

CHIQUITA CANYON, LLC [FACILITY ID No. 119219] – EXHIBIT B TO DECLARATION OF CRAIG H. BENSON, PhD, PE, BCGE,
BCEE, NAE

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

In the Matter of:	)	Docket No. HSA-FY24/25-082
	)	
Chiquita Canyon Landfill	)	
29201 Henry Mayo Drive	)	IMMINENT AND SUBSTANTIAL
Castaic, California 91384	)	ENDANGERMENT
	)	DETERMINATION AND ORDER
Respondents:	)	
	)	
Chiquita Canyon, LLC	)	
29201 Henry Mayo Drive	)	Health and Safety Code
Castaic, California 91384	)	Sections 58009, 58010,
	)	78870, and 79055(a)(1)(B)
Chiquita Canyon, Inc.	)	
3 Waterway Square Place, Suite 110	)	
The Woodlands, Texas 77380	)	
	)	
Waste Connections US, Inc.	)	
3 Waterway Square Place, Suite 110	)	
The Woodlands, Texas 77380	)	

I. INTRODUCTION

1.1 **Parties.** The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) issues this Imminent and Substantial Endangerment Determination and Order (Order) to Chiquita Canyon, LLC, Chiquita Canyon, Inc., and Waste Connections US, Inc. (Respondents).

1.2 **Property/Site.** This Order applies to the property located at 29201 Henry Mayo Drive, Castaic, California 91384. The property is approximately 639 acres and is identified as Assessor's Parcel number(s) 3271002039, 3271002036, 3271005034, 3271002019, 3271002013, and 3271002011. This Order applies to the property and the areal extent of contamination that resulted from activities on the property (hereinafter, the "Site").

1.3 **Permitting Status.** Respondents own and/or operate a class III landfill/solid waste disposal facility known as Chiquita Canyon Landfill (CCL), which is operating under a permit (Solid Waste Facilities Permit No. 19-AA-0052), issued by the Los Angeles County Department of Public Health Solid Waste Management Program, acting as the Local Enforcement Agency (LEA). CCL has publicly stated that it is no longer accepting any waste as of January 1, 2025. CCL previously accepted non-hazardous solid waste, including municipal solid waste from

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various areas within Los Angeles County in accordance with California Code of Regulations, title 27 (27 CCR), section 20005 et seq. The Respondents engage in the management of landfill/solid waste disposal pursuant to a Conditional Use Permit (CUP 2004-00042-(5)) issued by the County of Los Angeles.

1.4 Jurisdiction. This Order is issued by DTSC to Respondents pursuant to its authority under Health and Safety Code sections 58009, 58010, 78870, and 79055(a)(1)(B).

Health and Safety Code section 78870 authorizes DTSC to take various actions, including issuance of an Imminent or Substantial Endangerment Determination and Order, when DTSC determines that there may be an imminent or substantial endangerment to the public health or welfare or to the environment, because of a release or a threatened release of a hazardous substance.

Health and Safety Code section 79055(a)(1)(B) authorizes DTSC to issue an order establishing a schedule for removing or remedying a release of a hazardous substance at a site, or for correcting the conditions that threaten the release of a hazardous substance. The order may include, but is not limited to, requiring specific dates by which the nature and extent of a release shall be determined and the site adequately characterized, appropriate plans prepared and submitted to DTSC for approval, and a removal or remedial action completed.

Health and Safety Code section 58009 authorizes DTSC to commence and maintain all proper and necessary actions and proceedings to enforce its rules and regulations; to enjoin and abate nuisances related to matters within its jurisdiction which are dangerous to health; to compel the performance of any act specifically enjoined upon any person, officer, or board, by any law of this state relating to matters within its jurisdiction; and/or on matters within its jurisdiction, to protect and preserve the public health.

Health and Safety Code section 58010 authorizes DTSC to abate public nuisances related to matters within its jurisdiction.

II. FINDINGS OF FACT

DTSC hereby finds:

2.1 Liability of Respondents. Respondents are responsible parties or liable persons as defined in Health and Safety Code section 78145.

2.1.1 Chiquita Canyon, LLC – Chiquita Canyon, LLC is the owner of CCL. In addition, Chiquita Canyon, LLC operates CCL subject to the control of Waste Connections US, Inc., including, without limitation, by maintaining an office at CCL, registering the fictitious business name “Chiquita Canyon Landfill,” and obtaining a conditional use permit from Los Angeles County to operate CCL. Chiquita Canyon, Inc. is the sole member of Chiquita Canyon, LLC, and Ronald J. Mittelstaedt is identified as a manager.

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2.1.2 Chiquita Canyon, Inc. – Chiquita Canyon, Inc. wholly owns Chiquita Canyon, LLC. Ronald J. Mittelstaedt is the Chief Executive Officer of Chiquita Canyon, Inc. Chiquita Canyon, Inc. and Chiquita Canyon, LLC share a principal address, at 3 Waterway Square Place, Suite 110, The Woodlands, TX 77380. Chiquita Canyon, Inc. operates CCL subject to the control of Waste Connections US, Inc.

2.1.3 Waste Connections US, Inc. – Waste Connections US, Inc. is a parent corporation of Chiquita Canyon, LLC and Chiquita Canyon, Inc. Ronald J. Mittelstaedt is the President and Chief Executive Officer of Waste Connections US, Inc., and has served in this role since Waste Connections US, Inc. was founded in 1997, with the exception of the period between July 2019 and April 2023, when he served as Executive Chairman. Waste Connections US, Inc. exercises significant control over CCL, Chiquita Canyon, LLC, and Chiquita Canyon, Inc., including, without limitation, by managing, directing, and conducting operations related to disposal or leakage of hazardous waste at CCL. Waste Connections US, Inc.’s employees also make decisions about CCL’s compliance with environmental regulations and represent CCL before regulatory agencies, governmental entities, and the media. As of December 10, 2024, the “About Chiquita Canyon” page of the CCL website stated that CCL “is owned and operated by Waste Connections.” At some point after December 10, 2024, that statement about Waste Connections US, Inc.’s ownership and operation of CCL was removed from the CCL website. (See Exhibit 1.)

2.2 Physical Description of Site. CCL is located at 29201 Henry Mayo Drive, Castaic, California 91384 in the County of Los Angeles. The Site lies within the United States Geological Survey (USGS) Val Verde, 7½-Minute Quadrangle. The coordinates of the Site are North 34 42.619 and West 118 64.680. CCL is approximately 639 acres in size and is in an area zoned A-2-2 heavy agricultural. The property is currently occupied and operating as a lined, class III non-hazardous municipal solid waste landfill. The surrounding area consists of industrial, agricultural, and residential properties. The nearest residential development is the Val Verde community, located approximately 1,000 feet northwest of CCL. (See Exhibit 2.)

CCL is comprised of landfill modules (2B/3/4, 4, and 5), cells (2 PH 2A, 2 PH 2B, 1/2A, 6, 8A and 8B), and canyons (Primary Canyon, Canyon A, Canyon B, Canyon C Cell 1, Canyon C Cell 2 PH1, and Canyon D). (See Exhibit 3.) The Primary Canyon (approx. 55 acres) operated from 1970 to 1987, and Canyon B (approx. 15 acres) operated from 1987 to 1988. The “Main Canyon” is comprised of Canyons A, C, and D, and Cells 1 through 6, and 8. Leachate is piped from extraction wells to remove perched liquid from the waste mass, as well as from condensate sumps and leachate sumps. Leachate is accumulated in seven distinct areas across CCL, which include: #2 East Perimeter; #3 Ameresco Condensate Tanks; #4 Leachate Collection Manifold; #6 North Perimeter; #7 Tank Farm; #8 Primary Canyon; and #9 Tank Farm (also referred to as “Tank Farm 9”).

Tank Farm 9 is of particular concern because it is located on CCL’s “top deck,” which herein refers to the surface area directly above the Subsurface Elevated Temperature (SET) event, which presently includes, at a minimum, all or part of Module 2B/3/4, Module 4, Cell 1/2A, Cell 2 PH 2B, Canyon C Cell 2 PH1, and Canyon C Cell 1.¹ (See Exhibit 3.) Tank Farm 9

¹ In landfill industry parlance, “top deck” typically refers to the uppermost element of a landfill, such as a cap barrier

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is vulnerable to the effects (i.e., subsidence, cracks or separations in the “top deck,” elevated temperatures, and settlement (total and differential)) of a known uncontrolled SET event (see Section 2.3 below). CCL currently has no physical breaks/barriers preventing the expansion of the SET event across the “top deck” and the east slope, consequently the entire landfill including Cell 8A may be impacted by the SET event. Because Cell 8A: (1) is being used for disposal of on-site materials, (2) can be used as a location for a soil berm to increase south slope stability, and (3) is adjacent to the main ingress and egress road, allowing the SET event to enter this cell could have irreversible negative results. Cell 8A is the southernmost slope of the landfill, located in the southern portion of the Main Canyon near the main entrance that allows access to areas throughout CCL. As a result, stability of Cell 8A is of particular concern because the SET event will increase leachate and gas pressure that can affect slope stability should it enter this cell.

2.3 Site History and Current Status. CCL was first approved for waste disposal in 1967. It has been in use as a class III non-hazardous solid waste landfill since 1972, and has been permitted to accept non-hazardous solid waste for disposal, including municipal solid waste, green waste for composting or recycling, construction and demolition debris, and e-waste for recycling. CCL has been prohibited from accepting hazardous waste, including that which is ignitable, corrosive, reactive, or toxic. CCL was also prohibited from accepting biohazardous waste, household hazardous waste, radioactive materials, incinerator ash, sludge, automobile shredder waste, and liquid waste. On January 1, 2025, CCL ceased further acceptance of waste material. CCL must continue landfill gas and leachate collection and comply with other Los Angeles County Department of Public Health permit requirements following the landfill’s closure.

On or about May 2022, an uncontrolled SET event significantly expanded in the inactive north-western portion of CCL in an area about 30 acres in size, in portions of the landfill identified as Cell 1/2A, Module 2B/3, Module 4, and Module 2B/3/4 P2. (See Exhibit 4.) SET events are caused by subsurface oxidation and waste reactions. The most common contributor to SET events is when ambient air is pulled into the landfill mass by the gas extraction system, which creates an environment where oxidation can occur. As temperatures increase in the presence of oxygen, spontaneous combustion and a smolder can occur, causing increased odors and emissions.

SET events threaten public health, safety, and the environment. A SET event begins to occur when temperatures in subsurface landfill waste exceed 145 degrees Fahrenheit (F). As a SET event progresses above 160 degrees F, methane generation is severely curtailed, and landfill environmental control devices manufactured with plastic, including landfill cover, liner system, and gas/leachate collection systems, can be damaged. Above 160 degrees F, underground exothermic reactions are more likely to occur. When an exothermic reaction occurs, the landfill will generate heat, leachate and gas pressures, and gas containing noxious odors; increase emissions of volatile organic compounds and toxic air contaminants such as benzene and methyl ethyl ketone (MEK); and produce large amounts of leachate with hazardous characteristics. The landfill itself may become unstable, threatening potential failures which could expose smoldering solid waste and leachate with hazardous characteristics to the environment and further impact

installed after active landfilling has ended, or as waste reaches the landfill’s final grades in the cells. At CCL, the term has also been used to refer to the location on top of the SET event in the northwest area of CCL.

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landfill infrastructure (i.e., existing cover, slopes, liner(s), leachate and gas collection systems, etc.).

SET events can be detected through a combination of physical factors. Landfill gas well temperatures, gas composition changes, e.g. increases in carbon dioxide, volatile organic carbons, hydrogen, and carbon monoxide, and decreases in methane. Landfill gas temperatures increase in the waste mass and subsequently at the gas extraction well-heads. Gas pressure increases and noxious odors are generated. Leachate volume increases and quality decreases such that leachate exhibits hazardous characteristics. As the SET event progresses, rapid surface settlement occurs and slope instability may result.

Following the significant expansion of the SET event in 2022, the waste mass produced large amounts of leachate with hazardous levels of benzene and MEK. In discussions with CCL staff during a site visit on November 2, 2023, California Department of Resources Recycling and Recovery (CalRecycle, formerly the California Integrated Waste Management Board) staff learned that the boring of three gas control wells (CV-1534A, CV-1532B, and CV2338) caused leachate to be released under pressure. CCL's boring logs indicate that these wells were installed on September 26, 2023; October 12, 2023; and October 4, 2023, respectively, and describe the releases from these boreholes as "geysers." During the same November 2023 visit, DTSC and CalRecycle staff directly observed a leachate outbreak in the northern area of CCL. Additionally, slopes in the CCL were observed to be leaking so much leachate that a French drain collection system had to be installed to control the free release. The elevated temperature and continued outflow of leachate has resulted in the area around well CV-2201 settling about 25 to 30 feet between 2022 and November 2023. The SET event has also increased temperature, pressure, and gas production at CCL, and is resulting in releases of gas containing volatile organic compounds and noxious odors that constitute a nuisance to the surrounding community.

To attempt to mitigate the reaction and odors, leachate must continuously be pumped out of the landfill. Once extracted, leachate is collected in tanks in distinct geographic locations across the landfill, including Tank Farm 9, which operates in the northeast portion of the "top deck" of CCL. Due to the volume of leachate being produced at the Site and the leachate's hazardous characteristic, hazardous waste leachate is currently being treated on-site by utilizing 24 granular activated carbon vessels which each hold 4,000 pounds of carbon media. The leachate, after treatment to non-hazardous levels, is transported to non-hazardous disposal facilities. Reports from CCL reflect that approximately 62.8 million gallons of leachate was collected in 2024, which translated to around 193 acres-feet of liquid, one foot deep. In the last five months of 2024, approximately six million gallons of leachate were extracted from CCL. Over the past year, the amount of leachate produced by the landfill has more than doubled, with about 3 million gallons produced in February 2024, and about 8 million gallons produced in February 2025.

Information provided by CCL in January and February 2025 indicates that the SET event is expanding to the east and south of the existing geomembrane cover and has reached Tank Farm 9. Underground temperatures recorded at CCL between January 9, 2025 and February 19, 2025 demonstrate the SET event has expanded beyond the original 30 acres in the northwestern portion of the landfill in Cell 1/2A, Module 2B/3, Module 4, and Module 2B/3/4 P2. These

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recent reports illustrate waste temperatures of 183 degrees F and 185 degrees F at the eastern side of the top-deck of the CCL near Tank Farm 9 at Temperature Monitoring Probes (TMPs) TP-15, TP-31, and TP-29. Other wells to the east and southeast of the geomembrane cover exhibit temperatures above 170 degrees F, such as TP-08 and TP-26. Wells TP-04, TP-11, TP-14, TP-30, and TP-32, which have measured temperatures at or above 165 degrees F. Based on these data, the SET event now encompasses approximately 90 acres of CCL. (See Exhibit 5.)

Recent data from CCL also confirms that settlement is occurring around the leachate Tank Farm 9, which threatens the continued operation and integrity of the tanks and piping and threatens a release of hazardous waste. Specifically, a February 17, 2025 weekly report identified new fissures and tension cracks, which are an indication of landfill settlement and/or slope instability, in areas where elevated temperatures were or are measured. Area #148, which is just north of Tank Farm 9, experienced an opening of significant fissures and tensions cracks that have been remediated but are likely to reappear as additional buried waste undergoes thermal breakdown and settles. Area #154, which is located just south of the tank farm, also recently experienced fissuring and tension crack development. Even more concerning is Area #147, which experienced a sinkhole, indicating a significant thermal breakdown of buried waste that resulted in a void developing below the interim soil cover. Area #147 is the next grid area north of Area #148. (See Exhibit 6, Memorandum from Dr. Timothy Stark to Mr. Matthew Dwyer, *RE: Comments on November 26, 2024 Revised Soil Reaction Break/Barrier Plan and February 20, 2025 waste temperature data for Chiquita Canyon Landfill Subsurface Elevated Temperature (SET) Event* (Feb. 26, 2025) (the “Stark Memo”), at Figures 3, 4, and 5; see also Exhibit 7, CCL grid system in the north east portion of the landfill.)

Continued settlement at Tank Farm 9 could physically separate the tanks, disconnect piping that conveys leachate to and between tanks and treatment systems, and result in a release of hazardous waste to the landfill. If Tank Farm 9 is damaged, there may be insufficient tankage to manage leachate produced by the landfill, resulting in leachate buildup that could impact the stability of the landfill, potentially leading to slope failure and the release of hazardous substances. Extreme heat from SET events can damage the landfill geosynthetic bottom liner system that underlies the deposited waste, threatening the release of hazardous leachate from the landfill, which could in turn contaminate soil and groundwater.

Without additional action, the SET event may consume the entire waste fill in the Main Canyon, which could threaten stability of the southern toe of the waste fill in Cell 8A. A slope failure in the southern slope would expose the reacting and smoldering waste, hazardous waste leachate, and potentially block off the primary entrance and exit of the facility.

2.3.1 Regulatory Actions. Various regulatory agencies, including DTSC, are actively involved with overseeing CCL as part of a Multi-Agency Critical Action Team (MCAT). The MCAT also includes agencies such as the United States Environmental Protection Agency (USEPA); California Environmental Protection Agency (CalEPA); South Coast Air Quality Management District (South Coast AQMD); CalRecycle; Los Angeles Regional Water Quality Control Board (Los Angeles RWQCB); California Air Resources Board (CARB); California Office of Environmental Health Hazard Assessment (OEHHA); Los Angeles County Departments of Public Health, Regional Planning, and Public Works; and the Los Angeles

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Certified Unified Program Agency. MCAT agencies have taken various regulatory actions in response to the SET event.

On September 6, 2023, South Coast AQMD issued an Order for Abatement that required certain Respondents to take actions to reduce odors from the landfill that have impacted the community. Pursuant to the Order for Abatement, Respondents submit reports summarizing landfill leachate leak, spill, and seep information. Additionally, pursuant to the Los Angeles RWQCB's Monitoring and Reporting Program (No. CI-6231), Respondents are required to report leachate seeps. The reports submitted to South Coast AQMD and the Los Angeles RWQCB are published on CCL's website (<https://chiquitacanyon.com/odor-mitigation/>).

On November 2, 2023; December 12–13, 2023; and February 20 and 27, 2024, DTSC participated in multi-agency site visits at CCL. During the December 12, 2023 site visit, DTSC collected samples of landfill leachate and determined the samples exceeded Resource Conservation and Recovery Act (RCRA) and California hazardous waste regulatory levels for benzene. Subsequent sampling by CCL has also shown regulatory hazardous waste threshold exceedances in leachate and/or condensate at CCL.

On February 15, and March 29, 2024, DTSC issued two Summaries of Violations (SOVs) to certain Respondents identifying alleged violations of the California Hazardous Waste Control Act (Health & Safety Code, § 25100 et seq.). Per the SOV dated February 15, 2024, DTSC alleges that Respondents failed to minimize the possibility of a release of hazardous waste or hazardous waste constituents, which included a compliance requirement to report all releases of hazardous waste to DTSC. (See Exhibit 8.)

On February 21, 2024, the USEPA issued a Unilateral Administrative Order (UAO) to certain Respondents, which required Respondents to perform certain response actions to address off-site impacts and ongoing subsurface reactions causing off-site impacts. The UAO provides further detail on Respondents' operation of the landfill, the SET event, and recent federal, state, and local regulatory actions to address issues related to noxious odors, leachate, and leachate condensate. The UAO requires Respondents to provide and implement a Master Work Plan that includes a Leachate Management Plan, Soil Reaction Break/Barrier Plan, Cover Installation Plan, Slope Stability Analysis, Air Monitoring Plan, and Off-Site Migration Prevention Plan. USEPA's oversight of the Respondents' work plans and required response actions is ongoing. (See Exhibit 9.)

On June 6, 2024, the Los Angeles County Department of Public Health Solid Waste Management Program, acting as the LEA, issued a Compliance Order to certain Respondents to correct violations related to state minimum standards for gas monitoring and control and site maintenance. (See Exhibit 10.) The LEA's Compliance Order required Respondents to implement mitigation measures to correct the violations, such as constructing a soil reaction break/barrier at a predesignated area(s), installing temperature monitoring devices, developing a cover repair and maintenance plan, performing a slope stability analysis, and collecting temperatures in and around the reaction area to ensure the French drain system meets manufacturer temperature design specifications/recommendations.

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In January 2025, CCL completed installation of a 30 mil thick white HDPE geomembrane cover over Cell 1/2A, Module 2B/3, Module 4, and Module 2B/3/4 P2 in order to address the SET event, consistent with the USEPA and LEA orders. CCL has not yet installed a vertical soil break/barrier to contain the reaction as required under the USEPA and LEA orders.

This Order is therefore intended to supplement the USEPA's UAO, the LEA's Compliance Order, and other MCAT regulatory actions by requiring Respondents to perform additional removal actions to protect public health or welfare or the environment, because of a release or a threatened release of a hazardous substance.

2.4 Hazardous Substances Found at the Site. On December 12, 2023, DTSC's Office of Criminal Investigations completed a site investigation at the Site and collected leachate samples from three well heads and one sump located in the reaction area. The results showed the following concentrations of benzene at the three well heads:

- Well CV-2306, Sample CCL-4B with 0.590 milligrams per Liter (mg/L);
- Well CV-2203, Sample CCL-6B with 0.912 mg/L; and
- Well CV-2338, Sample CCL-8B with 0.196 mg/L.

Respondents also analyzed leachate samples from these same three wells. The results showed the following concentrations of benzene at the three well heads:

- Well CV-2306, Sample CCL-4A/5A with 1.2 mg/L;
- Well CV-2203, Sample CCL-6A/7A with 2.9 mg/L; and
- Well CV-2338 CCL-8A/9A with 0.59 mg/L.

The level of benzene in each of the leachate samples exceeds the federal and California hazardous waste threshold value of 0.5mg/L for benzene, except for Sample CCL-8B.

Respondents have also sampled leachate and condensate onsite in late 2023 and throughout 2024. Leachate and/or condensate samples collected reflected exceedances of federal and California hazardous waste thresholds for benzene and MEK.

MEK has been detected exceeding the federal regulatory threshold of 200 milligram per Liter (mg/L) in samples of leachate. CCL provided sample data of leachate collected in March 2024, which showed the following concentrations of MEK at the #2 East Perimeter tank area:

- Tank 48, Sample CACA0306Z005EP48 with 250 mg/L;
- Tank 52, Sample CACA0306Z005EP52 with 230 mg/L; and
- Tank 72, Sample CACA0309Z005EP72 with 200 mg/L.

2.5 Health Effects. DTSC has determined that a potential for a complete exposure pathway exists at the Site. The hazardous substances described in Paragraph 2.4 could cause serious adverse health effects if people are exposed to them. The potential health effects are described as follows:

2.5.1 Benzene. Benzene is a clear, flammable liquid that is a known human carcinogen which can affect hematological, immunological, gastrointestinal, respiratory, hepatic, neurological, and reproductive systems; and can produce myeloid leukemia, Hodgkin's disease, and lymphomas, as well as non-cancer adverse health effects. Benzene can volatilize into vapors in the air and can easily leach from soil into groundwater. Benzene breaks down more slowly in water and soil than it does in the air. Humans can be exposed to benzene from contaminated air, surface water, groundwater, drinking water, and soil.

2.5.2 Methyl Ethyl Ketone. MEK is a chemical that can cause irritation to the eyes, nose, and throat when inhaled in acute (short-term) exposure in humans. Chronic (long-term) effects of MEK in humans are not well known, but chronic inhalation studies in animals have reported slight neurological, liver, kidney, and respiratory effects. At high concentrations, MEK can cause reversible central nervous system depression in animals. MEK is classified as a flammable liquid and can cause serious eye damage/eye irritation, respiratory tract irritation, and narcotic effects.

2.6 Routes of Exposure. In addition to possible exposure via inhalation of volatile organic compounds such as benzene, individuals working on Site or residing in the vicinity of the Site may be exposed to hazardous substances through dermal contact with soil, waste, or water contaminated by hazardous leachate during recreational or occupational activities. Should hazardous leachate migrate to groundwater, the public could be exposed through ingestion of contaminated drinking water.

2.7 Public Health and/or Environmental Risk. Pursuant to the SET event and its ongoing expansion, the Site presents a serious threat to public health and to the environment due to the potential for the hazardous leachate present at the Site, and generated by the SET event, to be released in several ways.

First, leachate could be released into local groundwater supplies due to the uncontrolled nature of the SET event, and its potential impacts on landfill liners. Groundwater is present in the area of the Site in two distinct aquifers. The upper alluvial aquifer is generally bounded by the Santa Clara River flood plain, about 20 to 50 feet deep. It is underlain by the Saugus aquifer. The Los Angeles RWQCB currently monitors a network of groundwater monitoring wells to identify any potential impacts to groundwater by the SET event. The elevated temperatures and chemicals produced by the reaction may threaten the integrity of the landfill liner, which, if compromised, creates a risk of release of benzene and other hazardous substances from the leachate into these aquifers, contaminating groundwater.

Second, CCL continues to produce large volumes of leachate, much of which is stored in tanks within several tank farms at the Site, which could be compromised by deteriorating conditions caused by the SET event. In particular, the area surrounding Tank Farm 9, which includes tanks which contain hazardous leachate, is showing signs of settlement (total and differential) as a result of the expanding SET event. If the tanks are not moved before conditions in this area deteriorate further, the tanks could become unstable and release hazardous leachate into the environment which could expose individuals working onsite and migrate to soils adjacent to the landfill and threaten surface and groundwater.

Third, leachate seeps, and leachate spills, including those from Tank Farm 9, occurring during the storage and treatment process, resulting from inadequate collection and onsite storage, or from the transport of leachate for offsite disposal, could migrate into stormwater channels and basins and threaten both the Santa Clara River, and groundwater aquifers. As documented in the USEPA UAO determination, these seeps and spills may discharge via stormwater run-off into surface waters downstream and impair aquatic life and wildlife uses of the Santa Clara River.

Fourth, the increased leachate production of the landfill is impacting overall stability of landfill slopes. Should a landfill slope suffer a failure, smoldering trash could be exposed to the environment, exposing surrounding workers and residents to benzene, MEK, and other toxic air contaminants, as well as noxious odors. A landfill slope failure could also release hazardous leachate, exposing workers and potentially residents to hazardous substances such as benzene and MEK.

Lastly, the present lack of natural or installed barriers to prevent the SET event from spreading into Cell 8A creates the potential for the entrance to the facility to become blocked, or too dangerous for entry, such that emergency equipment and workers could no longer enter the facility, thereby jeopardizing emergency or other response actions. The spread of the SET event into Cell 8A could also destabilize the southern toe of the waste fill in Cell 8A due to increased gas pressure and leachate volume, causing or threatening to cause slope failure. The slope failure could cause subsequent uncontrolled release of waste and hazardous leachate. Cell 8A needs to be protected given this location's unique suitability to be used to construct slope stabilization measures, such as an earthen embankment for slope stability and other possible response actions.

III. CONCLUSIONS OF LAW

3.1 Respondents are responsible parties as defined by Health and Safety Code section 78145.

3.2 Each of the substances listed in Section 2.4 is a "hazardous substance" as defined in Health and Safety Code section 78075(a).

3.3 There has been a "release" and there is a "threatened release" of hazardous substances listed in Section 2.4 at the Site, as defined in Health and Safety Code section 78105(a).

3.4 The actual and threatened release of hazardous substances at the Site may present an imminent and substantial endangerment to the public health or welfare or to the environment.

3.5 Response action is necessary to abate a public nuisance and/or to protect the public health and safety and the environment.

IV. DETERMINATION

4.1 Based on the foregoing findings of fact and conclusions of law, DTSC hereby determines that response action is necessary at the Site because there has been a release and/or there is a threatened release of a hazardous substance.

4.2 Based on the foregoing findings of fact and conclusions of law, DTSC hereby determines that there may be an imminent and/or substantial endangerment to the public health or welfare or to the environment because of the release and/or the threatened release of the hazardous substances at the Site.

V. ORDER

Based on the foregoing FINDINGS, CONCLUSIONS, AND DETERMINATION, IT IS HEREBY ORDERED THAT Respondents conduct the following response actions in the manner specified herein, and in accordance with the schedule specified by DTSC, as follows:

5.1 All response actions taken pursuant to this Order shall be consistent with the requirements of Health and Safety Code division 45 (commencing with section 78000 et seq.), and any other applicable state or federal statutes and regulations.

5.1.1 Site Response Strategy. The purpose of this Order is to require for the Site preparation of Removal Action Workplans and implementation of the removal actions described in the Workplans and approved by DTSC.

If necessary for the protection of public health and the environment, DTSC shall require additional removal actions not specified in this Order to be performed. Removal actions shall be implemented in accordance with a workplan and implementation schedule submitted by Respondents and approved by DTSC.

5.1.2. Removal Actions. Respondents shall undertake removal actions because DTSC has determined that they are necessary to mitigate the release or threatened release of hazardous substances at or emanating from the SET event at the Site. In addition to the other requirements of this Order, Respondents shall implement the following removal actions:

- a) Extension of Covered Area. Respondents shall install a DTSC-approved landfill cover on all areas of the Site which are not presently covered by a geomembrane and to which the reaction area has expanded or has the potential to expand. Extending the area covered by a geomembrane is necessary to adequately control infiltration of oxygen and water into the landfill waste, and to control production of gas emissions, odors, and leachate. The geomembrane cover shall accommodate landfill settlement/subsidence, sufficiently limit the transmission of gases (e.g. methane permeance less than 2.5×10^{-13} m/s using ASTM D1434), and provide durability from foot traffic, exposure to ultraviolet radiation, and inclement weather, or motorized equipment, if any. In addition, the cover shall have material properties to address site-specific conditions, including but not limited to, elevated landfill temperatures,

settlement, and harmful landfill gas/odor emissions. This work shall be conducted with appropriate air monitoring, use Construction Quality Assurance techniques, and be consistent with South Coast AQMD's order and other applicable requirements. The geomembrane thickness shall be adequate to withstand the activities and conditions at the facility, but no less thick than 40 mil, with material consistent to prevent heat degradation and control odors and emissions as documented in the Stark Memo, Exhibit 6.

- b) Interim Relocation and Stabilization of Containerized Waste. Incident to installation of a DTSC-approved landfill cover in the current non-capped areas of the Site, and to address threatened releases caused by destabilization of leachate storage tanks resulting from elevated temperatures within the buried waste material surrounding Tank Farm 9, and/or in response to signs of settlement and differential movement in the area, Respondents shall relocate the leachate storage tanks within Tank Farm 9 from the "top deck" to a stable location within CCL to ensure stability, continued effective performance, and to minimize/eliminate threats from the expanding reaction area and landfill settlement to the tank farm. Consistent with (a) above, the integrity of the covered area is paramount, and the tanks, or any other structures, may not be placed upon the covered area upon completion of said cover or any area that may be subject to the SET event in the future.
- c) Protect Cell 8A from Intrusion of Subsurface Elevated Temperature Event. Cell 8A is considered critical infrastructure due to its proximity to the primary point of ingress to and egress from the facility, its favorable location for potential disposal of onsite generated waste, and its unique suitability for slope stabilization activities should that become necessary. Therefore, limiting intrusion of the SET event into Cell 8A is crucial, and Respondents shall implement measures to prevent the SET event from entering Cell 8A. The measures shall include, but are not limited to, the installation of a vertical barrier of inert material not subject to biological, thermal, or oxidative degradation. Respondents may link such a barrier to any existing barrier systems already in this area, provided that the barrier design meets DTSC's requirements and receives DTSC's approval.

5.1.3 Site Response Strategy Meeting. Respondents, including the Project Coordinator (Section 6.1) and Project Engineer/Geologist (Section 6.2), shall meet with DTSC within seven (7) days from the effective date of this Order to discuss response strategy. These discussions shall include Site risks and priorities; project planning, phasing and scheduling, removal action objectives, remedial technologies, data quality objectives, and the workplan.

5.2. Public Notice. Respondents shall work cooperatively with DTSC's Office of Environmental Equity in providing public notice of all response actions at the Site.

5.3 Removal Action Workplan(s) (RAW). DTSC has determined that RAWs are appropriate to address the identified removal actions on the Site. Respondents shall prepare and submit to DTSC three (3) separate draft RAWs, pursuant to the following submittal schedule:

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- Draft RAW for Extension of Covered Area – no later than thirty (30) days following the effective date of this Order;
- Draft RAW for Interim Relocation and Stabilization of Containerized Waste – no later than thirty (30) days following the effective date of this Order; and
- Draft RAW for Protection of Cell 8A from Intrusion of SET event – no later than ninety (90) days following the effective date of this Order.

Each draft RAW shall be prepared in accordance with Health and Safety Code sections 78130, and 79195–79240, and shall include the items listed below, at a minimum. This list is subject to change based on the site’s evolving characterization.

- a) A Site description which includes current site conditions, ownership and operational history, contamination and characterization activities conducted, and any response actions taken;
- b) The goals to be achieved by the removal actions identified in 5.1.2 of this Order;
- c) A Design and Implementation Plan. The design portion of the plan shall include, at a minimum, relevant criteria and final plans and specifications. The implementation portion of the plan shall detail, at a minimum, the techniques and methods to implement the removal activities, including any excavating, storing, handling, transporting, treating, and disposing of material on or off the Site;
- d) A Sampling and Analysis Plan with corresponding Quality Assurance/Quality Control (QA/QC) Plan to confirm the effectiveness of the RAW;
- e) A description of methods that will be employed during the removal action to ensure the health and safety of workers and the public during the removal action;
- f) A construction air monitoring plan to be executed in coordination with the ongoing site-wide air monitoring program;
- g) Design criteria and final plans and specifications for facilities to be constructed shall be prepared by a California licensed civil engineer;
- h) Description of equipment used to excavate, handle, and transport contaminated material;
- i) A field sampling and laboratory analysis plan addressing sampling during implementation and to confirm achievement of the performance objectives of the Workplan;

- j) A transportation plan identifying routes of travel and final destination of wastes generated and disposed, if necessary;
- k) An updated health and safety plan addressing the implementation activities;
- l) Identification of any necessary permits and agreements;
- m) An operation and maintenance plan including any required periodic and long-term monitoring;
- n) A detailed schedule for implementation of the removal action consistent with the schedule contained in the approved Workplan including procurement, mobilization, construction phasing, sampling, facility startup, and testing; and
- o) A construction quality assurance plan that includes quality assurance and testing procedures sufficient to ensure implemented removal actions meet the approved design(s) and specifications.

5.4 Workplan Implementation. DTSC shall review the draft RAWs and either approve them or provide comments to Respondents. If comments are provided, Respondents shall submit to DTSC for review within fifteen (15) days a revised draft RAW that addresses the comments. Upon DTSC approval of the final RAWs, Respondents shall implement the RAW in accordance with the approved schedule in the RAW. Within thirty (30) days of completion of field activities, Respondents shall submit an implementation report (“Implementation Report”) documenting the implementation of the final RAW.

5.5 Workplan Revisions. If Respondents propose to modify any methods or initiate new activities, Respondents shall prepare an addendum to the approved plan(s) for DTSC review and approval prior to modifying the method or initiating new activities. DTSC may propose to modify any methods or request new activities and request Respondents to prepare an addendum to the approved plan(s) for DTSC review and approval prior to modifying the method(s) or initiating new activities.

5.6 One-Year Review. After a period of one (1) year from the date of the Implementation Report, Respondents shall conduct an inspection of the Site and evaluate the adequacy and integrity of the completed removal actions. Thirty (30) days prior to the first anniversary of the Implementation Report, Respondents shall submit a workplan to describe such inspections and evaluations (“One-Year Review Workplan”) to DTSC for review and approval. Respondents shall implement the One-Year Review Workplan within sixty (60) days of its approval by DTSC, and Respondents shall submit a comprehensive report of the results of the removal action review. The report shall (a) describe the results of all sample analyses, tests, and other data generated or received by Respondents; and (b) evaluate the adequacy of the implemented removal action in protecting public health, safety, and the environment. As a result of any review performed under this Section, Respondents may be required to perform additional work as necessary to achieve the objectives of the approved RAW.

5.7 Changes During Implementation of the Workplan. During the implementation of the RAW(s), DTSC may specify such additions, modifications, and revisions to the Workplan as DTSC deems necessary to protect public health and safety or the environment or to implement the removal actions.

5.8 Stop Work Order. In the event that DTSC determines that any activity (whether or not pursued in compliance with this Order) may pose an imminent or substantial endangerment to the health or safety of people on the Site or in the surrounding area or to the environment, DTSC may order Respondents to stop further implementation of this Order, in full or in part, for such period of time needed to abate the endangerment. In the event that DTSC determines that any site activities (whether or not pursued in compliance with this Order) are proceeding without DTSC authorization, DTSC may order Respondents to stop further implementation of this Order (in full or in part) or activity for such period of time needed to obtain DTSC authorization, if such authorization is appropriate. Any deadline in this Order directly affected by a Stop Work Order, under this Section, shall be extended for the term of the Stop Work Order.

5.9 Emergency Response Action/Notification. In the event of any action or occurrence (such as a fire, earthquake, explosion, or human exposure to hazardous substances caused by the release or threatened release of a hazardous substance) during the course of this Order, Respondents shall immediately take all appropriate action to prevent, abate, or minimize such emergency, release, or immediate threat of release, and shall immediately notify the Project Manager. Respondents shall take such action in consultation with the Project Manager and in accordance with all applicable provisions of this Order. Within seven (7) days of the onset of such an event, Respondents shall furnish a report to DTSC, signed by Respondents' Project Coordinator, setting forth the events which occurred and the measures taken in the response thereto. In the event that Respondents fail to take appropriate response and DTSC takes the action instead, Respondents shall be liable to DTSC for all costs of the response action. Nothing in this Section shall be deemed to limit any other notification requirement to which Respondents may be subject.

5.10 Discontinuation of Removal Technology. Any technology employed in implementation of the removal actions shall be left in place and operated by Respondents until and except to the extent that DTSC authorizes Respondents in writing to discontinue, move or modify some or all of the technology because Respondents has met the criteria specified in the final RAW for its discontinuance, or because the modifications would better achieve the goals of future response actions.

5.11 Financial Assurance. Upon request, Respondents shall demonstrate to DTSC and maintain financial assurance for identified and approved operation and maintenance and monitoring activities. Respondents shall demonstrate financial assurance prior to the time that operation and maintenance activities are initiated and shall maintain it throughout the period of time necessary to complete all required operation and maintenance activities. The financial assurance mechanisms shall meet the requirements of Health and Safety Code sections 79310–79330. All financial assurance mechanisms are subject to the review and approval of DTSC.

5.12 California Environmental Quality Act (CEQA). DTSC finds that, due to the unique and special circumstances of the expanding SET event at the Site, immediate action is needed to prevent clear and imminent adverse effects to health and the environment. Accordingly, DTSC finds that the work needed to implement this Order is exempt from CEQA as an enforcement action pursuant to California Code of Regulations, title 14, section 15321(a); and as action necessary to prevent or mitigate an emergency, pursuant to Public Resources Code, sections 21060.3 and 21080(b)(4); and California Code of Regulations, title 14, section 15269(c).

VI. GENERAL PROVISIONS

6.1 Project Coordinator. Within seven (7) days from the date the Order is signed by DTSC, Respondents shall submit to DTSC in writing the name, address, and telephone number of a Project Coordinator whose responsibilities shall be to receive all notices, comments, approvals, and other communications from DTSC. Respondents shall promptly notify DTSC of any change in the identity of the Project Coordinator. Respondents shall obtain approval from DTSC before the new Project Coordinator performs any work under this Order.

6.2 Project Engineer/Geologist. The work performed pursuant to this Order shall be under the direction and supervision of a qualified professional engineer or a registered geologist in the State of California, with expertise in hazardous substance site cleanups. Within seven (7) days from the date this Order is signed by DTSC, Respondents must submit: (a) The name and address of the project engineer or geologist chosen by Respondents; and (b) in order to demonstrate expertise in hazardous substance cleanup, the resumé of the engineer or geologist, and the statement of qualifications of the consulting firm responsible for the work. Respondents shall promptly notify DTSC of any change in the identity of the Project Engineer/Geologist. Respondents shall obtain approval from DTSC before the new Project Engineer/Geologist performs any work under this Order.

6.3 Monthly Summary Reports. Within thirty (30) days from the effective date of this Order, and on a monthly basis thereafter, Respondents shall submit a Monthly Summary Report of its activities under the provisions of this Order. The report shall be received by DTSC by the fifteenth (15th) day of each month and shall describe:

- (a) Specific actions taken by or on behalf of Respondents during the previous calendar month;
- (b) Actions expected to be undertaken during the current calendar month;
- (c) All planned activities for the next month;
- (d) Any requirements under this Order that were not completed;
- (e) Any problems or anticipated problems in complying with this Order; and
- (f) All results of sample analyses, tests, and other data generated under this Order during the previous calendar month, and any significant findings from these data.

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6.4 Quality Assurance/Quality Control (QA/QC). All sampling and analysis conducted by Respondents under this Order shall be performed in accordance with QA/QC procedures submitted by Respondents and approved by DTSC pursuant to this Order.

6.5 Submittals. All submittals and notifications from Respondents required by this Order shall be sent electronically to:

Department of Toxic Substances Control
Attn: Daniel V. Ziarkowski, Branch Chief & Peter Ruttan, Project
Manager
Site Mitigation and Restoration Program
Legacy Landfills Office
8800 Cal Center Drive
Sacramento, CA 95826
dan.ziarkowski@dtsc.ca.gov
peter.ruttan@dtsc.ca.gov

6.6 Communications. All approvals and decisions of DTSC made regarding submittals and notifications shall be communicated to Respondents in writing by the Site Mitigation Branch Chief, or his/her designee. No informal advice, guidance, suggestions, or comments by DTSC regarding reports, plans, specifications, schedules, or any other writings by Respondents shall be construed to relieve Respondents of the obligation to obtain such formal approvals as may be required.

6.7 DTSC Review and Approval. All response actions taken pursuant to this Order shall be subject to the approval of DTSC.

- a) Respondents shall submit all deliverables required by this Order to DTSC. Once the deliverables are approved by DTSC, they shall be deemed incorporated into, and where applicable, enforceable under this Order.
- b) If DTSC determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with this Order or fails to protect public health or safety or the environment, DTSC may:
 - 1) Modify the document as deemed necessary and approve the document as modified; or
 - 2) Return comments to Respondents with a description of needed changes and a date by which Respondents must submit to DTSC a revised document incorporating the changes.
- c) Any modifications, comments, or other directives issued pursuant to this Section, are incorporated into this Order. Any noncompliance with these modifications or directives shall be deemed a failure or refusal to comply with this Order.

6.8 Compliance with Applicable Laws. Nothing in this Order shall relieve Respondents from complying with all other applicable laws and regulations, including but not limited to compliance with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California Regional Water Quality Control Board. Respondents shall conform all actions required by this Order with all applicable federal, state, and local laws and regulations.

6.9 Respondents Liabilities. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current or future operations of Respondents. Nothing in this Order is intended or shall be construed to limit the rights of any of the parties with respect to claims arising out of or relating to the deposit or disposal at any other location of substances removed from the Site. Nothing in this Order is intended or shall be construed to limit or preclude DTSC from taking any action authorized by law to protect public health or safety or the environment and recovering the cost thereof. Notwithstanding compliance with the terms of this Order, Respondents may be required to take further actions as necessary to protect public health and the environment.

6.10 Site Access. Access to the Site (and laboratories used for analyses of samples, when necessary) under this Order shall be provided at all reasonable times to employees, contractors, and consultants of DTSC. Nothing in this Section is intended or shall be construed to limit in any way the right of entry or inspection that DTSC or any other agency may otherwise have by operation of any law. DTSC and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including, but not limited to: inspecting records, operating logs, sampling and analytic data, and contracts relating to this Site; reviewing the progress of Respondents in carrying out the terms of this Order; conducting such tests as DTSC may deem necessary; and verifying the data submitted to DTSC by Respondents.

To the extent the Site or any other property to which access is required for the implementation of this Order is owned or controlled by persons other than Respondents, Respondents shall use best efforts to secure from such persons access for Respondents, as well as DTSC, its representatives, and contractors, as necessary to effectuate this Order. To the extent that any portion of the Site is controlled by tenants of Respondents, Respondents shall use best efforts to secure from such tenants, access for Respondents, as well as for DTSC, its representatives, and contractors, as necessary to effectuate this Order. For purposes of this Section, “best efforts” includes the payment of reasonable sums of money in consideration of access. If any access required to complete the Work is not obtained within forty-five (45) days of the effective date of this Order, or within forty-five (45) days of the date DTSC notifies Respondents in writing that additional access beyond that previously secured is necessary, Respondents shall promptly notify DTSC, and shall include in that notification a summary of the steps Respondents has taken to attempt to obtain access. DTSC may, as it deems appropriate, assist Respondents in obtaining access. Respondents shall reimburse DTSC in obtaining access, including, but not limited to, attorneys fees and the amount of just compensation.

6.11 Sampling, Data and Document Availability. Respondents shall permit DTSC and

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its authorized representatives to inspect, and review, and Respondents shall provide in electronic format, as requested, any and all copies of all sampling, testing, monitoring, or other data, including raw data, generated by Respondents or on Respondents' behalf, in any way pertaining to work undertaken pursuant to this Order, or related to monitoring the SET event and associated conditions at the Site. Such data includes, but is not limited to:

- a) All raw data generated regarding temperature data at CCL, and any prepared graphs, in .txt format;
- b) All raw data generated regarding down well temperatures;
- c) All raw data generated regarding gas well head temperatures;
- d) All raw data generated regarding leachate production and any characterization;
- e) All raw data generated regarding landfill gas production and any characterization;
- f) All raw data generated via unmanned aerial vehicles (UAVs);
- g) All raw data generated regarding perimeter gas wells;
- h) All raw data generated regarding landfill gas pressures;
- i) All raw data and reports generated regarding slope stability;
- j) All raw data regarding survey benchmark and monuments, including process used to establish the datum;
- k) All aerial or photographic images, surveys, and scans of the facility, fissures, tension cracks, cover tears, leachate outbreaks or pools, and storage tanks taken since January 2022;
- l) All raw landfill gas data including notes;
- m) A copy of all current Standard Operating Procedures (SOPs), including but not limited to, the SOPs for landfill gas and leachate collection and treatment;
- n) Continuous web access to all data stored online including TMPs, FLIR images, and gas data.

Respondents shall submit all such data upon the request of DTSC. Copies shall be provided within seven (7) days of receipt of DTSC's written request. Respondents shall inform DTSC at least seven (7) days in advance of all field sampling under this Order, and Respondents shall allow DTSC and its authorized representatives to take duplicates of any samples collected by Respondents pursuant to this Order. Respondents shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order.

6.12 Record Retention. All such data, reports, and other documents shall be preserved by Respondents for a minimum of five (5) years after the conclusion of all activities under this Order. If DTSC requests that some or all of these documents be preserved for a longer period of time, Respondents shall either comply with that request, deliver the documents to DTSC, or permit DTSC to copy the documents prior to destruction. Respondents shall notify DTSC in writing at least six (6) months prior to destroying any documents prepared pursuant to this Order.

6.13 Government Liabilities. The State of California shall not be liable for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or related parties specified in Section 6.25, Parties Bound, in carrying out activities pursuant to this Order, nor shall the State of California be held as party to any contract entered into by Respondents or its agents in carrying out activities pursuant to this Order.

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6.14 Additional Actions. By issuance of this Order, DTSC does not waive the right to take any further actions authorized by law.

6.15 Extension Requests. If Respondents are unable to perform any activity or submit any document within the time required under this Order, Respondents may, prior to expiration of the time, request an extension of the time in writing. The extension request shall include a justification for the delay. All such requests shall be in advance of the date on which the activity or document is due.

6.16 Extension Approvals. If DTSC determines that good cause exists for an extension, it shall grant the request and specify a new schedule in writing. Respondents shall comply with the new schedule incorporated in this Order.

6.17 Liability for Costs. Respondents are liable for all of DTSC's costs that have been incurred in taking response actions at the Site (including costs of overseeing response actions performed by Respondents) and costs to be incurred in the future.

6.18 Payment of Costs. DTSC may bill Respondents for costs incurred in taking response actions at the Site prior to the effective date of this Order. DTSC shall bill Respondents quarterly for its response costs incurred after the effective date of this Order. Respondents shall pay DTSC within sixty (60) days of receipt of any DTSC billing. Any billing not paid within sixty (60) days is subject to interest calculated from the date of the billing pursuant to Health and Safety Code section 79655. All payments made by Respondents pursuant to this Order shall be by cashier's or certified check made payable to this "DTSC," and shall bear on the face the project code of the Site (Site Code 302132-00) and the Docket number of this Order. Payments shall be sent to:

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

A photocopy of all payment checks shall also be sent to the person designated by DTSC to receive submittals under this Order.

6.19 Severability. The requirements of this Order are severable, and Respondents shall comply with each and every provision hereof, notwithstanding the effectiveness of any other provision.

6.20 Incorporation of Plans, Schedules, and Reports. All plans, schedules, reports, specifications, and other documents that are submitted by Respondents pursuant to this Order are incorporated in this Order upon DTSC's approval or as modified pursuant to Section 6.7, DTSC Review and Approval, and shall be implemented by Respondents. Any noncompliance with the documents incorporated in this Order shall be deemed a failure or refusal to comply with this

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Order.

6.21 Modifications. DTSC reserves the right to unilaterally modify this Order. Any modification to this Order shall be effective upon the date the modification is signed by DTSC and shall be deemed incorporated in this Order.

6.22 Time Periods. Unless otherwise specified, time periods begin from the effective date of this Order and “days” means calendar days.

6.23 Termination and Satisfaction. Except for Respondents obligations under Sections 5.6 One-Year Review, 6.12 Record Retention, 6.17 Liability for Costs, and 6.18 Payment of Costs, Respondents obligations under this Order shall terminate and be deemed satisfied upon Respondents receipt of written notice from DTSC that Respondents has complied with all the terms of this Order.

6.24 Calendar of Tasks and Schedules. This Section is merely for the convenience of listing in one location the submittals required by this Order. If there is a conflict between the date for a scheduled submittal within this Section and the date within the Section describing the specific requirement, the latter shall govern.

Calendar of Tasks and Schedules

TASK	SCHEDULE
1. Provide written notice of whether Respondents intend to comply with Order; Section 7	Within seven (7) days of the effective date of this Order.
2. Schedule and attend Site Response Strategy Meeting; Section 5.1.3	Within seven (7) days of the effective date of this Order.
3. Identify Project Coordinator; Section 6.1	Within seven (7) days of the effective date of this Order.
4. Provide requested sampling, data, and documentation; Section 6.11	Within seven (7) days of receipt of DTSC’s request.
5. Identify Project Engineer/Geologist; Section 6.2	Within seven (7) days of the effective date of this Order.

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TASK	SCHEDULE
6. Submit Monthly Report(s); Section 6.3	Within thirty (30) days of the effective date of this Order; then every month thereafter, by the 15 th day of each month, until satisfaction of all obligations under this Order.
7. Submit Draft Removal Action Workplan for Extension of Covered Area; Section 5.3	Within thirty (30) days of the effective date of this Order.
8. Submit Draft Removal Action Workplan for Interim Relocation and Stabilization of Containerized Waste; Section 5.3	Within thirty (30) days of the effective date of this Order.
9. [If DTSC Issues Comments to Draft RAW(s)] Submit Revised Draft Removal Action Workplan(s); Section 5.4	Within fifteen (15) days of the receipt of comments on Draft RAW(s) from DTSC.
10. Submit Draft Removal Action Workplan for Protection of Cell 8A from Intrusion of SET event; Section 5.3	Within ninety (90) days of the effective date of this Order.
11. Submit Implementation Report; Section 5.4	Within thirty (30) days of the completion of field activities required under this Order.
12. Submit One-Year Review Workplan; Section 5.6	At least thirty (30) days prior to the first anniversary of the submission of the Implementation Report.
13. Implement One-Year Review Workplan; Section 5.6	Within sixty (60) days of DTSC approval of One-Year Review Workplan.
14. Submit One-Year Review Report; Section 5.6	Within sixty (60) days of DTSC approval of One-Year Review Workplan.
15. Maintain central depository of data, reports, and documentation; Section 6.12	At least five (5) years after conclusion of all activities conducted pursuant to this Order.
16. Provide prior written notice to DTSC before destroying any documentation prepared pursuant to this Order; Section 6.12	At least six (6) months prior to destroying any documents.

6.25 Parties Bound. This Order applies to and is binding upon Respondents, and their officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors and assignees, including but not limited to, individuals, partners, and subsidiary and parent

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corporations. Respondents shall provide a copy of this Order to all contractors, subcontractors, laboratories, and consultants which are retained to conduct any work performed under this Order, within fifteen (15) days after the effective date of this Order or the date of retaining their services, whichever is later. Respondents shall condition any such contracts upon satisfactory compliance with this Order. Notwithstanding the terms of any contract, Respondents are responsible for compliance with this Order and for ensuring that its subsidiaries, employees, contractors, consultants, subcontractors, agents, and attorneys comply with this Order.

6.26 Change in Ownership. No change in ownership or corporate or partnership status relating to the Site shall in any way alter Respondents' responsibility under this Order. No conveyance of title, easement, or other interest in the Site, or a portion of the Site, shall affect Respondents' obligations under this Order. Unless DTSC agrees that such obligations may be transferred to a third party, Respondents shall be responsible for and liable for any failure to carry out all activities required of Respondents by the terms and conditions of this Order, regardless of Respondents' use of employees, agents, contractors, or consultants to perform any such tasks. Respondents shall provide a copy of this Order to any subsequent owners or successors before ownership rights or stock or assets in a corporate acquisition are transferred.

6.27 Non-Duplication and Consistency with Other Orders. To ensure regulatory consistency and avoid unnecessary duplication, this Order shall be interpreted and implemented in a manner that does not conflict with or duplicate any existing orders issued by federal, state, or local agencies addressing the same or substantially similar conditions at the Site. Respondents may request modifications to this Order to reconcile apparent inconsistencies with other orders, and may request clarification or permission to avoid duplicative administrative requirements, if applicable.

VII. NOTICE OF INTENT TO COMPLY

7. Not later than seven (7) days after the effective date of this Order, Respondents shall provide written notice, in accordance with Section 6.5 of this Order, stating whether or not Respondents shall comply with the terms of this Order. If Respondents, or any one of them, do not unequivocally commit to perform all of the requirements of this Order, they, or each so refusing, shall be deemed to have violated this Order and to have failed or refused to comply with this Order. Respondents' written notice shall describe, using facts that exist on or prior to the effective date of this Order, any "sufficient cause" defenses asserted by Respondents under Health and Safety Code sections 78870 and 79055(a)(1)(B) or CERCLA section 107(c)(3), 42 U.S.C. section 9607(c)(3).

VIII. EFFECTIVE DATE

8. This Order is final and effective on the date of service.

IX. PENALTIES FOR NONCOMPLIANCE

9. Each Respondent may be liable for penalties of up to \$25,000 for each day out of compliance with any term or condition set forth in this Order and for punitive damages up to

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three times the amount of any costs incurred by DTSC as a result of Respondents' failure to comply, pursuant to Health and Safety Code sections 78470(c), 78665, 78675, 78680, 79550, 79555, and 79570. Health and Safety Code section 79555 provides that a responsible party who complies with this Order, or with another order or agreement concerning the same response actions required by this Order, may seek treble damages from Respondents who fail or refuse to comply with this Order without sufficient cause.

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DATE OF ISSUANCE: April 1, 2025

Elizabeth Anne Berg
Deputy Director
Site Mitigation and Restoration Program
Department of Toxic Substances Control

cc: Site Mitigation and Restoration Program
Headquarters, Planning & Policy
Office of Legal Counsel

CSC – Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833
Corporate Registered Agent for Chiquita Canyon, LLC, Chiquita Canyon, Inc., and Waste
Connections US, Inc.