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7 *rel. Meredith Williams, Director of the*  
*Department of Toxic Substances Control*

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8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF LOS ANGELES

11  
12 **PEOPLE OF THE STATE OF**  
**CALIFORNIA, ex. rel., Meredith**  
13 **Williams, Director of the Department of**  
**Toxic Substances Control,**

14 Plaintiff,

15 v.

16 **CLEAN HARBORS BUTTONWILLOW,**  
17 **LLC, and DOES 1 through 20,**

18 Defendants.  
19

Case No. **23STCV1641**

**COMPLAINT FOR CIVIL PENALTIES  
AND PERMANENT INJUNCTIVE  
RELIEF**

**[Hazardous Waste Control Law, Health &  
Saf. Code, § 25100 et seq.]**

20 The Plaintiff, the People of the State of California, *ex rel.* Meredith Williams, Director of  
21 the Department of Toxic Substances Control (“Department”), alleges on information and belief:

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1 **STATEMENT OF THE CASE**

2 1. Defendant Clean Harbors Buttonwillow, LLC (“Clean Harbors”) operates a  
3 landfill located at 2500 West Lokern Road, Buttonwillow, California 93206 (“Facility”). The  
4 Facility is located approximately eight miles west of the community of Buttonwillow on Interstate  
5 5 and 36 miles west of Bakersfield.

6 2. The Facility accepts hazardous waste for treatment, storage, and disposal under a  
7 hazardous waste facility permit (the “Permit”) issued by the Department in 1996 pursuant to  
8 California’s Hazardous Waste Control Law, Health and Safety Code section 25100 et seq.  
9 (“HWCL”). A copy of the Permit may be found on the Department’s online database for  
10 hazardous waste sites, <https://www.envirostor.dtsc.ca.gov/public/>, under the page for Clean  
11 Harbors.

12 3. The HWCL and its implementing regulations, California Code of Regulations, title  
13 22, division 4.5, section 66260.1 et seq. (“Title 22 Regulations”), establish comprehensive cradle  
14 to grave standards for the generation, storage, transportation, treatment, and disposal of hazardous  
15 waste in California. The Department observed numerous violations of the HWCL and Title 22  
16 Regulations during multiple inspections conducted between 2017 and 2022. Violations included,  
17 but were not limited to, failure to properly contain hazardous wastes, failure to prevent release of  
18 hazardous wastes, and failure to segregate incompatible wastes. The Department seeks civil  
19 penalties and temporary, preliminary, and permanent injunctive relief for these violations  
20 pursuant to Health and Safety Code sections 25181, 25184, 25189, and 25189.2.

21 **DEFINITIONS**

22 4. For the purposes of this Complaint, the following definitions apply:

- 23 a. “Container” has the same meaning as set forth in California Code of  
24 Regulations, title 22, section 66260.10.  
25 b. “Disposal” has the same meaning as set forth in Health and Safety Code  
26 section 25113. “Dispose” shall mean an act of Disposal.  
27 c. “Disposal Site” has the same meaning as set forth in California Code of  
28 Regulations, title 22, section 66260.10.

- d. "Facility" means the Hazardous Waste Facility with an EPA ID. no. CAD980675276 and a street address of 2500 West Lokern Road, Buttonwillow, California 93206.
- e. "Hazardous Waste" has the same meaning as set forth in Health and Safety Code section 25117.
- f. "Hazardous Waste Facility" has the same meaning as set forth in Health and Safety Code section 25117.1.
- g. "Hazardous Waste Facility Permit" has the same meaning as set forth in California Code of Regulations, title 22, section 66260.10.
- h. "Hazardous Waste Management" has the same meaning as set forth in Health and Safety Code section 25117.2.
- i. "Incompatible Waste" has the same meaning as set forth in California Code of Regulations, title 22, section 66260.10.
- j. "Land Disposal" has the same meaning as set forth in California Code of Regulations, title 22, section 66260.10.
- k. "Land Disposal Restrictions" refer to the regulations in California Code of Regulations, title 22, chapter 18 that identify Hazardous Wastes that are restricted from Land Disposal and define those limited circumstances under which an otherwise prohibited Waste may continue to be land disposed.
- l. "Landfill" has the same meaning as set forth in California Code of Regulations, title 22, section 66260.10.
- m. "Leachate" has the same meaning as set forth in California Code of Regulations, title 22, section 66260.10.
- n. "Offsite" has the same meaning as set forth in California Code of Regulations, title 22, section 66260.10.
- o. "Operator" has the same meaning as set forth in California Code of Regulations, title 22, section 66260.10.
- p. "Owner" has the same meaning is set forth in California Code of Regulations,

1 title 22, section 66260.10.

- 2 q. “Non-RCRA Hazardous Waste” has the same meaning as set forth in Health  
3 and Safety Code section 25117.9.
- 4 r. “Part A Permit Application” or “Part A” has the same meaning as used in the  
5 Permit and refers to the portion of the application Clean Harbors submitted for  
6 a hazardous waste permit pursuant to California Code of Regulations, title 22,  
7 section 66270.13. A copy of Part A may be found on the Department’s online  
8 database for hazardous waste sites, <https://www.envirostor.dtsc.ca.gov/public/>,  
9 under the page for Clean Harbors.
- 10 s. “Part B Permit Application” or “Part B” has the same meaning as used in the  
11 Permit and refers to the portion of the application Clean Harbors submitted for  
12 a hazardous waste facility permit pursuant to California Code of Regulations,  
13 title 22, sections 66270.14 through 66270.23. A copy of Part B may be found  
14 on the Department’s online database for hazardous waste sites,  
15 <https://www.envirostor.dtsc.ca.gov/public/>, under the page for Clean Harbors.
- 16 t. “Permitted Facility” has the same meaning as set forth in California Code of  
17 Regulations, title 22, section 66260.10.
- 18 u. “Person” has the same meaning as set forth in Health and Safety Code section  
19 25118.
- 20 v. “Secondary Containment” means a control measure to prevent the liquid  
21 contents of a Storage vessel, such as a railcar or other Container of Hazardous  
22 Waste, from entering the environment if there is an unintended or  
23 unanticipated spill or discharge from the Storage vessel.
- 24 w. “Storage” has the same meaning as set forth in Health and Safety Code section  
25 25123. “Store” shall mean an act of Storage.
- 26 x. “Tank” or “Tank System” has the same meaning as set forth in California  
27 Code of Regulations, title 22, section 66260.10.
- 28 y. “Transfer” has the same meaning as set forth in California Code of

1 Regulations, title 22, section 66260.10.

2 z. "Transportation" has the same meaning as set forth in California Code of  
3 Regulations, title 22, section 66260.10. "Transport" shall mean an act of  
4 Transportation.

5 aa. "Treatment" has the same meaning as set forth in Health and Safety Code  
6 section 25123.5. "Treat" shall mean an act of Treatment.

7 bb. "Waste" has the same meaning as set forth in Health and Safety Code section  
8 25124.

9 **THE PARTIES**

10 5. The Department is an agency of the State of California organized and existing  
11 pursuant to sections 58000 et seq. of the Health and Safety Code. The Department is the state  
12 agency authorized to administer and enforce the HWCL and the Title 22 Regulations. Meredith  
13 Williams is the Director of the Department.

14 6. Sections 25181, subdivision (a), and 25182 of the Health and Safety Code  
15 authorize the Attorney General, at the Department's request, to commence an action for civil  
16 penalties and injunctive relief for violations of the HWCL in the name of the People of the State  
17 of California. The Department has made such a request to the Attorney General.

18 7. At all times relevant to the allegations in this Complaint, Defendant Clean Harbors  
19 is and was a Delaware limited liability corporation. Clean Harbors is a Person under the HWCL.

20 8. At all times relevant to the allegations in this Complaint, Clean Harbors is and was  
21 the Owner and the Operator of the Facility.

22 9. In this Complaint, when reference is made to any act or omission of Clean  
23 Harbors, such allegations shall include the acts and omissions of Owners, officers, directors,  
24 agents, employees, contractors, affiliates, and/or representatives of Clean Harbors, or any of  
25 them, while acting within the course and scope of their employment or agency on behalf of Clean  
26 Harbors during the relevant time period.

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1           10.     The identities of DOES 1-20 are unknown to the Department at this time. As the  
2 identities of DOE defendants become known, the Department will amend this Complaint  
3 accordingly.

#### 4                                   **JURISDICTION AND VENUE**

5           11.     This Court has jurisdiction pursuant to Article VI, section 10 of the California  
6 Constitution, and Health and Safety Code section 25181, subdivision (a).

7           12.     Venue is proper in Los Angeles County Superior Court pursuant to Health and  
8 Safety Code section 25183 because Los Angeles County is the county in which the Attorney  
9 General has an office nearest to the county in which the principal office of Clean Harbors is  
10 located in California. The principal office of Clean Harbors is located at 2500 W. Lokern Road,  
11 Buttonwillow, Kern County, California.

12          13.     This action is an unlimited civil case because the amount of penalties requested  
13 exceeds twenty-five thousand (\$25,000.00), and none of the Department's causes of action meet  
14 the criteria for limited civil cases in California Code of Civil Procedure sections 85 and 86.

#### 15                               **HWCL STATUTORY AND REGULATORY BACKGROUND**

16          14.     The State of California enacted the HWCL to establish a comprehensive statutory  
17 and regulatory framework for the generation, handling, Treatment, Transport, and Disposal of  
18 Hazardous Waste. The framework contained in the HWCL and the Title 22 Regulations mandate  
19 a "cradle to grave" registration, tracking, Storage, Treatment, and Disposal system for the  
20 protection of the public from the risks posed by Hazardous Waste and for the protection of the  
21 environment—soil, air, surface water, groundwater—from contamination by hazardous wastes  
22 and their constituents. Except where otherwise expressly defined in this Complaint, all terms  
23 shall be interpreted consistent with the HWCL and the Title 22 Regulations.

24          15.     Pursuant to Health and Safety Code sections 25101, subdivision (d), and 25159 to  
25 25159.9, California administers the HWCL in lieu of federal administration of the federal  
26 Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. ("RCRA"). Federal law  
27 prohibits California from imposing any requirements less stringent than those authorized pursuant  
28 to RCRA. 42 U.S.C. § 6929. The HWCL has a more expansive definition of "hazardous waste"

1 than does federal law. Hazardous Waste that is regulated pursuant to California law but not  
2 federal law is known as “Non-RCRA Hazardous Waste.”

3 16. The HWCL charges the Department with the responsibility to adopt standards and  
4 regulations for the management of Hazardous Waste to protect the public health and environment.  
5 (Health & Saf. Code, e§ 25150.) Accordingly, the Department has promulgated regulations setting  
6 forth numerous and extensive environmental and health-protective requirements for the Owners  
7 and Operators of a Hazardous Waste Facility. (See Cal. Code. Regs., tit. 22, § 66264.1 et seq.)

#### 8 **ENFORCEMENT AUTHORITY UNDER THE HWCL**

9 17. The HWCL authorizes the Court to enforce civil penalties under two distinct and  
10 alternative statutory provisions. Health and Safety Code section 25189 imposes liability for any  
11 negligent or intentional violation of the HWCL. Section 25189.2 imposes strict liability for any  
12 violation of the HWCL, regardless of intent. A Person may not be liable for penalties under both  
13 provisions for the same act. (Health & Saf. Code, e§ 25189.2, subd. (f).)

14 18. The HWCL authorizes the Court to impose a civil penalty of up to seventy thousand  
15 dollars (\$70,000) for each violation of a separate provision of the HWCL occurring on or after  
16 January 1, 2018, or, for continuing violations, a penalty of up to seventy thousand dollars (\$70,000)  
17 for each day the violation continues. (Health & Saf. Code, e§§ 25189, subd. (b), & 25189.2, subd.  
18 (b).) For violations occurring before January 1, 2018, the statutory maximum under the HWCL was  
19 twenty-five thousand dollars (\$25,000) for each separate violation or, for continuing violations, for  
20 each day that the violations continued. (Stats. 2017, c. 499, § 3.)

21 19. Health and Safety Code section 25181 provides that when the Department  
22 determines that any Person has engaged in, is engaged in, or is about to engage in any acts or  
23 practices which constitute or will constitute a violation of any provision of the HWCL or any rule  
24 or requirement issued or promulgated thereunder, and when requested by the Department, the  
25 Attorney General may apply to the superior court for an order enjoining such acts or practices, or  
26 for an order directing compliance, and upon a showing by the Department that such Person has  
27 engaged in or is about to engage in any such acts or practices, a permanent or temporary  
28 injunction, restraining order, or other order may be granted.

1           20.     Health and Safety Code section 25184 provides that in any civil action brought  
2 pursuant to the HWCL in which a temporary restraining order, preliminary injunction, or  
3 permanent injunction is sought, it shall not be necessary to allege or prove at any stage of the  
4 proceeding that irreparable damage will occur or that the remedy at law is inadequate. Such relief  
5 shall issue without such allegations and without such proof.

6                           **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

7           21.     Health and Safety Code section 25202, subdivision (a), provides the Owner or  
8 Operator of a Hazardous Waste Facility who holds a Hazardous Waste Facility Permit must  
9 comply with the conditions of the Hazardous Waste Facility Permit, the requirements of the  
10 HWCL, and the Title 22 Regulations, including regulations that become effective after the  
11 issuance of the Hazardous Waste Facility Permit.

12           22.     California Code of Regulations, title 22, section 66270.30, subdivision (a),  
13 requires that a permittee shall comply with all conditions of the Hazardous Waste Facility Permit.  
14 It further provides that any noncompliance with the Hazardous Waste Facility Permit is grounds  
15 “for enforcement action, for permit termination, revocation and reissuance, or modification, or for  
16 denial of a permit renewal application.”

17           23.     The Department issued the Permit to operate the Facility for hazardous waste  
18 Treatment, Storage, and Disposal in 1996. At all times relevant to the claims in this Complaint,  
19 the Permit was in effect.

20           24.     The Permit requires Clean Harbors to perform Hazardous Waste Management  
21 activities in accordance with the approved Part B Permit Application.

22           25.     The Hazardous Waste Management activities at the Facility include, but are not  
23 limited to, acceptance and “fingerprint” analysis of incoming Waste, Transfer and Storage of  
24 Hazardous Waste, Treatment of Hazardous Waste (e.g., stabilization), Disposal of treated  
25 Hazardous Waste and untreated Hazardous Waste that meet Land Disposal Restrictions, and the  
26 Transfer, Storage, and Treatment of onsite-generated liquid Hazardous Wastes.

27           26.     Hazardous Waste handling areas at the Facility include a Stabilization Treatment  
28 Unit (“STU”) and Landfills.



1           ***I.   Stabilization/Treatment Unit***

2           27.     RCRA regulations and Title 22 Regulations addressing Land Disposal Restrictions  
3     require certain Hazardous Waste to undergo Treatment prior to Land Disposal. The Facility uses  
4     the STU to Treat such Hazardous Waste to modify the chemical and/or physical characteristics of  
5     such Wastes prior to Land Disposal.

6           28.     The permitted areas within the STU that are used to accept and Store Hazardous  
7     Waste prior to Treatment include: Storage of Hazardous Waste in Containers in a Drum  
8     Handling Storage Area (“DHSA”); Storage of bulk liquid Hazardous Waste in a 10,000-gallon  
9     steel Tank, identified as the “Dirty Water Tank” (“DWT”); and Storage of bulk sludge or bulk  
10    solid Hazardous Waste in four (4) open concrete bays, identified as bulk unloading bays  
11    (“BUBs”). The Part A Permit Application and Part B Permit Application identify the BUBs as  
12    Tanks.

13          29.     Trucks used to Transfer Hazardous Waste to the STU are washed out in a non-  
14    permitted truck wash station consisting of two (2) open concrete bays.

15          30.     Clean Harbors uses an auger shredder, identified as a Treatment Tank in the Part A  
16    and Part B, for the Treatment of Hazardous Waste. Clean Harbors uses a skip hoist to Transfer  
17    the Hazardous Waste from the DHSA and the BUBs to the auger shredder. Clean Harbors uses  
18    pipes and hoses to Transfer Hazardous Waste from the DWT to the auger shredder. The reagents  
19    typically used in the auger shredder include clay, Portland cement, kiln dust, fly ash, lime, and  
20    other materials and chemicals.

21          31.     The Permit identifies the auger shredder, DHSA, BUBs, DWT, and a truck wash  
22    station as components of the STU.

23          32.     The auger shredder can Treat up to one hundred (100) tons of Hazardous Wastes  
24    per hour. The auger shredder mixes the Hazardous Waste, converting the Waste into a treated,  
25    non-reactive solid, and then mixes the solid with various process additives which result in  
26    stabilization appropriate for Land Disposal.

27          33.     After Treatment in the auger shredder, Clean Harbors temporarily stages  
28    Hazardous Waste that requires analytical testing prior to Landfill Disposal on top of Waste

1 Management Units 34 and 35 (“WMU-34” and “WMU-35,” respectively). Clean Harbors off-  
2 loads the treated Waste onto plastic sheets. At the end of the operating day, Clean Harbors covers  
3 the piles of treated Waste with plastic sheets until laboratory testing indicates the Waste meets the  
4 appropriate Treatment standards. If analytical data indicates the treated Waste meets Treatment  
5 standards, Clean Harbors disposes the treated Waste into WMU-35. If the treated Waste piles do  
6 not pass the Treatment standards, Clean Harbors re-treats the Hazardous Waste in the auger  
7 shredder.

## 8 ***II. Other Waste Management Units***

9 34. WMU-35 is an active Landfill with a design capacity of 10,700,000 cubic yards  
10 that Clean Harbors currently uses for Land Disposal of Hazardous Waste.

11 35. WMU-34 is an inactive Landfill. The Facility does not Dispose of Hazardous  
12 Waste in this Landfill, but Clean Harbors uses the top of WMU-34 as a staging area for treated  
13 Hazardous Waste that is pending analytical results prior to Land Disposal.

14 36. The Leachate Collection and Removal System (LCRS) consists of a liner system  
15 for each Landfill. The LCRS for each Landfill provides a means to collect and remove liquid  
16 Leachate produced from the Landfill. The Leachate collected in the LCRS is then stored in Non-  
17 Permitted Hazardous Waste Leachate Tanks.

18 37. Non-Permitted Hazardous Waste Leachate Tanks collect Leachate from WMU-34  
19 and WMU-35. These Leachate Tanks are 21,000-gallon Non-Permitted Hazardous Waste Tanks  
20 which are located adjacent to each Landfill.

21 38. Non-Hazardous Waste Surface Impoundment is used by Clean Harbors for the  
22 Disposal of Non-Hazardous Wastes accepted from Offsite sources.

## 23 ***III. Groundwater Monitoring Requirements***

24 39. The Permit and Title 22 Regulations require Clean Harbors to monitor the  
25 groundwater beneath the Facility that could potentially be adversely impacted by the Hazardous  
26 Waste Management activities.

27 40. The groundwater impacted by the Facility is between approximately 70 and 600  
28 feet below the lowermost portion of the current Hazardous Waste Management units. The

1 groundwater zones are classified as the upper perched zone, intermediate perched zone, and lower  
2 water table zone. These zones become water bearing (area that yields water) at greater than  
3 approximately 135 feet below the ground surface.

4 41. Groundwater is an important source of water used by humans and animals, and to  
5 irrigate agriculture. It is necessary to properly monitor groundwater to ensure the groundwater is  
6 not adversely impacted by Hazardous Waste Management activities through the migration of  
7 Hazardous Waste and Hazardous Waste constituents from those activities through soil and  
8 subsurface geologic areas to groundwater zones.

9 ***IV. Enforcement History***

10 42. Clean Harbors has been the subject of prior enforcement actions by the  
11 Department for activities at the Facility. On June 19, 2014, Clean Harbors entered into an  
12 administrative consent order (Docket No. HWCA 20136129) (hereinafter "Consent Order")  
13 pursuant to Health and Safety Code section 25187 with the Department for violations observed  
14 during inspections of the Facility on February 26-27, 2013 and May 14-15, 2013. In the Consent  
15 Order, Clean Harbors admitted to violating the Title 22 Regulations, section 66264.31 and Health  
16 and Safety Code, sections 25189.2, subdivision (c), and 25201, subdivision (a), as follows: (a)  
17 Clean Harbors failed to minimize the possibility of an unplanned or non-sudden release of Land  
18 Disposal-restricted Hazardous Waste or Hazardous Waste constituents to air, soil, or surface  
19 water which could threaten human health or the environment; and (b) Clean Harbors disposed of,  
20 or caused the Disposal of, Land Disposal-restricted Hazardous Waste at an unauthorized point.  
21 By consenting to the terms of the Consent Order, Clean Harbors agreed to immediately maintain  
22 and operate the STU to prevent any unplanned sudden or non-sudden release of Hazardous Waste  
23 or Hazardous Waste constituents to air, soil, or surface water which could threaten human health  
24 or the environment. Clean Harbors also agreed to immediately cease disposing, or causing the  
25 Disposal of, Hazardous Waste around the STU, and to train staff on proper procedures during an  
26 inspection by the Department.

27 ///

28 ///

1       ***IV.     Inspections that Identified the Alleged Violations***

2           43.     The violations alleged in this Complaint arose from inspections conducted by  
3     Department staff on May 15-16, 2017, October 18, 2017, November 2, 2017, February 27-28,  
4     2018, November 14, 2018, April 30 - May 1, 2019, October 15-16, 2019, June 22, 2022, and  
5     October 12, 2022.

6                               **FIRST CAUSE OF ACTION**

7                               **(Storage of Incompatible Waste in Violation of Permit Requirements)**  
8                               **(Cal. Code Regs., tit. 22, § 66264.177, subd. (c);**  
9                               **Permit Part III, Sec. A.10)**

9           44.     The Department realleges paragraphs 1 through 43, inclusive.

10          45.     The Permit prohibits Clean Harbors from storing Incompatible Waste at the  
11     Facility in the STU or in any other location.

12          46.     California Code of Regulations, title 22, section 66264.177, subdivision (c),  
13     provides that a Container holding a Hazardous Waste that is incompatible with any Waste or  
14     other materials transferred or stored nearby in other Containers shall be separated from the other  
15     materials or protected from them by means of a dike, berm, wall, or other device. This  
16     requirement is incorporated by Part III, Section A.10 of the Permit.

17          47.     On October 18, 2017, Clean Harbors failed to segregate two (2) 55-gallon drums  
18     holding caustic Hazardous Waste from two (2) 55-gallon drums holding incompatible acidic  
19     Hazardous Waste by means of dike, berm, wall, or other device. This Storage of Incompatible  
20     Waste occurred for less than forty-eight (48) hours.

21          48.     Clean Harbors stored Incompatible Waste in the STU in violation of Part III,  
22     Section A.10 of the Permit and California Code of Regulations, title 22, section 66264.177,  
23     subdivision (c). Unless enjoined by this Court, Clean Harbors will engage in future Storage of  
24     Incompatible Waste in the STU.

25          49.     Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
26     pursuant to Health and Safety Code section 25189, subdivision (b).

27          50.     Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
28     Safety Code section 25189.2, subdivision (b).

1           51.     Based on the allegations herein, the Department requests injunctive relief against  
2 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
3 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
4 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
5 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

6                                   **SECOND CAUSE OF ACTION**  
7                                   **(Failure to Operate the Facility to Minimize the Possibility of the**  
8                                   **Unauthorized Release of Hazardous Waste)**  
9                                   **(Cal. Code Regs., tit. 22, § 66264.31; Permit, Part II, Sec. I.1, Op. Pln., Sec. 5.3.1)**

10           52.     The Department realleges paragraphs 1 through 43, inclusive.

11           53.     California Code of Regulations, title 22, section 66264.31 provides that facilities  
12 shall be maintained and operated to minimize the possibility of any unplanned sudden or non-  
13 sudden release of Hazardous Waste or Hazardous Waste constituents which could threaten human  
14 health or the environment. This requirement is incorporated by Part II, Section I.1 of the Permit  
15 and Section 5.3.1 of the Operation Plan incorporated into the Permit.

16           54.     On October 18, 2017, November 2, 2017, and November 14, 2018, Clean Harbors  
17 failed to operate and maintain the STU at the Facility to minimize the possibility of any sudden or  
18 non-sudden release of Hazardous Waste or Hazardous Waste constituents to air, soil, or surface  
19 water which could threaten human health or the environment by:

- 20                   a.     Tracking-out of Hazardous Waste from the BUBs;
- 21                   b.     Operating the BUBs in a manner that does not prevent dispersal of  
22 Hazardous Waste by strong winds;
- 23                   c.     Failing to contain spills during the bulk liquid unloading process;
- 24                   d.     Failing to prevent spilled Hazardous Waste from being released from the  
25 skip hoist during Hazardous Waste Transfer operations;
- 26                   e.     Tracking-out of Hazardous Waste from the truck wash station bays;
- 27                   f.     Failing to prevent the release of Hazardous Waste from the auger shredder  
28 to the surrounding area, including the roof of the nearby DHSA; and

///

1                   g.     Failing to prevent the release of Hazardous Waste from the STU's air  
2 pollution control device "baghouse."

3           55.     Unless enjoined by this Court, Clean Harbors will fail to operate and maintain the  
4 STU to minimize the possibility of any sudden or non-sudden release of Hazardous Waste.

5           56.     Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
6 pursuant to Health and Safety Code section 25189, subdivision (b).

7           57.     Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
8 Safety Code section 25189.2, subdivision (b).

9           58.     Based on the allegations herein, the Department requests injunctive relief against  
10 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
11 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
12 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
13 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

### 14                                   **THIRD CAUSE OF ACTION**

#### 15                   **(Failure to Keep Appropriate Freeboard in Bulk Unloading Bays in the STU)** 16                   **(Cal. Code Regs., tit. 22, § 66264.194, subd. (b); Permit Part III, Sec. C.5)**

17           59.     The Department realleges paragraphs 1 through 43, inclusive.

18           60.     California Code of Regulations, title 22, section 66264.194, subdivision (b),  
19 provides that the Owner or Operator of a Permitted Facility shall use appropriate controls and  
20 practices to prevent spills and overflows from Tank or containment systems. This requirement is  
21 incorporated by Part III, Section C.5 of the Permit.

22           61.     On October 18 and November 2, 2017, Clean Harbors failed to use appropriate  
23 controls and practices to prevent spills and overflows from Tanks or their containment systems,  
24 including at a minimum, maintenance of freeboard space to prevent overtopping by wave or wind  
25 action. To wit, while inspecting the BUBs, Department staff observed Hazardous Waste  
26 mounded above the top of the BUBs walls, unprotected from wind dispersal and spilling into the  
27 two adjacent unloading bays.  
28

1           62.     Unless enjoined by this Court, Clean Harbors will fail to prevent spills and  
2 overflows from the Tank or containment systems.

3           63.     Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
4 pursuant to Health and Safety Code section 25189, subdivision (b).

5           64.     Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
6 Safety Code section 25189.2, subdivision (b).

7           65.     Based on the allegations herein, the Department requests injunctive relief against  
8 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
9 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
10 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
11 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

12                               **FOURTH CAUSE OF ACTION**

13                               **(Failure to Follow Standards for the Containment and Detection**  
14                               **of Releases of Hazardous Waste)**

15                               **(Cal. Code Regs., tit. 22, §§ 66264.193, subd. (b)(2) & (c)(4);**  
16                               **Permit Part III, Secs. C.3 & C.5)**

17           66.     The Department realleges Paragraphs 1 through 43, inclusive.

18           67.     California Code of Regulations, title 22, section 66264.193, subdivisions (b)(2)  
19 and (c)(4), provide that the Owner or Operator of a Permitted Facility shall use Secondary  
20 Containment systems capable of detecting and collecting releases of Hazardous Waste. This  
21 requirement is incorporated by Part III, Sections C.3 and C.5 of the Permit.

22           68.     On October 18, 2017, the Department observed a spill that occurred while a truck  
23 was unloading liquid Hazardous Waste. The spill occurred as a result of a clogged Secondary  
24 Containment trench. The drain for the trench was observed to be clogged with material and the  
25 liquid Waste was overflowing from the containment. The spilled liquid Waste was not contained  
26 by the concrete Secondary Containment berm, was overflowing from the trench, and was spilling  
27 to the sloped driveway.

28           ///

///

1           69.     Unless enjoined by this Court, Clean Harbors will fail to properly operate and  
2 maintain the Secondary Containment systems to detect and collect releases of Hazardous Waste.

3           70.     Each intentional or negligent subjects Clean Harbors to a civil penalty pursuant to  
4 Health and Safety Code section 25189, subdivision (b).

5           71.     Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
6 Safety Code section 25189.2, subdivision (b).

7 Based on the allegations herein, the Department requests injunctive relief against Clean Harbors  
8 pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties against Clean  
9 Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or Health and Safety  
10 Code section 25189.2, subdivision (b), subject to the provisions of Health and Safety Code  
11 section 25189.2, subdivision (f), as set forth in the prayer for relief.

12                                   **FIFTH CAUSE OF ACTION**  
13                                   **(Failure to Identify and Log Problems in Secondary Containment**  
14                                   **and Tank Walls in the STU)**  
15                                   **(Cal. Code Regs., tit. 22, §§ 66264.15, 66264.195, subds. (a) & (b);**  
16                                   **Permit Part II, Sec. E)**

17           72.     The Department realleges Paragraphs 1 through 43, inclusive.

18           73.     California Code of Regulations, title 22, section 66264.15 provides that the Owner  
19 or Operator of a Permitted Facility shall inspect the Permitted Facility for malfunctions and  
20 deterioration, Operator errors, and discharges which may be causing or may lead to: 1) release of  
21 Hazardous Waste constituents to the environment; or 2) a threat to human health. California  
22 Code of Regulations, title 22, section 66264.15 also provides that the Owner or Operator shall  
23 record inspections in an inspection log or summary. California Code of Regulations, title 22,  
24 section 66264.195, subdivisions (a) and (b), provide that the Owner or Operator shall develop and  
25 follow a schedule and procedure for inspecting, at least once each operating day, overfill controls,  
26 aboveground portions of the Tank System to detect corrosion or releases of Waste, and, for  
27 uncovered Tanks, the level of Waste in the Tank to maintain sufficient freeboard to prevent  
28 overtopping by wave or wind action. California Code of Regulations, title 22, section 66264.195,



1 subdivision (d), requires the Owner or Operator to document in the operating record the results of  
2 these inspections. These requirements are incorporated by Part II, Section E of the Permit.

3 74. The inspection logs and operating records maintained by Clean Harbors did not  
4 identify deficiencies that were observed by Department staff on October 18, 2017 and November  
5 2, 2017, including, but not limited to: (1) deterioration to the Secondary Containment, Tank walls,  
6 and aboveground piping; and (2) signs of overfill or release of Hazardous Waste.

7 75. Unless enjoined by this Court, Clean Harbors will fail to identify and log problems  
8 in Secondary Containment and Tank walls in the STU.

9 76. Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
10 pursuant to Health and Safety Code section 25189, subdivision (b).

11 77. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
12 Safety Code section 25189.2, subdivision (b).

13 78. Based on the allegations herein, the Department requests injunctive relief against  
14 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
15 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
16 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
17 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

18 **SIXTH CAUSE OF ACTION**

19 **(Failure to Provide for Appropriate Secondary Containment**  
20 **for Container Transfer and Storage Area)**

21 **(Cal. Code Regs., tit. 22, § 66264.175, subd. (b)(1))**

22 79. The Department realleges Paragraphs 1 through 43, inclusive.

23 80. California Code of Regulations, title 22, section 66264.175, subdivision (b)(1),  
24 provides that a containment system for a Container Transfer and Storage area shall be designed  
25 and operated with a base that underlies the Containers which is free of cracks or gaps and is  
26 sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected  
27 material is detected and removed.

28 81. During the inspections on October 18, 2017 and November 2, 2017, Department  
staff observed the Secondary Containment to the STU's foundation and ramp and the Secondary

1 Containment berm were cracked and damaged. Unless enjoined by this Court, Clean Harbors  
2 will fail to operate and maintain the Secondary Containment free of cracks and gaps.

3 82. Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
4 pursuant to Health and Safety Code section 25189, subdivision (b).

5 83. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
6 Safety Code section 25189.2, subdivision (b).

7 84. Based on the allegations herein, the Department requests injunctive relief against  
8 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
9 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
10 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
11 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

12 **SEVENTH CAUSE OF ACTION**  
13 **(Failure to Provide for Appropriate Secondary Containment for a Tank System)**  
14 **(Cal. Code Regs., tit. 22, § 66264.193, subd. (e)(1)(C))**

15 85. The Department realleges Paragraphs 1 through 43, inclusive.

16 86. California Code of Regulations, title 22, section 66264.193, subdivision (e)(1)(C),  
17 provides that Secondary Containment systems for Tank Systems shall be free of cracks and gaps.

18 87. During the inspections on October 18, 2017 and November 2, 2017, Department  
19 staff observed: (1) the Secondary Containment to the DWT was chipped and spalling; and (2) the  
20 walls of one of the BUBs (Bay #1) was gouged and cracked.

21 88. Unless enjoined by this Court, Clean Harbors will fail to operate and maintain the  
22 Secondary Containment free of cracks and gaps.

23 89. Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
24 pursuant to Health and Safety Code section 25189, subdivision (b).

25 90. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
26 Safety Code section 25189.2, subdivision (b).

27 91. Based on the allegations herein, the Department requests injunctive relief against  
28 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties

1 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
2 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
3 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

4  
5 **EIGHTH CAUSE OF ACTION**  
6 **(Failure to Containerize Hazardous Waste)**  
7 **(Health & Saf. Code § 25202, subd. (a); Cal. Code Regs., tit. 22, § 66270.30, subd. (a);**  
8 **Permit Part II, Sec. R.1.e.)**

9 92. The Department realleges Paragraphs 1 through 43, inclusive.

10 93. Health and Safety Code section 25202, subdivision (a), provides the Owner or  
11 Operator of a Hazardous Waste Facility who holds a Hazardous Waste Facility Permit must  
12 comply with the conditions of the Hazardous Waste Facility Permit, the requirements of the  
13 HWCL, and the Title 22 Regulations, including regulations that become effective after the  
14 issuance of the Hazardous Waste Facility Permit.

15 94. California Code of Regulations, title 22, section 66270.30, subdivision (a),  
16 requires that a permittee shall comply with all conditions of the Hazardous Waste Facility Permit.  
17 It further provides that any noncompliance with the Hazardous Waste Facility Permit is grounds  
18 “for enforcement action, for permit termination, revocation and reissuance, or modification, or for  
19 denial of a permit renewal application.”

20 95. Part II, Section R.1.e of the Permit requires Clean Harbors’ waste curing bins to be  
21 securely covered with a rainproof material or securely closed.

22 96. On February 27 and 28, 2018, and November 14, 2018, Clean Harbors failed to  
23 securely cover or containerize six (6) piles of treated Hazardous Waste staged on the top of  
24 WMU-34 and WMU-35. Clean Harbors uses plastic sheeting to contain treated Hazardous Waste  
25 that is staged on top of WMU-34 and WMU-35 pending laboratory testing to determine if the  
26 Waste meets the appropriate Treatment standards prior to Landfill Disposal. Department staff  
27 observed three (3) piles of treated Waste staged on top of WMU-34 and three (3) piles staged on  
28 top of WMU-35 that had large holes and tears in the plastic sheeting over the piles. The treated

1 Hazardous Waste was exposed to the elements, increasing the potential for wind dispersal of  
2 particulate matter to the environment in an uncontrolled manner.

3 97. On June 22, 2022, Department staff observed a small hole in the plastic sheeting  
4 covering two (2) piles of treated Waste. On October 12, 2022, Department staff observed a small  
5 hole in the plastic sheeting covering four (4) piles of treated Waste.

6 98. Unless enjoined by this Court, Clean Harbors will fail to operate and maintain  
7 WMU-34 and WMU-35 by properly covering treated Hazardous Waste temporarily stored in  
8 WMU-34 and WMU-35.

9 99. Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
10 pursuant to Health and Safety Code section 25189, subdivision (b).

11 100. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
12 Safety Code section 25189.2, subdivision (b).

13 101. Based on the allegations herein, the Department requests injunctive relief against  
14 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
15 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
16 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
17 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

18  
19 **NINTH CAUSE OF ACTION**  
20 **(Failure to Cover Hazardous Waste)**  
21 **(Health & Saf. Code § 25202, subd. (a); Cal. Code Regs., tit. 22, § 66270.30, subd. (a);**  
22 **Permit Part IV, Sec. A.4.e.)**

23 102. The Department realleges Paragraphs 1 through 43, inclusive.

24 103. Health and Safety Code section 25202, subdivision (a), provides the Owner or  
25 Operator of a Hazardous Waste Facility who holds a Hazardous Waste Facility Permit must  
26 comply with the conditions of the Hazardous Waste Facility Permit, the requirements of the  
27 HWCL, and the Title 22 Regulations, including regulations that become effective after the  
28 issuance of the Hazardous Waste Facility Permit.

1           104. California Code of Regulations, title 22, section 66270.30, subdivision (a),  
2 requires that a permittee shall comply with all conditions of the Hazardous Waste Facility Permit.  
3 It further provides that any noncompliance with the Hazardous Waste Facility Permit is grounds  
4 “for enforcement action, for permit termination, revocation and reissuance, or modification, or for  
5 denial of a permit renewal application.”

6           105. Part IV, Section A.4.e of the Permit requires Clean Harbors to apply a clean soil  
7 cover daily over exposed wastes within the Landfill operations area to control wind dispersal of  
8 particulate matter.

9           106. On or about February 27 and 28, 2018, and November 14, 2018, Department staff  
10 observed treated Waste staged on top of WMU-34 and WMU-35 that was exposed to the  
11 elements. In addition, a surface sample collected by the Department on February 28, 2018 from  
12 the top of the road for the staging area at WMU-34 and at WMU-35 exceeded the total threshold  
13 limit concentration (“TTLC”) for zinc, indicating that waste from WMU-34 and WMU-35 was  
14 uncovered and allowed to disperse. The TTLC is a threshold level above which a Waste is  
15 considered hazardous for exhibiting the characteristics of toxicity as defined in California Code of  
16 Regulations, title 22, section 66261.24.

17           107. Unless enjoined by this Court, Clean Harbors will fail to operate and maintain  
18 WMU-34 and WMU-35 by applying clean soil cover over exposed Wastes within WMU-34 and  
19 WMU-35 to control wind dispersal of particulate matter.

20           108. Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
21 pursuant to Health and Safety Code section 25189, subdivision (b).

22           109. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
23 Safety Code section 25189.2, subdivision (b).

24           110. Based on the allegations herein, the Department requests injunctive relief against  
25 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
26 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
27 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
28 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

**TENTH CAUSE OF ACTION**  
**(Failure to Comply with Tank System Requirements)**  
**(Cal. Code Regs., tit. 22, §§ 66264.196, subds. (b)(2) & (b)(6)(C))**

111. The Department realleges Paragraphs 1 through 43, inclusive.

112. California Code of Regulations, title 22, section 66264.196, subdivision (b)(2), provides that a Tank System or Secondary Containment system from which there has been a leak or spill, or which is unfit for use, shall be removed from service immediately, and the Owner or Operator shall, *inter alia*, immediately stop the flow of Hazardous Waste into the Tank System or Secondary Containment system and inspect the system to determine the cause of the release. California Code of Regulations, title 22, section 66264.196, subdivision (b)(6)(C), provides that if a release is from a primary Tank System into the Secondary Containment system, the system shall be repaired prior to returning the Tank System to service.

113. On October 18, 2017, November 2, 2017, November 14, 2018, and April 30, 2019, Department staff observed that the auger shredder routinely released Hazardous Waste into the Secondary Containment area associated with the auger shredder. The auger shredder is identified as a “Tank” in the Permit and therefore Tank management requirements apply to its operations. Although Clean Harbors notified the Department on February 13, 2019, that it hired an engineer to inspect the auger shredder, and that the engineer provided a memorandum recommending repairs to the auger shredder and related processing equipment, operating logs inspected by the Department showed that Clean Harbors continued to operate the defective auger shredder in January, February, and March 2019 prior to completing all of the recommended repairs, in violation of the regulations.

114. Unless enjoined by this Court, Clean Harbors will continue to operate in the auger shredder in violation of Tank management requirements.

115. Each intentional or negligent violation subjects Clean Harbors to a civil penalty pursuant to Health and Safety Code section 25189, subdivision (b).

116. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and Safety Code section 25189.2, subdivision (b).

117. Based on the allegations herein, the Department requests injunctive relief against Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

**ELEVENTH CAUSE OF ACTION**  
**(Failure to Have an Impermeable Coating to Prevent Migration of Hazardous Waste)**  
**(Cal. Code Regs., tit. 22, § 66265.193, subd. (e)(1)(D))**

118. The Department realleges Paragraphs 1 through 43, inclusive.

119. California Code of Regulations, title 22, section 66265.193, subdivision (e)(1)(D), provides that Secondary Containment external liner systems shall be designed and installed to completely surround the Tank and to cover all surrounding earth likely to come into contact with the Waste if released from the Tank(s) (i.e., capable of preventing lateral as well as vertical migration of the Waste).

120. On May 1, 2019, Department staff observed that four (4) Tanks used to store Leachate for cells 1, 2, 3, and 4 from WMU-35 and one (1) Tank used to store Leachate from WMU-34 did not have an impermeable coating to prevent migration of Waste through the concrete. Clean Harbors' representative, the Environmental Compliance Manager, confirmed to Department staff that the concrete in these Tanks did not have an impermeable coating (e.g., sealant or epoxy).

121. Unless enjoined by this Court, Clean Harbors will fail to surround Tanks with impermeable coating to prevent migration of Hazardous Waste if released.

122. Each intentional or negligent violation subjects Clean Harbors to a civil penalty pursuant to Health and Safety Code section 25189, subdivision (b).

123. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and Safety Code section 25189.2, subdivision (b).

124. Based on the allegations herein, the Department requests injunctive relief against Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties

1 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
2 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
3 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

4  
5 **TWELFTH CAUSE OF ACTION**  
6 **(Failure to Follow Point-of-Compliance Groundwater Monitoring Schedule)**  
7 **(Health & Saf. Code § 25202, subd. (a); Cal. Code Regs., tit. 22, § 66264.97, subd.**  
8 **(b)(1)(B);**  
9 **Permit Part V, Sec. C.3.a & Part V, Sec. C.1.d & Table V-1)**

10 125. The Department realleges Paragraphs 1 through 43, inclusive.

11 126. California Code of Regulations, title 22, section 66264.97, subdivision (b)(1)(B),  
12 provides the requirements for a detection monitoring program related to groundwater that could  
13 be contaminated by the Facility. Part V, Section C.3.a of the Permit requires Clean Harbors to  
14 collect and analyze groundwater samples from point-of-compliance (“POC”) monitoring wells  
15 identified in Table V-1 of the Permit at least quarterly during the active life of the Facility. In  
16 addition, Part V, Section C.1.d of the Permit requires Clean Harbors to notify the Department in  
17 writing and replace any such well, if any POC monitoring well specified in Table V-1 is  
18 incapable of yielding representative samples due to declining water levels. The quarterly  
19 sampling is required to commence during the months of February, May, August, and November  
20 of each year.

21 127. On May 15 and 16, 2017, Department staff determined that Clean Harbors failed  
22 to collect quarterly groundwater samples from POC wells MW-145U and MW-160U for five  
23 quarters (first quarter 2016 through first quarter 2017) and MW-161RU for seven quarters (third  
24 quarter 2015 through first quarter 2017). POC groundwater monitoring wells MW-145U, MW-  
25 160U, and MW-161RU were unable to be sampled and analyzed due to declining water levels.  
26 Clean Harbors failed to notify the Department in writing and replace any such well that was  
27 incapable of yielding representative samples due to declining water levels.

28 128. Clean Harbors submitted a Permit modification request to the Department on June  
9, 2017 to correct this violation. On November 1, 2019, the Department approved the Permit  
modification request to change the monitoring program.



129. Unless enjoined by this Court, Clean Harbors will fail to comply with these POC groundwater monitoring requirements.

130. Each intentional or negligent violation subjects Clean Harbors to a civil penalty pursuant to Health and Safety Code section 25189, subdivision (b).

131. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and Safety Code section 25189.2, subdivision (b).

132. Based on the allegations herein, the Department requests injunctive relief against Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

**THIRTEENTH CAUSE OF ACTION**  
**(Failure to Follow Background Groundwater Monitoring Schedule)**  
**(Health & Saf. Code § 25202, subd. (a); Cal. Code Regs., tit. 22, § 66264.97, subd. (b)(1)(B);**  
**Permit Part V, Sec. C.3.a & Part V, Sec. C.1.d & Table V-1)**

133. The Department realleges Paragraph 1 through 43, inclusive.

134. California Code of Regulations, title 22, section 66264.97, subdivision (b)(1)(B), provides the requirements for a detection monitoring program related to groundwater that could be contaminated by the Facility. Part V, Section C.3.a. of the Permit requires Clean Harbors to collect and analyze groundwater samples from background monitoring wells identified in Table V-1 of the Permit at least quarterly during the active life of the Facility. In addition, Part V, Section C.1.d of the Permit requires Clean Harbors to notify the Department in writing and replace any such well, if any background monitoring well specified in Table V-1 is incapable of yielding representative samples due to declining water levels. The quarterly sampling is required to commence during the months of February, May, August, and November of each year.

135. As a result of the May 15 and 16, 2017 inspection, Department staff determined that background groundwater monitoring well MW-130U ran dry beginning the fourth quarter of 2015 and thus did not yield sufficient groundwater for sampling and analyses. Clean Harbors is required to sample and analyze all background monitoring wells, including MW-130U. By not

1 sampling and analyzing MW-130U, Clean Harbors violated its groundwater monitoring program  
2 for six quarterly sampling events from the fourth quarter of 2015 through the first quarter of 2017.  
3 Background groundwater monitoring well MW-130U was unable to be sampled and analyzed due  
4 to declining water levels. Clean Harbors was required to notify the Department in writing and  
5 replace any such well that is incapable of yielding representative samples due to declining water  
6 levels.

7 136. Clean Harbors submitted a permit modification request to the Department on June  
8 9, 2017 to correct this violation. On November 1, 2019, the Department approved the  
9 modification request to change the monitoring program.

10 137. Unless enjoined by this Court, Clean Harbors will fail to comply with these  
11 background groundwater monitoring requirements.

12 138. Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
13 pursuant to Health and Safety Code section 25189, subdivision (b).

14 139. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
15 Safety Code section 25189.2, subdivision (b).

16 140. Based on the allegations herein, the Department requests injunctive relief against  
17 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
18 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
19 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
20 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

21  
22 **FOURTEENTH CAUSE OF ACTION**  
23 **(Failure to Provide a Reliable Indication of Water Quality)**  
24 **(Cal. Code Regs., tit. 22, § 66264.97, subd. (e)(4))**

25 141. The Department realleges Paragraphs 1 through 43, inclusive.

26 142. California Code of Regulations, title 22, section 66264.97, subdivision (e)(4),  
27 requires that the water quality monitoring program include and implement consistent sampling  
28 and analytical procedures that are designed to ensure that monitoring results provide a reliable

1 indication of water quality at all monitoring points and background monitoring points. At a  
2 minimum, the program shall include a detailed description of the procedures and techniques for:  
3 (A) sample collection (e.g., purging techniques, sampling equipment, and decontamination of  
4 sampling equipment); (B) sample preservation and shipment; (C) analytical procedures; and (D)  
5 chain of custody control.

6 143. As a result of the May 15 and 16, 2017 inspection, Department staff determined  
7 that, during the first quarter of 2017, Clean Harbors failed to provide a reliable indication of water  
8 quality for the lower water table zone well MW-152RL. Groundwater samples taken from POC  
9 well MW-152RL were not representative of the entire aquifer due to declining water levels.  
10 Instead of trying to assert that samples from MW-152RL were representative of the aquifer, Clean  
11 Harbors was required to submit a permit modification to replace well MW-152RL.

12 144. On September 21, 2017, Clean Harbors submitted a Class 2 Permit Modification  
13 Request to the Department to allow for replacement of the well. On October 8, 2018, the  
14 Department approved this Class 2 Permit Modification, and replacement well MW-152RRL was  
15 constructed in December 2018.

16 145. Unless enjoined by this Court, Clean Harbors will fail to provide a reliable  
17 indication of water quality.

18 146. Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
19 pursuant to Health and Safety Code section 25189, subdivision (b).

20 147. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
21 Safety Code section 25189.2, subdivision (b).

22 148. Based on the allegations herein, the Department requests injunctive relief against  
23 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
24 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
25 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
26 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

27 ///

28 ///

**FIFTEENTH CAUSE OF ACTION**  
**(Failure to Implement Consistent Sampling at Background Monitoring Wells)**  
**(Cal. Code Regs., tit. 22, § 66264.97, subd. (e)(4))**

149. The Department realleges Paragraphs 1 through 43, inclusive.

150. California Code of Regulations, title 22, section 66264.97, subdivision (e)(4), requires that the water quality monitoring program include and implement consistent sampling and analytical procedures that are designed to ensure that monitoring results provide a reliable indication of water quality at all monitoring points and background monitoring points. At a minimum, the program shall include a detailed description of the procedures and techniques for: (A) sample collection (e.g., purging techniques, sampling equipment, and decontamination of sampling equipment); (B) sample preservation and shipment; (C) analytical procedures; and (D) chain of custody control.

151. On May 15 and 16, 2017, Department staff determined that Clean Harbors failed to implement consistent sampling procedures at background monitoring wells MW-143U and MW-148I. To wit, samples were inappropriately transferred between Containers, volatile organic analysis vials were overfilled, and samples were not stored correctly, causing an unreliable indication of water quality.

152. On May 15 and 16, 2017, Department staff determined that Clean Harbors failed to implement consistent sampling procedures at background monitoring well MW-PRL. For example, samples were inappropriately aerated, volatile organic analysis vials were overfilled, and samples were not stored correctly, causing an unreliable indication of water quality.

153. Unless enjoined by this Court, Clean Harbors will fail to implement consistent sampling procedures.

154. Each intentional or negligent violation subjects Clean Harbors to a civil penalty pursuant to Health and Safety Code section 25189, subdivision (b).

155. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and Safety Code section 25189.2, subdivision (b).

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1           156. Based on the allegations herein, the Department requests injunctive relief against  
2 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
3 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
4 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
5 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

6  
7                                   **SIXTEENTH CAUSE OF ACTION**  
8                                   **(Failure to Implement Consistent Sampling Procedures During**  
9                                   **Purging of Background Monitoring Wells)**  
                                  **(Cal. Code Regs., tit. 22, § 66264.97, subd. (e)(4))**

10           157. The Department realleges Paragraphs 1 through 43, inclusive.

11           158. California Code of Regulations, title 22, section 66264.97, subdivision (e)(4),  
12 requires that the water quality monitoring program include and implement consistent sampling  
13 and analytical procedures that are designed to ensure that monitoring results provide a reliable  
14 indication of water quality at all monitoring points and background monitoring points. At a  
15 minimum, the program shall include a detailed description of the procedures and techniques for:  
16 (A) sample collection (e.g., purging techniques, sampling equipment, and decontamination of  
17 sampling equipment); (B) sample preservation and shipment; (C) analytical procedures; and (D)  
18 chain of custody control.

19           159. On May 15 and 16, 2017, Department staff determined that Clean Harbors failed  
20 to implement consistent sampling procedures during the purging of background monitoring wells  
21 MW-102RL and MW-149RI. During purging, the groundwater was highly agitated and aerated  
22 prior to sample collection, causing an unreliable indication of water quality.

23           160. Unless enjoined by this Court, Clean Harbors will fail to implement consistent  
24 sampling procedures during the purging of background monitoring.

25           161. Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
26 pursuant to Health and Safety Code section 25189, subdivision (b).

27           162. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
28 Safety Code section 25189.2, subdivision (b).

1           163. Based on the allegations herein, the Department requests injunctive relief against  
2 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
3 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
4 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
5 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

6  
7                                   **SEVENTEENTH CAUSE OF ACTION**  
8                                   **(Failure to Implement Consistent Water Level Measurement and**  
9                                   **Sampling Procedures at Background Monitoring Wells)**  
10                                  **(Cal. Code Regs., tit. 22, § 66264.97, subd. (e)(4); Sec. 6.0, Sec. 7.1, &**  
11                                  **Attachment B2 of the 1995 Sample Analysis Plan)**

12           164. The Department realleges Paragraphs 1 through 43, inclusive.

13           165. California Code of Regulations, title 22, section 66264.97, subdivision (e)(4),  
14 requires that the water quality monitoring program include and implement consistent sampling  
15 and analytical procedures that are designed to ensure that monitoring results provide a reliable  
16 indication of water quality at all monitoring points and background monitoring points. At a  
17 minimum, the program shall include a detailed description of the procedures and techniques for:  
18 (A) sample collection (e.g., purging techniques, sampling equipment, and decontamination of  
19 sampling equipment); (B) sample preservation and shipment; (C) analytical procedures; and (D)  
20 chain of custody control.

21           166. The Permit incorporates Clean Harbors' 1995 Sample Analysis Plan (SAP), which  
22 requires specified sampling procedures including, but not limited to, Section 6.0, Section 7.1, and  
23 Attachment B2.

24           167. On May 15 and 16, 2017, Department staff determined that Clean Harbors failed  
25 to implement consistent water level measurement and sampling procedures at background  
26 monitoring wells MW-143U, MW-148I, and MW-PRL. In addition, Clean Harbors failed to  
27 comply with Permit conditions in that: (a) Clean Harbors failed to sample in the sequence the  
28 sample bottles must be filled, as required by Section 6.0 of the SAP; (b) Clean Harbors failed to

1 include a “trip blank” sample in each cooler with bottles of volatile organic compounds for  
2 analysis, as required by Section 7.1 of the SAP; and (c) Clean Harbors failed to lower the probe  
3 slowly into groundwater as to not agitate and aerate the water table or cause the probe to hit the  
4 bottom of the well at a fast speed, which can cause the bottom cap of the well to disconnect from  
5 the well, as required by Attachment B2 of the SAP.

6 168. Unless enjoined by this Court, Clean Harbors will fail to implement consistent  
7 water level measurement and sampling procedures.

8 169. Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
9 pursuant to Health and Safety Code section 25189, subdivision (b).

10 170. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
11 Safety Code section 25189.2, subdivision (b).

12 171. Based on the allegations herein, the Department requests injunctive relief against  
13 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
14 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
15 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
16 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

17 **EIGHTEENTH CAUSE OF ACTION**  
18 **(Failure to Complete Field Documentation and Maintain the Documentation at the Facility)**  
19 **(Cal. Code Regs., tit. 22, § 66264.97, subd. (e)(4);**  
**Section 9.0 & Attachment B2 of the 1995 SAP)**

20 172. The Department realleges Paragraphs 1 through 43, inclusive.

21 173. California Code of Regulations, title 22, section 66264.97, subdivision (e)(4),  
22 requires that the water quality monitoring program include and implement consistent sampling  
23 and analytical procedures that are designed to ensure that monitoring results provide a reliable  
24 indication of water quality at all monitoring points and background monitoring points. At a  
25 minimum, the program shall include a detailed description of the procedures and techniques for:  
26 (A) sample collection (e.g., purging techniques, sampling equipment, and decontamination of  
27 sampling equipment); (B) sample preservation and shipment; (C) analytical procedures; and (D)  
28 chain of custody control.

1           174. The Permit incorporates Clean Harbors' 1995 SAP, which requires specified  
2 sampling procedures including, but not limited to, Section 9.0 and Attachment B2. Section 9.0  
3 and Attachment B2 of Clean Harbors' SAP requires that specified field documentation be  
4 completed and maintained at the Facility.

5           175. On May 15 and 16, 2017, Department staff determined that Clean Harbors failed  
6 to complete field documentation and failed to maintain documentation in files at the Facility  
7 including, but not limited to, the following:

8               a. For the 1st quarter 2016 "Equipment Calibration Log", forms for Set A for  
9 February 2 through February 4, 2016 were not completed;

10              b. For the 2nd quarter 2016 "Equipment Calibration Log", for Set A, the  
11 afternoon calibration log for May 6, 2016 was not completed;

12              c. For the 3rd quarter 2016 "Equipment Calibration Log", for Set A, the  
13 equipment number for the turbidity meter was not recorded;

14              d. For the 3rd quarter 2016 "Equipment Calibration Log", for Set B, the  
15 equipment number for the pH/conductivity and turbidity meters were not recorded;

16              e. For the 1st quarter 2016 "Uncorrected Water Level Measurement/ Well  
17 Inspection Log," the forms for a field team are missing;

18              f. For the 2nd quarter 2016 "Uncorrected Water Level Measurement/ Well  
19 Inspection Log," the forms for both field teams did not identify the water level meter used; and

20              g. For the 4th quarter 2016 "Uncorrected Water Level Measurement/ Well  
21 Inspection Log," the forms for a field team did not identify the field staff or the water level probe  
22 serial number.

23           176. Unless enjoined by this Court, Clean Harbors will fail to comply with field  
24 documentation requirements.

25           177. Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
26 pursuant to Health and Safety Code section 25189, subdivision (b).

27           178. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
28 Safety Code section 25189.2, subdivision (b).



1           179. Based on the allegations herein, the Department requests injunctive relief against  
2 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
3 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
4 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
5 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

6                                   **NINETEENTH CAUSE OF ACTION**  
7                                   **(Disposal of Hazardous Wastes at an Unauthorized Location)**  
8                                   **(Health & Saf. Code § 25203; Permit Part IV, Sec. A.2.c)**

9           180. The Department realleges paragraphs 1 through 43, inclusive.

10          181. Health and Safety Code section 25203 provides that it is unlawful for any Person  
11 to dispose of a Hazardous Waste except at a Disposal Site or facility of an Owner or Operator  
12 who holds a valid Hazardous Waste Facility Permit or other grant of authorization from the  
13 Department. Moreover, Part IV, Section A.2.c. of the Permit states that Clean Harbors shall only  
14 dispose of Waste in Landfills WMU-28, WMU-33, WMU-34, and WMU-35.

15          182. On November 14, 2018, Department staff observed releases of Hazardous Waste  
16 from units within the STU into the STU's Secondary Containment. Department staff also  
17 observed trucks moving in and out of the STU with residual Hazardous Wastes on the truck  
18 bodies and tires which could be deposited from the trucks outside of the STU Secondary  
19 Containment during Transport or tracked-out of the STU Secondary Containment by the truck  
20 tires. Department staff also confirmed through sampling that Hazardous Wastes from units  
21 within the STU consisting of fine particulates of Hazardous Waste were released from the STU  
22 and contaminated areas, including soil, surrounding the STU.

23          183. The release of Hazard Waste to areas outside of the STU were not permitted or  
24 authorized by the Department. Each such release is an illegal Disposal of Hazardous Waste.

25          184. On November 14, 2018, Department staff collected a total of twelve (12) samples  
26 from the following areas of the Facility: (1) the Secondary Containment areas of the auger  
27 shredder and BUBs; (2) the exterior of the auger shredder tower; (3) soil areas outside the STU;  
28 (4) the roadway adjacent to the STU; and (5) the roadway leading to the top of WMU-34. All

1 twelve (12) samples analyzed contained Hazardous Waste constituents. Of the twelve (12)  
2 samples taken, eight (8) contained Hazardous Waste constituents at concentrations greater than  
3 regulatory threshold limits in California Code of Regulations, title 22, division 4.5, chapter 11,  
4 article 3, identifying them as Hazardous Waste. Hazardous Waste constituents present at  
5 concentrations greater than regulatory thresholds included copper, lead, and zinc. These samples  
6 confirm the release of Hazardous Waste to unauthorized locations outside of the STU.

7 185. Unless enjoined by this Court, Clean Harbors will continue to dispose of  
8 Hazardous Waste at unauthorized locations.

9 186. Each intentional violation subjects Clean Harbors to a civil penalty pursuant to  
10 Health and Safety Code section 25189, subdivision (c).

11 187. Each negligent violation subjects Clean Harbors to a civil penalty pursuant to  
12 Health and Safety Code section 25189, subdivision (d).

13 188. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
14 Safety Code section 25189.2, subdivision (c).

15 189. Based on the allegations herein, the Department requests injunctive relief against  
16 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
17 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (c), Health  
18 and Safety Code section 25189, subdivision (d), or Health and Safety Code section 25189.2,  
19 subdivision (c), subject to the provisions of Health and Safety Code section 25189.2, subdivision  
20 (f), as set forth in the prayer for relief.

21 **TWENTIETH CAUSE OF ACTION**

22 **(Storage of Hazardous Waste at an Unauthorized Location)**  
23 **(Health & Saf. Code §§ 25201, subd. (a), 25202, subd. (a); Cal. Code Regs., tit. 22, §**  
**66270.30, subd. (a); Permit Part B, Sec. 4.2.3.6)**

24 190. The Department realleges paragraphs 1 through 43, inclusive.

25 191. Health and Safety Code section 25201, subdivision (a), requires that no Owner or  
26 Operator of a Storage facility, Treatment facility, Transfer facility, resource recovery facility, or  
27 Disposal Site shall accept, Treat, Store, or Dispose of a Hazardous Waste at the facility, area, or  
28 site, unless the Owner or Operator holds a Hazardous Waste Facility Permit or grant of

1 authorization from the Department. Health and Safety Code section 25202, subdivision (a), and  
2 California Code of Regulations, title 22, section 66270.30, subdivision (a), provide that a  
3 permittee must comply with all conditions of the Hazardous Waste Facility Permit.

4 192. The Permit identifies specific areas at the Facility where the Storage of Hazardous  
5 Waste is authorized. Part B, Section 4.2.3.6 identifies the dimensions and boundaries of the  
6 DHSA. The authorized Storage areas are designed and constructed to ensure any releases of the  
7 Hazardous Wastes within the Containers placed in those areas do not contaminate the  
8 environment. Unauthorized Storage areas at the Facility may not be designed or constructed to  
9 have the same level of environmental protection.

10 193. On October 15 and 16, 2019, Department staff observed the unauthorized Storage  
11 of Hazardous Waste in sixty-four (64) 275-gallon plastic totes, fifty-nine (59) Gaylord boxes, and  
12 ninety-seven (97) metal drums, ranging from five (5) to fifty-five (55) gallons, of Hazardous  
13 Waste outside of the area allowed in the Part B, Section 4.2.3.6. The Hazardous Waste included,  
14 but was not limited to, acetone, propylene glycol, and acrylic polymers.

15 194. Unless enjoined by this Court, Clean Harbors will continue to store Hazardous  
16 Waste in areas not authorized by the Permit.

17 195. Each intentional or negligent violation subjects Clean Harbors to a civil penalty  
18 pursuant to Health and Safety Code section 25189, subdivision (b).

19 196. Each violation subjects Clean Harbors to a civil penalty pursuant to Health and  
20 Safety Code section 25189.2, subdivision (b).

21 197. Based on the allegations herein, the Department requests injunctive relief against  
22 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
23 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (b), or  
24 Health and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and  
25 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

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**TWENTY-FIRST CAUSE OF ACTION**  
**(Unauthorized Treatment of Hazardous Waste Via Encapsulation of**  
**Lead-contaminated Waste)**  
**(Health & Saf. Code §§ 25201, subd. (a), 25202, subd. (a); Cal. Code Regs., tit. 22, §**  
**66270.30, subd. (a); Permit Page i, Paragraph 2)**

198. The Department realleges paragraphs 1 through 43, inclusive.

199. Health and Safety Code section 25201, subdivision (a), requires that no Owner or Operator of a Storage facility, Treatment facility, Transfer facility, resource recovery facility, or Disposal Site shall accept, Treat, Store, or Dispose of a Hazardous Waste at the facility, area, or site, unless the Owner or Operator holds a Hazardous Waste Facility Permit or grant of authorization from the Department.

200. Health and Safety Code section 25202, subdivision (a), provides the Owner or Operator of a Hazardous Waste Facility who holds a Hazardous Waste Facility Permit must comply with the conditions of the Hazardous Waste Facility Permit, the requirements of the HWCL, and the Title 22 Regulations, including regulations that become effective after the issuance of the Hazardous Waste Facility Permit.

201. California Code of Regulations, title 22, section 66270.30, subdivision (a), requires that a permittee shall comply with all conditions of the Hazardous Waste Facility Permit. It further provides that any noncompliance with the Hazardous Waste Facility Permit is grounds “for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application.”

202. The Permit authorizes specific types of Treatment of Hazardous Waste. The Department authorizes specific types of Treatment to ensure that the Department can review, analyze, and approve Treatment methods for potential harm to the public or the environment. In addition, the approval process for complex modifications to the Permit undergo scrutiny by the public to allow them an opportunity to comment on and to have knowledge of what is happening in their community.

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1           203. On October 16, 2019, Department staff observed the unauthorized Treatment of  
2 Hazardous Waste via the encapsulation of lead-contaminated Waste. The Treatment consists of  
3 coating lead-contaminated Waste with cementitious slurry to encapsulate the Waste prior to  
4 Disposal in WMU-35 at the Facility. A representative of Clean Harbors also observed this  
5 Treatment and confirmed it by describing the process to Department staff.

6           204. The Treatment of Hazardous Waste not allowed by the Permit is a violation of the  
7 Permit, Health and Safety Code sections 25201, subdivision (a), and 25202, subdivision (a), and  
8 California Code of Regulations, title 22, section 66270.30, subdivision (a).

9           205. Unless enjoined by this Court, Clean Harbors will treat Hazardous Waste using  
10 methods and processes not expressly authorized by the Permit.

11           206. Each intentional or negligent Treatment of Hazardous Waste at a point that is not  
12 authorized by the Permit subjects Clean Harbors to a civil penalty pursuant to Health and Safety  
13 Code section 25189, subdivision (e).

14           207. Each Treatment of Hazardous Waste at a point that is not authorized by the Permit  
15 subjects Clean Harbors to a civil penalty pursuant to Health and Safety Code section 25189.2,  
16 subdivision (d).

17           208. Based on the allegations herein, the Department requests injunctive relief against  
18 Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties  
19 against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (e), or  
20 Health and Safety Code section 25189.2, subdivision (d), subject to the provisions of Health and  
21 Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

## 22                           **TWENTY-SECOND CAUSE OF ACTION**

### 23                           **(Unauthorized Treatment of Liquid Hazardous Waste)** 24                           **(Health & Saf. Code §§ 25201, subd. (a), 25202, subd. (a); Cal. Code Regs., tit. 22, §** 25                           **66270.30, subd. (a); Permit Page i, Paragraph 2)**

26           209. The Department realleges paragraphs 1 through 43, inclusive.

27           210. Health and Safety Code section 25201, subdivision (a), requires that no Owner or  
28 Operator of a Storage facility, Treatment facility, Transfer facility, resource recovery facility, or  
Disposal Site shall accept, Treat, Store, or Dispose of a Hazardous Waste at the facility, area, or

1 site, unless the Owner or Operator holds a Hazardous Waste Facility Permit or grant of  
2 authorization from the Department.

3 211. Health and Safety Code section 25202, subdivision (a), provides the Owner or  
4 Operator of a Hazardous Waste Facility who holds a Hazardous Waste Facility Permit must  
5 comply with the conditions of the Hazardous Waste Facility Permit, the requirements of the  
6 HWCL, and the Title 22 Regulations, including regulations that become effective after the  
7 issuance of the Hazardous Waste Facility Permit.

8 212. California Code of Regulations, title 22, section 66270.30, subdivision (a),  
9 requires that a permittee shall comply with all conditions of the Hazardous Waste Facility Permit.  
10 It further provides that any noncompliance with the Hazardous Waste Facility Permit is grounds  
11 “for enforcement action, for permit termination, revocation and reissuance, or modification, or for  
12 denial of a permit renewal application.”

13 213. On October 15 and 16, 2019, Department staff observed Clean Harbors utilizing  
14 clean fill soil for the Treatment of liquid, Non-RCRA Hazardous Waste in a BUB (Bay #1) that is  
15 permitted to store Hazardous Waste. Clean Harbors used clean fill soil to solidify approximately  
16 2,200 gallons of liquid, Non-RCRA Hazardous Wastes containing nickel within Bay #1. A  
17 representative of Clean Harbors stated to Department staff that after the liquid was solidified, it  
18 would be transferred to the skip hoist and then into the auger shredder. Reagent would be added  
19 to further Treat the solidified Non-RCRA Hazardous Waste in the auger shredder. The treated  
20 Waste was Disposed of in WMU-35.

21 214. The solidification Treatment process was not performed at a point authorized by  
22 the Permit.

23 215. Unless enjoined by this Court, Clean Harbors will Treat Hazardous Wastes at  
24 points not authorized by the Permit.

25 216. Each intentional or negligent Treatment of Hazardous Waste at a point that is not  
26 authorized by the Permit subjects Clean Harbors to a civil penalty pursuant to Health and Safety  
27 Code section 25189, subdivision (e).

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217. Each Treatment of Hazardous Waste at a point that is not authorized by the Permit subjects Clean Harbors to a civil penalty pursuant to Health and Safety Code section 25189.2, subdivision (d).

218. Based on the allegations herein, the Department requests injunctive relief against Clean Harbors pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties against Clean Harbors pursuant to Health and Safety Code section 25189, subdivision (e), or Health and Safety Code section 25189.2, subdivision (d), subject to the provisions of Health and Safety Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

## PRAYER FOR RELIEF

The Department requests the following relief:

1. Judgment finding that Clean Harbors violated the HWCL, the Title 22 Regulations, and/or its Permit as described in the First through Twenty-Second Causes of Action;

2. Judgment against Clean Harbors for civil penalties in accordance with proof for violations described in the First through Twenty-Second Causes Action pursuant to Health and Safety Code section 25189 or Health and Safety Code section 25189.2, subject to the provisions of Health and Safety Code section 25189.2, subdivision (f);

3. For an injunction, including a temporary restraining order and preliminary injunction, requiring Clean Harbors, its agents, employees, representatives, and all Persons acting, on behalf of, and within the control of Clean Harbors, to comply with the applicable provisions of the HWCL, Title 22 Regulations, and Permit requirements cited in each cause of action in connection with the handling, Storage, Treatment, and Transportation of Hazardous Waste at the Facility; and

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4. Any additional relief that the Court deems appropriate.

Dated: June 13, 2023

Respectfully Submitted,

ROB BONTA  
Attorney General of California  
CHRISTIE VOSBURG  
Supervising Deputy Attorney General

Original signed by Thomas Schumann

THOMAS SCHUMANN  
Deputy Attorney General  
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Meredith Williams, Director, Department of Toxic  
Substances Control*

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