or any federal entity from exercising that state agency, department, board or entity, or federal entity's authority under any law, statute, or regulation.

XI. COVENANT NOT TO SUE AND WAIVER BY SETTLING RESPONDENT

11.1 Each Settling Respondent covenants not to sue and agrees not to assert any claims or causes of action against DTSC, or DTSC's contractors or employees, with respect to the Site or this Order and Agreement, including, but not limited to:

- a. Any direct or indirect claim for reimbursement with respect to the Site;
- b. Any claim or cause of action arising out of any response actions at, or in connection with, the Site;
- c. Any claim or cause of action pursuant to CERCLA, RCRA, the HSAA, the Hazardous Waste Control Act (California Health and Safety Code section 25100 et seq.), or any other statutory or common law, for liability with respect to releases or threatened releases of hazardous substances at or in connection with the Site; and
- d. Any claim asserting a "takings" or similar claim.

11.2 Each Settling Respondent agrees not to assert any claims or causes of action, and waives all claims or causes of action (including, but not limited to, claims or causes of action under sections 107, 112, and 113 of CERCLA [42 U.S.C. §§ 9607, 9612, 9613], or section 25363 of the Health and Safety Code), that Settling Respondent may have against the BWG or against any other Person who is a responsible party under CERCLA or the HSAA for response costs relating to the Site, as the term “response” is defined in section 101(25) of CERCLA (42 U.S.C. § 9601(25)). This covenant not to sue shall not apply with respect to any defense, claim, or cause of action that a Settling Respondent may have against any Person, including, but not limited to, the BWG, if such Person asserts or has asserted a claim or cause of action relating to the Site against Settling Respondent.

11.3 The waiver under Paragraph 11.2 shall not apply to any contractual claim for response costs that Settling Respondent may have against the BWG or any other Person who is a responsible party under CERCLA or the HSAA, provided such claim arises out of a contract that existed before January 1, 2020.

XII. WAIVER BY THE BWG

12.1 De Minimis Waiver. Upon receipt of payment made by Settling Respondent under Section VII of this Order and Agreement, the BWG and each of BWG’s individual members agree not to assert any claims or causes of action and to waive all claims or causes of action (including, but not limited to, claims or causes of action under sections 107, 112, and 113 of CERCLA [42 U.S.C. §§ 9607, 9612, 9613], and section 25363 of the Health and Safety Code) that the BWG or BWG’s individual members may have against any Settling Respondent for response costs relating to the Site, as the term “response” is defined in section 101(25) of CERCLA (42 U.S.C. § 9601(25)). This covenant not to sue shall not apply with respect to any defense, claim, or cause of action that a BWG member may have against a Settling Respondent if that Settling Respondent asserts a claim or cause of action relating to the Site against the BWG member.

12.2 Notwithstanding any other provision in this Order and Agreement, the BWG, and each of BWG’s individual members reserve the right to assert a claim or cause of action with respect to the Site pursuant to sections 107, 112, and 113 of CERCLA (42 U.S.C. §§ 9607, 9612, 9613) or section 25363 of the Health and Safety Code, if DTSC makes a determination pursuant to Paragraph 10.2 of this Order and Agreement that the Settling Respondent no longer qualifies as a *De Minimis* Party in connection with the Site.

12.3 The waiver under Paragraph 12.1 shall not apply to any contractual claim for response costs that any BWG member may have against any Settling Respondent, provided such claim arises out of a contract that existed before January 1, 2020.

12.4 To the extent that the Settling Respondent is a named defendant in either *BKK Working Group v. 1700 Santa Fe Ltd.*, Case No. 2:18-CV-05810-MWF-PLA (C.D. Cal. July 2, 2018) or *BKK Working Group v. Albertsons Companies, Inc.*, Case No.

2:18-CV-05836-AB-EX (C.D. Cal. July 3, 2018), upon receipt of payment made by Settling Respondent under Section VII of this Order and Agreement, the BWG and BWG's individual members named as plaintiffs in those actions shall dismiss with prejudice the Settling Respondent.

XIII. CONTRIBUTION PROTECTION

13.1 The Parties agree that this Order and Agreement includes an administrative order and settlement for purposes of section 113(f)(2) of CERCLA (42 U.S.C. § 9613(f)(2)), for matters addressed in this Order and Agreement. Accordingly, on and after the Effective Date of this Order and Agreement, each Settling Respondent shall be entitled to protection against all claims for contribution, pursuant to sections 113(f)(2) and (f)(3)(B) of CERCLA (42 U.S.C. §§ 9613(f)(2), (3)(B)), and under Health and Safety Code section 25360.6(b) for the "matters addressed" in this Order and Agreement, as defined in section 13.2 herein, and subject to the Settling Respondent's compliance with Settling Respondent's obligations under this Order and Agreement.

13.2 The "matters addressed" in this Order and Agreement are all response actions that have been conducted or will be conducted at the Site. The contribution protection provided in this Section is conditioned upon Settling Respondent's compliance with Settling Respondent's obligations under this Order and Agreement. The "matters addressed" in this Order and Agreement do not include those response costs or response actions as to which DTSC has reserved DTSC's rights under this Order and Agreement. Nothing in this Order and Agreement diminishes the right of DTSC to pursue any other Person for response costs incurred by DTSC and to enter into settlements that give rise to contribution protection for those Persons.

13.3 Each Settling Respondent agrees that with respect to any suit or claim brought by it for matters related to this Order and Agreement, Settling Respondent shall notify DTSC and the BWG in writing at the following addresses no later than sixty (60) Days prior to initiation of such suit or claim:

For DTSC:

Chief Counsel
Office of Legal Counsel
Department of Toxic Substances Control
1001 "I" Street
P.O. Box 806
Sacramento, CA 95812-0806

For the BWG:

Jim Dragna, Esq.
Morgan Lewis & Bockius LLP
Common Counsel for the BWG
300 S. Grand Ave.
Twenty-Second Floor
Los Angeles, CA 90071

13.4 Each Settling Respondent further agrees that with respect to any suit or claim brought by it for matters related to this Order and Agreement, Settling Respondent: (a) shall notify DTSC and the BWG no later than thirty (30) Days prior to filing a motion for summary judgment; (b) shall not file a motion for summary judgment within sixty (60) Days of the date the trial is scheduled to begin; and (c) shall notify DTSC and the BWG within 10 days after receipt of any order from the court setting a trial date for matters related to this Order and Agreement.

XIV. GENERAL PROVISIONS

14.1 Compliance with Applicable Laws. Nothing in this Order and Agreement shall relieve any Settling Respondent from complying with all other applicable laws and regulations. Each Settling Respondent shall ensure all actions required by this Order and Agreement conform to all applicable federal, state, and local laws and regulations.

14.2 Severability. If any provision of this Order and Agreement, or the application of any such provision to any Party or set of circumstances, is for any reason or to any extent determined to be invalid, unlawful, void or unenforceable, the remainder of this Order and Agreement, and the application of such provision to the Parties or circumstances other than those as to which the provision is determined to be invalid, unlawful, void or unenforceable, shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by applicable law. Upon such a determination, the Parties shall negotiate in good faith to modify this Order and Agreement in a mutually acceptable manner to produce an Order and Agreement that effects and reflects the Parties' original intent to the fullest extent possible and is without any invalid, unlawful, void or unenforceable provisions. In the event that the Parties are unable to mutually agree on such a modification, the court or other tribunal making such determination is authorized and requested to modify this Order and Agreement so as to effect the Parties' original intent as closely as possible and to the fullest extent possible without any invalid, unlawful, void or unenforceable provisions.

14.3 Modification. This Order and Agreement shall be modified only in writing with the mutual consent of DTSC, Settling Respondent, and the BWG; or by order of the court following noticed motion, briefing, and hearing.

14.4 No Waiver of Enforcement. The absence of action by DTSC to enforce any provision of this Order and Agreement shall in no way be deemed a waiver of such provision or in any way affect the validity of this Order and Agreement. The absence of

action by DTSC to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Order and Agreement.

14.5 Integration. This Order and Agreement, including the executed Consent Forms, exhibits, and other materials incorporated herein by reference, constitutes the entire agreement between DTSC, the BWG, and each Settling Respondent and may not be modified except as provided for in this Order and Agreement. The following exhibits are attached to and incorporated into this Order and Agreement:

- a. "Exhibit A" is the Summary of *De Minimis* Settlement Amounts.
- b. "Exhibit B" is a map showing the BKK Facility.
- c. "Exhibit C" is the list of BWG members as of the date of this Order and Agreement.
- d. "Exhibit D" is a model Consent and Authorization for Agreement to Settle with DTSC and the BWG.

14.6 Interpretation. This Order and Agreement is entered into and shall be construed and interpreted in accordance with the laws of the State of California, and, to the extent applicable, the laws of the United States. This Order and Agreement shall be deemed to have been drafted equally by all Parties hereto.

14.7 Record Retention. Each Settling Respondent shall provide to DTSC and the BWG, upon DTSC's request, copies of all documents, records, and information within Settling Respondent's possession or control or that of Settling Respondent's contractors or agents relating to the implementation of this Order and Agreement, including, but not limited to design specifications, reports of construction activities, contracts, invoices, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, easements, permits, grants of access to public property, and city government resolutions. If Settling Respondent withholds information by asserting a privilege, it shall provide DTSC and the BWG with the following information sufficient to test the assertion of the privilege: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient of the document, record, or information; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted. If a claim of privilege applies only to a portion of a document, the document shall be provided to DTSC in redacted form to mask the privileged information only. Settling Respondent shall retain all records and documents it claims to be privileged until DTSC and the BWG has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in Settling Respondent's favor. Irrespective of DTSC's request for documents, records, and information as described above, Settling Respondent shall preserve such records until ten (10) years after the Effective Date of this Order and Agreement, or ten (10) years after creation of a record or document, whichever is later.

14.8 Third-Party Beneficiaries. Nothing in this Order and Agreement shall be construed to create any rights in, or grant any cause of action to, any Person not a party to this Order and Agreement.

14.9 Parties Bound. This Order and Agreement applies to and is binding upon DTSC, each Settling Respondent, and the BWG and BWG's individual members, included in Exhibit C, and each of their heirs, successors, and assigns. No change in ownership, political configuration, or corporate or other legal status of a Settling Respondent or the BWG or any of BWG's individual members, including, but not limited to, any transfer of assets or real or personal property, shall in any way alter that Party's obligations under this Order and Agreement.

XV. PUBLIC NOTICE

15.1 This Order and Agreement is subject to a public notice and to a public comment period of not less than thirty (30) Days.

- a. DTSC may modify or withdraw DTSC's consent to this Order and Agreement if comments received during the public comment period disclose facts or considerations that indicate that this Order and Agreement is inappropriate, improper, or inadequate. Should DTSC withdraw DTSC's consent to this Order and Agreement, the Parties shall be released from their respective obligations under the Order and Agreement. The Parties would then be free to negotiate a new agreement. This Order and Agreement may not be used as evidence in any litigation between the Parties should DTSC withdraw DTSC's consent to this Order and Agreement. Any modifications to the Order and Agreement proposed by DTSC shall be effective only if agreed to in writing by the BWG and those Settling Respondents that agree to the modification. Any new or modified agreement may be subject to an additional public notice and a public comment period of not less than thirty (30) Days.
- b. If, following the close of the public comment period, DTSC decides not to modify the Order and Agreement or withdraw DTSC's consent, DTSC shall confirm DTSC's intention to proceed with the Order and Agreement in a notice delivered to Settling Respondent. Once issued, DTSC's notice of intent to proceed with the Order and Agreement will be deemed incorporated into this Order and Agreement.

XVI. EFFECTIVE DATE

16.1 The Effective Date of this Order and Agreement shall be the date specified in the notice that DTSC issues confirming DTSC's intent to proceed with this Order and Agreement after close of the public comment period pursuant to Section XV, above.

XVII. SIGNATORIES

17.1 Each signatory to this Order and Agreement, including the signatories on the Consent Forms, certifies that such signatory is fully authorized to enter into the terms and conditions of this Order and Agreement and to execute and deliver on behalf of, and legally bind, the Party on behalf of which such signatory is signing this Order and Agreement or the Consent Form.

17.2 This Order and Agreement 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.

IT IS SO AGREED AND ORDERED:

**CALIFORNIA DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

DATED: _____

By: _____

Division Chief
Site Mitigation and Restoration Program

Print Name: _____

IT IS HEREBY AGREED:

**[Individual members of THE BKK WORKING
GROUP*]**

DATED: _____

By: _____

Print Name: _____

[*The final version of this Order and Agreement will be signed individually by each BWG member listed in Exhibit C, or its representative, on subsequent pages.]

Summary of *De Minimis* Settlement Amounts

	Settling Respondent Name	Facility Name	Facility Address ¹	Volumetric Allocation (Tons)	Total Settlement Amount (\$_____ Per Ton)	10% Payment to DTSC	90% Payment to Holding Account for Distribution to the Third-Party Escrow Account
1	Sawyer Engineering (Example)	Sawyer Engineering Sawyer Technologies, Inc.	1600 Main St. Turlock, CA 1987 Harvey Ave., #18 Turlock, CA	4,000.00	\$1,869,640.00	\$186,964.00	\$1,682,676.00
2	Acme Coatings, Inc. (Example)	Acme Coatings, Inc.	1894 N.E. Broadway Blvd. Stockton, CA	2,341.00	\$1,094,206.81	\$109,420.68	\$984,786.13
				Total Aggregate Settlement	\$2,963,846.81	\$296,384.68	\$2,667,462.13

BKK LANDFILL FACILITY



**Exhibit C to the [Proposed] Administrative Consent Order and Settlement Agreement –
De Minimis Contributors**

**List of BKK Working Group Members
Version dated April 13, 2022**

- American Honda Motor Co., Inc.
- Ameron International Corp.
- American Cyanamid
- Anadarko E&P Onshore LLC
- Ashland LLC, formerly known as Ashland Chemical Company
- Atlantic Richfield Company
- Baker Hughes Oilfield Operations, Inc.
- Baker Petrolite LLC
- Bayer Cropscience Inc.
- Big Heart Pet Brands
- The Boeing Company
- California Resources Corporation
- Chevron Environmental Management Company
- Chevron Marine LLC
- The City of Los Angeles, acting by and through its Department of Water and Power
- ConocoPhillips Company
- Crosby & Overton, Inc.
- The Dow Chemical Company
- Ducommun Aerostructures, Inc.
- Essex Chemical Corporation
- ExxonMobil Corporation
- Filtrol Corporation
- Gemini Industries, Inc.
- General Dynamics Corporation
- General Latex and Chemical Corporation
- Hewlett-Packard Company
- Honeywell International Inc.
- Hugo Neu-Proler
- Huntington Beach Company
- Kal Kan Foods Inc.
- Lockheed Martin Corporation
- Mars, Inc.
- Montrose Chemical Corp. of California
- Mortell Company
- Morton International, Inc.
- National Steel And Shipbuilding Company
- Northrop Grumman Corporation
- Oxy USA Inc.
- Quemetco, Inc.

- Raytheon Company
- Rockwell Automation, Inc.
- Rohm & Hass Company
- Rohr, Inc.
- San Diego Gas & Electric Company
- Shell Oil Company
- Smith International, Inc.
- Southern California Edison Company
- Southern California Gas Company
- The Procter & Gamble Manufacturing Company
- THUMS Long Beach Company
- Todd Pacific Shipyards Corp.
- Union Carbide Corporation
- Union Pacific Railroad / Southern Pacific Transportation Company
- Unisys Corporation
- United States Steel Corporation
- United Technologies Corporation
- Univar Solutions USA Inc.
- Van Waters & Rogers
- Vigor Shipyards, Inc.
- Xerox Corporation

**Exhibit D to the [Proposed] Administrative Consent Order and Settlement Agreement –
De Minimis Contributors**

**MODEL CONSENT AND AUTHORIZATION FOR AGREEMENT TO SETTLE
WITH DTSC AND THE BWG**

Regarding: BKK Class I Landfill De Minimis Settlements

List Name(s) of Settling Respondent(s):

By the duly authorized representative named below, Settling Respondent(s) hereby consent(s) to this Administrative Consent Order and Settlement Agreement – *De Minimis* Contributors (“Order and Agreement”) and agrees to be bound by the terms and conditions hereof.

The signatory to this Consent and Authorization for Agreement to Settle with DTSC and the BWG form (“Consent Form”) certifies that such signatory is fully authorized to execute and deliver on behalf of, and legally bind, the Settling Respondent(s) listed above on behalf of which such signatory is signing this Consent Form.

AGREED TO THIS _____ DAY OF _____, 20____.

Settlement Amount Agreed to: \$ _____

By: _____
(Signature)

(Print Name)

(Print Title)

Mailing Address:

By checking this box, I consent to being notified by e-mail of DTSC's intent to proceed with the Order and Agreement (see Sections XV and XVI, and paragraphs 7.3 and 7.4, of the Order and Agreement). Notification should be e-mailed to the following e-mail address:
