

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the matter of:)	U.S. EPA Docket No.:
)	RCRA-09-2016-0002
)	
CROSBY & OVERTON, INC.)	CONSENT AGREEMENT
)	AND FINAL ORDER
)	PURSUANT TO
EPA Identification No.)	40 C.F.R. §§ 22.13 and 22.18
CAD028409019)	
)	
Respondent.)	
_____)	

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA") as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation /Termination or Suspension of Permits, 40 C.F.R. Part 22. Complainant is the United States Environmental Protection Agency, Region IX ("EPA"). Respondent is Crosby & Overton, Inc. ("Respondent"), a California corporation.
2. Respondent operates a permitted RCRA treatment and storage facility located at 1610 W. 17th St. in Long Beach, California 90813 (the "Facility"). The Facility accepts RCRA and non-RCRA hazardous waste in bulk and container. Facility primarily treats aqueous wastes containing hydrocarbons. The Facility also has several container storage areas and a container consolidation area where hazardous wastes received in drums and other containers can be consolidated into a designated accumulation tank for transportation for off-site disposal or treatment. The Facility's EPA ID number is CAD028409019.
3. On August 26, 2014, EPA conducted a RCRA compliance evaluation inspection ("CEI") at the Facility. The purpose of the inspection was to determine the Facility's compliance with applicable federal environmental statutes and regulations, and in particular RCRA, as amended, the regulations in 40 C.F.R. Parts 261-265, 268, 273 and 279, and the regulations adopted by the California authorized program under RCRA in the California Code of Regulations ("C.C.R."), Title 22, Division 4.5 and the California Health and Safety Code,

Division 20. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA determined that Respondent had violated California Health & Safety Code § 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.¹

4. This Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18 (“CA/FO”), simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent failed to comply with:

- (1) the container compatibility requirement of 22 C.C.R. § 66264.172 [*see also* 40 C.F.R. § 264.172];
- (2) permit parameters as required by of 22 C.C.R. §§ 66270.30(a) and (e) [*see also* 40 C.F.R. §§ 270.30(a) and (e)];
- (3) recordkeeping and waste determination requirements of 22 C.C.R. § 66264.1063(d) [*see also* 40 C.F.R. § 264.1063(d)] and 22 C.C.R. §§ 66264.1064(b)(1)(A)-(F) and (k) [*see also* 40 C.F.R. §§ 264.1064(b)(1)(i)-(vi) and (k)]; and
- (4) waste determination, recordkeeping and annual inspection requirements for tanks of 22 C.C.R. §§ 66264.1084(c)(1) and (c)(4)(B) [*see also* 40 C.F.R. §§ 264.1084(c)(1) and (c)(4)(ii)], 22 C.C.R. § 66264.1088(b) [*see also* 40 C.F.R. § 264.1088(b)], and 22 C.C.R. §§ 66264.1089(b)(1) and (b)(2)(A) [*see also* 40 C.F.R. §§ 264.1089(b)(1) and (2)(i)].

These are each in violation of Section 3001 *et seq.* of RCRA, 42 U.S.C. §6921 *et seq.* and state regulations adopted pursuant to the approved California hazardous waste management program.

B. JURISDICTION

5. On August 1, 1992, the State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to § 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271. The authorized program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. §§ 66001 *et seq.* The State of California has been authorized for all the regulations referenced in this CA/FO.
6. Respondent is a “person” as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].

¹ EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States. Corresponding Federal citations are provided in brackets.

7. Respondent is the “owner” of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
8. Respondent is the “operator” of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
9. At the Facility, Respondent is engaged in “transfer”, “treatment” or “storage” of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. §260.10].
10. At the Facility, Respondent transfers, treats or stores materials that are “wastes” as defined in 22 C.C.R. §§ 66260.10 and 66261.2 [*see also* 40 C.F.R. §§ 260.10 and 261.2].
11. At the Facility, Respondent transfers, treats or stores materials that are “hazardous waste” as defined in California Health & Safety Code § 25117, and 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* RCRA § 1004(5), and 40 C.F.R. §§ 260.10 and 261.3].
12. Section 3006 of RCRA, 42 U.S.C. § 6926 provides, *inter alia*, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
13. A violation of California’s authorized hazardous waste program, found at H&SC § 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California’s authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
14. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921, *et seq.*
15. The Administrator has delegated the authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the EPA Regional Administrator for Region IX, who has further delegated this authority to the signatory.

C. ALLEGED VIOLATIONS

COUNT 1

Failure to use a container that will not react with and is otherwise compatible with the hazardous waste stored in the container.

16. Paragraphs 1 through 15 above are incorporated herein by this reference as if they were set forth here in their entirety.
17. 22 C.C.R. § 66264.172 [*see also* 40 C.F.R. § 264.172] requires owners or operators of hazardous waste facilities that transfer or store containers of hazardous waste to use a container made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired.
18. During the CEI, EPA inspectors observed that Respondent stored broken batteries with corrosive liquid in a rusting 55-gallon drum, which was not made of or lined with materials that will not react with corrosive liquid, and the ability of the container to contain the corrosive liquid was impaired.
19. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66264.172 [*see also* 40 C.F.R. § 264.172], and RCRA.

COUNT 2

Failure to comply with the Facility's permit and maintain all equipment used to achieve compliance with the permit.

20. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.
21. 22 C.C.R. § 66270.30(a) [*see also* 40 C.F.R. § 270.30(a)] requires a permittee to comply with all conditions of the permit, except as authorized in an emergency permit.
22. 22 C.C.R. § 66270.30(e) [*see also* 40 C.F.R. § 270.30(e)] requires a permittee to at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit.
23. At the time of the CEI, the Facility was operating under its Hazardous Waste Facility Permit issued by the State of California, and last modified on February 10, 2004. Section III.C.1. of the permit provides that Respondent may store and treat hazardous waste in tanks but only in accordance with the requirements of the Permit and 22 C.C.R. Division 4.5, Chapter 14, Article 10 (Tank Systems). The Class I Permit Modification that the Facility received on September 29, 1998, authorized the Facility the alternate use of either (a) a steel trailer or (b) the 4,800-

gallon tank of an inoperative vacuum truck (“accumulation tank”) to accumulate the contents of drums of paint waste and paint related products prior to transportation for off-site treatment or disposal.

24. During the CEI, EPA investigators observed that:
 - a. Respondent had not maintained the vacuum pump associated with the accumulation tank, as required by 22 C.C.R. § 66270.30(e), and the vacuum pump was no longer being used for pumping paint waste into the accumulation tank.
 - b. Respondent had substituted a diaphragm pump for the vacuum pump and was using it to pump paint waste, a hazardous waste, into the accumulation tank.
 - c. Respondent pumped paint wastes, a hazardous waste, from containers into the accumulation tank but did not do so using the vacuum pump which was identified in the application for the Class I Permit Modification and the Class I Permit Modification, as required by 22 C.C.R. § 66270.30(a).
25. Therefore, EPA alleges that Respondent has violated 22 C.C.R. §§ 66270.30(a) and (e), and RCRA.

COUNT 3

Failure to comply with Air Emissions Standards for Equipment Leaks

26. Paragraphs 1 through 25 above are incorporated herein by this reference as if they were set forth here in their entirety.
27. The regulations in Title 22, Chapter 14, Article 28 (Air Emissions Standards for Equipment Leaks, 22 C.C.R. §§ 66264.1050-1065) apply to owners and operators of facilities that treat, store or dispose of hazardous waste. 22 C.C.R. § 66264.1050(a) [*see also* 40 C.F.R. §§ 264.1050(a)].
28. In accordance with 22 C.C.R. § 66264.1064(k) [*see also* 40 C.F.R. § 265.1064(k)], owners and operators must record, among other things, an up-to-date analysis and the supporting information and data used to determine whether or not equipment is subject to the requirements in sections 66264.1052 through 66264.1060, and keep this in a log that is kept in the facility operating record for use in determining exemptions.
29. 22 C.C.R. § 66264.1050(b) [*see also* 40 C.F.R. § 264.1050(b)] provides, that, except as provided in “section 264.1064(k),” the regulations in Title 22, Chapter 14, Article 28 apply to equipment that contains or contacts RCRA hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in, among other things, “a unit that is subject to the permitting

requirements of chapter 20.” These requirements include, but are not limited to, the following:

- a. An owner or operator must, for each piece of equipment, determine whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds ten percent by weight using listed methods. 22 C.C.R. § 66264.1063(d) [*see also* 40 C.F.R. § 265.1063(d)].
 - b. An owner or operator must, for each such piece of equipment, record the following information in the facility’s operating record: (A) an equipment identification number and hazardous waste management unit identification, (B) approximate locations within the facility, (C) the type of equipment, (D) percent-by-weight total organics in the hazardous waste stream at the equipment, (E) the hazardous waste state at the equipment, and (F) the method of compliance with the standard. 22 C.C.R. §§ 66264.1064(b)(1)(A)-(F) [*see also* 40 C.F.R. §§ 264.1064(b)(1)(i)-(vi)].
30. During the CEI, EPA investigators observed the following:
- a. A diaphragm pump was used to pump paint waste, a hazardous waste, into the accumulation tank.
 - b. Respondent had not made the hazardous waste determination for the diaphragm pump using specified methods, as required by 22 C.C.R. § 66264.1063(d).
 - c. The records required to be maintained in accordance with 22 C.C.R. §§ 66264.1064(b)(1)(A)-(F) were not being maintained at the Facility.
 - d. The information required to be recorded under 22 C.C.R. § 66264.1064(k) was not recorded by the Respondent.
31. Therefore, EPA alleges that Respondent has violated 22 C.C.R. §§ 66264.1063(d), 66264.1064(b)(1)(A)-(F) and (k), and RCRA.

COUNT 4

Failure to Comply with the Air Emissions Standards for Tanks, Surface Impoundments, and Containers

32. Paragraphs 1 through 31 above are incorporated herein by this reference as if they were set forth here in their entirety.
33. The regulations in Title 22, Division 4.5, Chapter 14, Article 28.5 (Air Emissions Standards for Tanks, Surface Impoundments, and Containers, 22 C.C.R. §§ 66264.1080-1090) apply to owners and operators of facilities that treat, store or dispose of RCRA hazardous waste in, among other things, tank systems used to

transfer, store or treat hazardous waste. 22 C.C.R. § 66264.1080(a) [*see also* 40 C.F.R. § 264.1080(a)]. These requirements include, but are not limited to, the following:

- a. Where an owner or operator is using Tank Level 1 controls to control air pollutant emissions from a tank, the owner or operator must determine the maximum organic vapor pressure for a hazardous waste to be managed in the tank before the first time the waste is placed in the tank using the procedures specified in section 66264.1083(c). 22 C.C.R. § 66264.1084(c)(1) [*see also* 40 C.F.R. § 264.1084(c)(1)].
 - b. Where an owner or operator is using Tank Level 1 controls to control air pollutant emissions from a tank, the owner or operator must, among other things, inspect the air emission control equipment at least once every year and maintain a record of the inspections in the operating record for a minimum of three (3) years. 22 C.C.R. §§ 66264.1084(c)(4)(B) and (D) [*see also* 40 C.F.R. §§ 264.1084(c)(4)(ii) and (iv)].
 - c. An owner or operator must prepare and maintain records for each such tank for a minimum of three (3) years, including:
 - i. The tank identification number or other unique identification description and a record for each inspection required by 22 C.C.R. § 66264.1084. 22 C.C.R. § 66264.1089(b)(1) [*see also* 40 C.F.R. § 264.1089(b)(1)].
 - ii. Where an owner or operator is using a fixed roof to comply with Tank Level 1 control requirements, each determination for the maximum organic vapor pressure of the hazardous waste in the tank performed in accordance with 22 C.C.R. § 66264.1084(c). 22 C.C.R. § 66264.1089(b)(2)(A) [*see also* 40 C.F.R. § 264.1089(b)(2)(i)].
 - d. An owner or operator must develop and implement a written plan and schedule to perform the inspections and monitoring required by 22 C.C.R. § 66264.1084 through 1087, and incorporate the plan and schedule into the facility inspection plan. 22 C.C.R. § 66264.1088(b) [*see also* 40 C.F.R. § 264.1088(b)].
34. During the CEI, EPA investigators observed the following:
- a. The accumulation tank was and is used to store paint waste, which is RCRA hazardous waste.

- b. Respondent was and is using Tank Level 1 controls to control air pollutant emissions from the accumulation tank.
 - c. Respondent had not determined the maximum organic vapor pressure of the paint waste to be managed in the accumulation tank as required by 22 C.C.R. § 66264.1084(c)(1).
 - d. Respondent failed to inspect the air emission control equipment on the accumulation tank annually, as required by 22 C.C.R. § 66264.1084(c)(4)(B).
 - e. The records required to be maintained in accordance with 22 C.C.R. §§ 66264.1089(b)(1) and (2)(A) were not being maintained at the Facility.
 - f. The written plan and schedule required in 22 C.C.R. § 66264.1088(b) were not developed at the Facility.
35. Therefore, EPA alleges that Respondent has violated 22 C.C.R. §§ 66264.1084(c)(1) and (c)(4)(B); 66264.1088(b); 66264.1089(b)(1) and (b)(2)(A), and RCRA.

D. CIVIL PENALTY

36. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as adjusted by the Debt Collection Improvement Act of 1996 and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, authorizes a civil penalty of up to thirty-seven thousand, five hundred dollars (\$37,500) per day for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*, occurring after January 12, 2009. Based upon the facts alleged herein and upon those factors which EPA must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and the 2003 RCRA Civil Penalty Policy (“Penalty Policy”), including the seriousness of the violations, any good faith efforts by Respondent to comply with applicable requirements, and any economic benefit accruing to Respondent, as well as such other matters as justice may require, EPA proposes that Respondent be assessed SEVENTY-EIGHT THOUSAND FIVE HUNDRED SEVENTY DOLLARS (\$78,570.00) as the civil penalty for the violations alleged herein. The proposed penalties were calculated in accordance with the Penalty Policy.

E. ADMISSIONS AND WAIVERS OF RIGHTS

37. For the purposes of this proceeding and in accordance with 40 C.F.R. § 22.18, Respondent admits to the jurisdictional allegations set forth in Section B of this CA/FO and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.

38. Respondent neither admits nor denies any allegations of fact or law set forth in Section C of this CA/FO. Respondent hereby waives any rights Respondent may have to contest the allegations set forth in this CA/FO, waives any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CA/FO, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and hereby consents to the issuance of this CA/FO without adjudication. In addition, Respondent hereby waives any rights Respondent may have to appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

F. PARTIES BOUND

39. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until such time as the civil penalty required under Sections D and G has been paid in accordance with Section G, the Compliance Task required under Section H has been completed and any delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.
40. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
41. The undersigned representative of Respondent hereby certifies he or she is fully authorized to enter into this CA/FO, to execute and to legally bind Respondent to it.

G. PAYMENT OF CIVIL PENALTY

42. Respondent consents to the assessment of and agrees to pay a civil penalty of SEVENTY-EIGHT THOUSAND FIVE HUNDRED SEVENTY DOLLARS (\$78,570.00).
43. The parties agree that Respondent's payment of the civil penalty shall fully and finally resolve the federal civil penalty liability for violations alleged herein.
44. Respondent shall submit payment of the SEVENTY-EIGHT THOUSAND FIVE HUNDRED SEVENTY DOLLARS (\$78,570.00) civil penalty, plus interest, in accordance with the following schedule and with one of the options set forth below. Respondent shall submit payment of NINETEEN THOUSAND SIX HUNDRED FORTY-TWO DOLLARS AND FIFTY CENTS (\$19,642.50) within thirty (30) days from the Effective Date of this CA/FO, and three payments of NINETEEN THOUSAND SEVEN HUNDRED FORTY-TWO DOLLARS AND TWENTY-FIVE CENTS (\$19,742.25) each, within one-hundred and twenty

(120) days, two-hundred and ten (210) days, and three hundred (300) days, respectively, from the Effective Date of this CA/FO. The second through fourth payments contain interest amortized over the period of the payment plan. The total penalty, inclusive of interest, is SEVENTY-EIGHT THOUSAND EIGHT HUNDRED SIXTY-NINE DOLLARS AND THIRTY-NINE CENTS (\$78,869.39).

The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action.

Regular Mail:

Payment shall be made by certified or cashier's check payable to "Treasurer of the United States" and sent as follows:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:
Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
ATTN Box 979077
St. Louis, MO 63101

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
ABA = 051036706

Transaction Code 22 – checking
Environmental Protection Agency
Account 31006
CTX Format

On Line Payment:

This payment option can be accessed from the information below:
www.pay.gov
Enter “sfo1.1” in the search field
Open form and complete required fields

If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at 513-487-2091.

45. At the time payment is so made, a copy of the payment transmittal shall be sent to:

Regional Hearing Clerk (ORC-1)
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

and

Richard Francis
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street (ENF 2-2)
San Francisco, CA 94105

46. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), the payment must be received by the due dates set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.
47. Penalties specified in this CA/FO shall represent civil penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

H. DELAY IN PERFORMANCE/STIPULATED PENALTIES

48. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below:
FIVE HUNDRED DOLLARS (\$500) per day for first to fifteenth day of delay,
ONE THOUSAND DOLLARS (\$1,000) per day for sixteenth to thirtieth day of

delay, and TWO THOUSAND DOLLARS (\$2,000) per day for each day of delay thereafter.

49. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. § 13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.
50. All penalties shall be submitted as described in Paragraphs 44-45.
51. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
52. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of the stipulated penalties that have accrued pursuant to this CA/FO.
53. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this CA/FO.
54. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

I. CERTIFICATION OF COMPLIANCE

55. By signing this consent agreement, Respondent certifies under penalty of law to EPA that the Respondent is currently in compliance with RCRA Hazardous Waste Management requirements, 42 U.S.C. §§ 6921-6939e, and the federally authorized California hazardous waste management program including 22 C.C.R. § 66264.172 [*see also* 40 C.F.R. § 264.172]; 22 C.C.R. § 66264.1063(d) [*see also* 40 C.F.R. § 264.1063(d)]; 22 C.C.R. §§ 66264.1064(b)(1)(A)-(F) and (k) [*see also* 40 C.F.R. §§ 264.1064(b)(1)(i)-(vi) and (k)]; 22 C.C.R. §§ 66270.30(a) and (e) [*see also* 40 C.F.R. §§ 270.30(a) and (e)]; 22 C.C.R. §§ 66264.1084(c)(1) and (c)(4)(B) [*see also* 40 C.F.R. §§ 264.1084(c)(1) and (c)(4)(ii)]; 22 C.C.R. § 66264.1088(b) [*see also* 40 C.F.R. § 264.1088(b)]; and 22 C.C.R. §§ 66264.1089(b)(1) and (b)(2)(A) [*see also* 40 C.F.R. §§ 264.1089(b)(1) and (b)(2)(i)], which formed the basis for the violations alleged in this CA/FO. This certification of compliance is based upon true, accurate, and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

J. RESERVATION OF RIGHTS

56. EPA expressly reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO, except as to those civil penalties for the violations and facts alleged herein. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c). This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA (except as to those civil penalties for the violations and facts alleged herein); the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"); or any other statutory, regulatory or common law enforcement authority of the United States.
57. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, state, or federal laws and regulations.
58. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, State or federal permits.

K. OTHER CLAIMS

59. Nothing in this CA/FO shall constitute or be construed as a release from nor an admission by Respondents of any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.


L. MISCELLANEOUS

60. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
61. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

62. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.
63. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

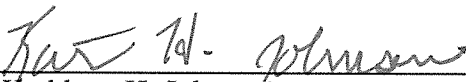
IT IS SO AGREED.

6/28/2016
Date



Michael A. Shlob
President
Crosby & Overton, Inc.

7/27/16
Date



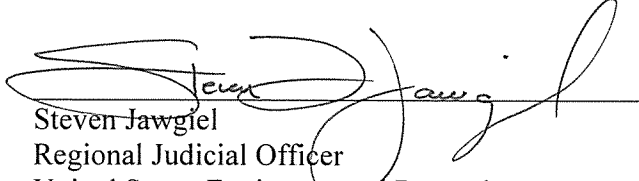
Kathleen H. Johnson
Director
Enforcement Division

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order ("CA/FO") Pursuant to 40 C.F.R. §§22.13 and 22.18 (U.S. EPA Docket No. RCRA-9-2016-0002) be entered and that Crosby & Overton, Inc., ("Respondent") pay a civil penalty of SEVENTY-EIGHT THOUSAND FIVE HUNDRED SEVENTY DOLLARS (\$78,570.00), plus interest, in four payments in accordance with the following schedule: (1) NINETEEN THOUSAND SIX HUNDRED FORTY-TWO DOLLARS AND FIFTY CENTS (\$19,642.50) is due within thirty (30) days from the Effective Date of this CA/FO; (2) three payments of NINETEEN THOUSAND SEVEN HUNDRED FORTY-TWO DOLLARS AND TWENTY-FIVE CENTS (\$19,742.25) are due within one-hundred and twenty (120) days, two-hundred and ten (210) days, and three hundred (300) days, respectively, from the Effective Date of this CA/FO. Payment must be made pursuant to Section G of the Consent Agreement.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

07/28/16
Date


Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of **Crosby and Overton, Inc. (Docket #: RCRA-09-2016-0002)** was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

A copy was mailed via CERTIFIED MAIL to:

Michael A. Shloub, President
Crosby and Overton, Inc.
1610 W. 17th St.
Long Beach, CA 90813

CERTIFIED MAIL NUMBER: 7000 0520 0025 3715 5374


And to:

John J. Allen, Esq.
Allen Matkins Leck Gamble Mallory & Natsis LLP
515 South Figueroa Street, 9th Floor
Los Angeles, CA 90071

CERTIFIED MAIL NUMBER: 7000 0520 0025 3714 2572

And additional copy was hand-delivered to the following U.S. EPA case attorney:

Xiao Zhang, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105


Steven Armsey
Acting Regional Hearing Clerk
U.S. EPA, Region IX

29 July 2016
Date