

**FILED**

**2012 JUL 16 AM 11:10**

**U.S. EPA, REGION IX  
REGIONAL HEARING CLERK**

1 NANCY J. MARVEL  
Regional Counsel  
2  
3 LETITIA D. MOORE  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
4 Region IX  
75 Hawthorne Street  
5 San Francisco, CA 94105  
(415)972-3928  
6

7 **UNITED STATES**  
8 **ENVIRONMENTAL PROTECTION AGENCY**  
9 **REGION IX**

10 **IN THE MATTER OF:**

11 )  
12 )  
13 )  
14 )  
15 )  
16 )  
17 )  
18 )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )  
26 )  
27 )  
28 )

**Docket No.**  
RCRA-09-2012-0010

**CONSENT AGREEMENT  
AND  
FINAL ORDER  
PURSUANT TO 40 C.F.R.  
SECTIONS 22.13 and 22.18**

15 **CONSENT AGREEMENT**

16 Complainant, the United States Environmental Protection Agency, Region IX  
17 ("Complainant" or "EPA"), and Respondents, Calpine CCFC GP, Inc., and Calpine Construction  
18 Finance Company, L.P., ("Respondents"), the parties herein, having agreed that settlement of this  
19 matter is in the public interest and that entry of this Consent Agreement and Final Order,  
20 pursuant to 40 C.F.R. Sections 22.13 and 22.18, ("CA/FO"), without further litigation is the most  
21 appropriate means of resolving this matter;

22 NOW, THEREFORE, Complainant and Respondents hereby agree as follows:

23 A. **PRELIMINARY STATEMENT**

24 1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1)  
25 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C.  
26 § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative  
27

1 Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits  
2 ("Consolidated Rules"), 40 C.F.R. Part 22. Complainant is the United States  
3 Environmental Protection Agency, Region IX. Respondent Calpine Construction Finance  
4 Company, L.P., is a limited partnership organized under the laws of the State of  
5 Delaware. Respondent Calpine CCFC GP, Inc., is a corporation organized under the laws  
6 of the State of Delaware, and the general partner for Respondent Calpine Construction  
7 Finance Company, L.P.

8 2. At the time of the violations alleged, Respondents were managing hazardous waste at the  
9 Sutter Energy Center facility located in Yuba City, California, EPA Identification  
10 Number CAR 000 207 746 (hereinafter referred to as the "Facility").

11 3. This CA/FO, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b), simultaneously commences  
12 and concludes this proceeding, wherein EPA alleges that Respondents managed  
13 hazardous waste in violation of the RCRA Hazardous Waste Management requirements,  
14 42 U.S.C. §§ 6921 - 6939e, the implementing regulations, and state regulations adopted  
15 pursuant to the federally authorized California hazardous waste management program.

16 4. EPA is enforcing California hazardous waste management program requirements as  
17 approved and authorized by the United States.

18 5. On August 1, 1992, the State of California received authorization to administer the  
19 hazardous waste management program in lieu of the federal program pursuant to Section  
20 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271. This authorization was  
21 updated on September 26, 2001 (*see* 66 Fed. Reg. 49118, September 26, 2001) and  
22 October 7, 2011 (*see* 76 Fed. Reg. 62303, October 7, 2011). The authorized program is  
23 established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of  
24 the California Health and Safety Code ("H&SC"), and the regulations promulgated  
25 thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R.  
26 §§ 66001 *et seq.* The State of California has been authorized for all the regulations

1 referenced in this CA/FO.<sup>1</sup>

2 6. Citations in this CA/FO are to California hazardous waste management program  
3 requirements, followed by the corresponding federal citations provided in brackets.

4 B. GENERAL ALLEGATIONS

5 7. Each Respondent is, and at all times referred to herein was, a "person" as defined in 22  
6 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].

7 8. Each Respondent was the "owner" or "operator" of a facility as defined in 22 C.C.R.  
8 § 66260.10 [*see also* 40 C.F.R. § 260.10] at the time of the violations alleged.

9 9. Each Respondent was a "generator" of "hazardous waste" as defined in 22 C.C.R.  
10 § 66260.10 [*see also* 40 C.F.R. § 260.10] at the time of the violations alleged.

11 10. Each Respondent was engaged in the "storage" of "hazardous waste" as defined in 22  
12 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10] at the time of the violations alleged.

13 11. At the Facility, each Respondent generated and accumulated materials that are "wastes"  
14 as defined in 22 C.C.R. §§ 66260.10 and 66261.2 [*see also* 40 C.F.R. §§ 260.10 and  
15 261.2 for definition of "solid waste"].

16 12. At the Facility, each Respondent generated and accumulated "hazardous waste" as  
17 defined in H&SC § 25117 and 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* RCRA  
18 Section 1004(5), 42 U.S.C. 6903(5), and 40 C.F.R. §§ 260.10 and 261.3].

19 13. Each Respondent generated and stored waste salt cake containing arsenic (D004).

20 14. Each Respondent is a large quantity generator ("LQG") of hazardous waste.

21 15. 22 C.C.R. § 66270.1(c) [*see also* 40 C.F.R. § 270.1(c)] requires that owners and operators

---

22  
23 <sup>1</sup> All citations to the "C.C.R." refer to Division 4.5 of Title 22 of the current California  
24 Code of Regulations. EPA is enforcing the California hazardous waste management program  
25 requirements as approved and authorized by the United States on August 1, 1992 (*see* 57 FR  
26 32726, July 23, 1992) and the Final Authorization of Revisions to the Hazardous Waste  
27 Management Program as approved and authorized by the United States on September 26, 2001  
(*see* 66 FR 49118, September 26, 2001). Citations to the federal regulations are included for  
informational purposes.

- 1 of a RCRA hazardous waste treatment, storage or disposal facility must have a permit.
- 2 16. 22 C.C.R. § 66262.34 [*see also* 40 C.F.R. § 262.34] provides that generators of hazardous  
3 waste may accumulate hazardous waste onsite for a limited period of time, without a  
4 permit or grant of interim status, provided the generator complies with the requirements  
5 which are set forth or referenced by 22 C.C.R. § 66262.34 [*see also* 40 C.F.R. § 262.34].
- 6 17. EPA alleges that failure to comply with the time limits or any of the requirements set  
7 forth in or referenced by 22 C.C.R. § 66262.34 [*see also* 40 C.F.R. § 262.34] subjects the  
8 generator to the permitting requirements of 22 C.C.R. § 66270.1(c) [*see also* 40 C.F.R.  
9 § 270.1].
- 10 18. On July 31, 2009, EPA conducted a RCRA Compliance Evaluation Inspection (“CEI”) at  
11 the Facility.
- 12 19. Based upon the findings EPA made during the inspection and additional information  
13 obtained subsequent to the inspection, EPA alleges that each Respondent violated the  
14 RCRA Hazardous Waste Management requirements, 42 U.S.C. §§ 6921 – 6939e, and the  
15 implementing regulations, and the federally authorized California hazardous waste  
16 management program, 22 C.C.R. Division 4.5, and the implementing regulations, at the  
17 Facility.
- 18 20. Specifically, EPA alleges that each Respondent failed to maintain and operate the Facility  
19 to minimize the possibility of a release of hazardous waste or hazardous waste  
20 constituents to air, soil or surface water in violation of 22 C.C.R. §§ 66265.31.
- 21 21. Under Section 3006 of RCRA, 42 U.S.C. § 6926, violations of the State of California’s  
22 authorized RCRA Hazardous Waste Management Program are federally enforceable.  
23 Respondent is therefore subject to the powers vested in the EPA Administrator by Section  
24 3008 of RCRA, 42 U.S.C. § 6928.
- 25 22. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue  
26 orders assessing a civil penalty for any past or current violation, or requiring compliance  
27

1 immediately or within a specified time for violation of any requirement of Subtitle C of  
2 RCRA, Sections 3001 - 3023 of RCRA, 42 U.S.C. §§ 6921 - 6939e.

3 23. Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), provides that when a violation of  
4 Subtitle C of RCRA occurs in a state which has been authorized under Section 3006 of  
5 RCRA, 42 U.S.C. § 6926, the Administrator must notify an authorized state prior to  
6 issuing an order under Section 3008 of RCRA in that state. EPA notified the State of  
7 California as required by Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

8 24. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA  
9 Regional Administrator for Region IX, who has redelegated this authority to the Director  
10 of the Waste Management Division.

11 C. ALLEGED VIOLATIONS

12 COUNT I

13 (Failure to Minimize Release of Hazardous Waste)

14 25. Paragraphs 1 through 24 above are incorporated herein by this reference as if they were  
15 set forth here in their entirety.

16 26. 22 C.C.R. § 66262.34(a) [*see also* 40 C.F.R. § 262.34(a)] provides that generators of  
17 hazardous waste may accumulate hazardous waste onsite for up to 90 days, without a  
18 permit or grant of interim status.

19 27. 22 C.C.R. §66262.34(a)(4) [*see also* 40 C.F.R. §262.34(a)(4)] requires that large and  
20 small quantity generators who accumulate hazardous waste onsite without a permit or  
21 grant of interim status comply with the requirements of 22 C.C.R. § 66265.31 [*see also*  
22 40 C.F.R. § 265.31].

23 28. 22 C.C.R. § 66265.31 [*see also* 40 C.F.R. § 265.31] requires that all hazardous waste  
24 facilities be maintained and operated to minimize the possibility of a release of hazardous  
25 waste or hazardous waste constituents to air, soil or surface water.

1 29. Hazardous waste records from the Facility show that hazardous waste was accumulated  
2 onsite in 2007, 2008 and 2009.

3 30. Neither Respondent has a permit or grant of interim status to treat, store or dispose of  
4 hazardous waste under 22 C.C.R. § 66270.1(c) [*see also* 40 C.F.R. § 270.1] at the  
5 Facility.

6 31. On July 31, 2009, an EPA inspector observed, at the Facility, a thin layer of salt cake  
7 containing arsenic on the entire floor of the baghouse building and outside the baghouse  
8 building.

9 32. In December 2009, Respondents completed installation of corrective measures at the  
10 Facility to control the release of the salt cake.

11 33. Respondents' failure to maintain and operate the Facility to minimize the release of  
12 hazardous waste violated 22 C.C.R. § 66265.31 [*see also* 40 C.F.R. § 265.31] .

13 D. CIVIL PENALTY

14 34. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as amended by the Debt Collection  
15 Improvement Act of 1996, 40 C.F.R. Part 19, authorizes a civil penalty of up to  
16 THIRTY-SEVEN THOUSAND AND FIVE HUNDRED DOLLARS (\$37,500) per day  
17 for each violation of Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*

18 35. Based upon the facts alleged herein and upon those factors which EPA must consider  
19 pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and the RCRA Civil  
20 Penalty Policy, including the seriousness of the violations, any good faith efforts by  
21 Respondent to comply with applicable requirements, and any economic benefit accruing  
22 to Respondent, as well as such other matters as justice may require, EPA proposes that  
23 Respondent be assessed **THIRTEEN THOUSAND AND FIVE HUNDRED**  
24 **DOLLARS (\$13,500)** as the civil penalty for the violations alleged herein. The proposed  
25 penalty is consistent with the "RCRA Civil Penalty Policy," dated June 2003, as adjusted  
26  
27

1 by the Debt Collection Improvement Act.

2 E. ADMISSIONS AND WAIVERS

3 36. For the purposes of this proceeding, each Respondent admits to the jurisdictional  
4 allegations set forth in Sections A and B of this CA/FO. Each Respondent consents to  
5 and agrees not to contest EPA's jurisdiction and authority to enter into and issue this  
6 CA/FO and to enforce its terms. Further, neither Respondent will contest EPA's  
7 jurisdiction and authority to compel compliance with this CA/FO in any enforcement  
8 proceedings, either administrative or judicial, or to impose sanctions for violations of this  
9 CA/FO.

10 37. Neither Respondent admits nor denies any allegations of fact or law set forth in Section C  
11 of this CA/FO. Each Respondent hereby waives any rights Respondent may have to  
12 contest the allegations set forth in this CA/FO, waives any rights Respondent may have to  
13 a hearing on any issue relating to the factual allegations or legal conclusions set forth in  
14 this CA/FO, including without limitation a hearing pursuant to Section 3008(b) of RCRA,  
15 42 U.S.C. § 6928(b), and hereby consents to the issuance of this CA/FO without  
16 adjudication. In addition, each Respondent hereby waives any rights Respondent may  
17 have to appeal the Final Order attached to this Consent Agreement and made part of this  
18 CA/FO.

19 F. PARTIES BOUND

20 38. This CA/FO shall apply to and be binding upon each Respondent and its agents,  
21 successors and assigns and upon all persons acting under or for Respondent, until such  
22 time as the civil penalty required under Section D has been paid in accordance with  
23 Section G, all compliance tasks have been completed, and any delays in performance  
24 and/or stipulated penalties have been resolved. At such time as those matters are  
25 concluded, this CA/FO shall terminate and constitute full settlement of the civil  
26  
27

1 violations alleged herein.

2 39. No change in ownership or corporate, partnership or legal status relating to the Facility  
3 will in any way alter any Respondent's obligations and responsibilities under this CA/FO.

4 40. The undersigned representative of each Respondent hereby certifies that he is fully  
5 authorized by Respondent to enter into this CA/FO, to execute and to legally bind each  
6 Respondent.

7 G. COMPLIANCE TASKS

8 41. No additional corrective measures or compliance tasks are required to address the  
9 violation alleged in this CA/FO.

10 H. PAYMENT OF CIVIL PENALTY

11 42. Each Respondent hereby consents to the assessment of a civil penalty in the amount of  
12 **THIRTEEN THOUSAND AND FIVE HUNDRED DOLLARS (\$13,500)** in  
13 settlement of the civil penalty claims of the United States for the violations of the  
14 federally authorized California hazardous waste management program established  
15 pursuant to the California Hazardous Waste Control Law, Chapter 6.5 of Division 20 of  
16 the California H&SC, and 22 C.C.R. § 66265.31 [*see also* 40 C.F.R. § 265.31], as alleged  
17 in Section C above.

18 43. Respondents shall submit payment of the civil penalty of **THIRTEEN THOUSAND**  
19 **AND FIVE HUNDRED DOLLARS (\$13,500)** within thirty (30) calendar days of the  
20 Effective Date of this CA/FO. The Effective Date of this CA/FO is the date that the Final  
21 Order contained in this CA/FO, having been approved and issued by either the Regional  
22 Judicial Officer or Regional Administrator, is filed.

23 44. Respondents shall submit the payment due under this CA/FO in accordance with one of  
24 the options set forth below, and shall reference each Respondent's name and the docket  
25 number of this matter:

- 1 a. A check sent by regular U.S. Postal Service mail should be made payable to the  
2 "Treasurer, United States of America" and addressed to:

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

- 8 b. Wire transfers should be directed to the Federal Reserve Bank of New York as  
9 follows:

10 Federal Reserve Bank of New York  
11 ABA: 021030004  
12 Account Number: 68010727  
13 SWIFT address: FRNYUS33  
14 33 Liberty Street  
15 New York NY 10045  
16 Field Tag 4200 of the Fedwire message should read:  
17 "D 68010727 Environmental Protection Agency".

- 18 c. A check sent by overnight mail should be payable to the "Treasurer, United States  
19 of America" and addressed to:

20 U.S. Bank  
21 1005 Convention Plaza  
22 Mail Station SL-MO-C2GL  
23 St. Louis, MO 63101  
24 Contact: Natalie Pearson, 314-418-4087

- 25 d. An On Line Payment Option for payments directly from your bank account or by  
26 credit/debit card is available through the U.S. Department of Treasury. To use  
27 this payment option, access [www.pay.gov](http://www.pay.gov), enter "sfo 1.1" in the Public Forms  
28 search field, open the form, and complete the required fields.

See also, [http://www.epa.gov/ocfo/finservices/payment\\_instructions.htm](http://www.epa.gov/ocfo/finservices/payment_instructions.htm).

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

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

and

1 Christopher Rollins (WST-3)  
2 Waste Management Division  
3 U.S. Environmental Protection Agency - Region IX  
4 75 Hawthorne Street  
5 San Francisco, CA 94105

4 46. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM  
5 6-8000), the payment must be received within thirty (30) calendar days of the effective  
6 date of this CA/FO to avoid additional charges. If payment is not received within thirty  
7 (30) calendar days, interest will accrue from the effective date of this CA/FO at the  
8 current rate published by the United States Treasury as described at 40 C.F.R. §13.11(a).  
9 Additionally, administrative costs for collecting the overdue debt will be assessed  
10 monthly and a monthly penalty charge will be assessed at a rate of 6% per annum on any  
11 principal amount not paid within ninety (90) calendar days of the due date. See 40 C.F.R.  
12 §13.11(b) and (c). Furthermore, Respondents will be liable for stipulated penalties as set  
13 forth below for any payment not received by its due date.

14 47. The penalties specified in this CA/FO shall represent civil penalties assessed by EPA and  
15 shall not be deducted by Respondent or any other person or entity for federal, state, or  
16 local taxation purposes.

17 I. DELAY IN PERFORMANCE AND STIPULATED PENALTIES

18 48. In addition to the interest and per annum penalties described above, in the event that  
19 Respondents fail to pay the full amount of the penalty within the time specified in  
20 Section G, Respondents agree to pay Complainant a stipulated penalty in the amount of  
21 up to TEN THOUSAND DOLLARS (\$10,000.00) for each day the default continues.

22 49. All penalties shall begin to accrue on the date that performance is due or a violation  
23 occurs, and shall continue to accrue through the final day of correction of the  
24 noncompliance. Nothing herein shall prevent the simultaneous accrual of separate  
25 penalties for separate violations.

1 50. All penalties owed to EPA under this Section shall be due within thirty (30) days of  
2 receipt of a notification of noncompliance. Such notification shall describe the  
3 noncompliance and shall indicate the amount of penalties due. Interest at the current rate  
4 published by the United States Treasury, as described at 40 C.F.R. § 13.11, shall begin to  
5 accrue on the unpaid balance at the end of the thirty-day period.

6 51. All penalties under this Section shall be made payable by certified or cashier's check to  
7 "Treasurer of the United States" and shall be remitted to:

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

13 52. All payments shall indicate the name of the Facility, any EPA identification number of  
14 the Facility, Respondent's name and address, and the EPA docket number of this action.  
15 At the time payment is made, Respondents shall send a copy of the payment transmittal  
16 to:

17 Christopher Rollins (WST-3)  
18 Waste Management Division  
19 U.S. Environmental Protection Agency - Region IX  
20 75 Hawthorne Street  
21 San Francisco, CA 94105

22 53. The payment of stipulated penalties shall not alter in any way Respondents' obligation to  
23 complete the performance required hereunder.

24 54. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any  
25 other remedies or sanctions which may be available to EPA by reason of any  
26 Respondent's failure to comply with any of the requirements of this CA/FO.

27 J. CERTIFICATION OF COMPLIANCE

28 55. Upon signing this CA/FO, each Respondent certifies under penalty of law to EPA that the  
Respondent has fully complied with the requirements of the federally authorized

1 California hazardous waste management program, including 22 C.C.R. § 66265.31 [*see*  
2 *also* 40 C.F.R. § 265.31], that formed the basis for the violations alleged in this CA/FO.

3 56. This certification of compliance is based upon true, accurate, and complete information  
4 which the signatory can verify personally or regarding which the signatory has inquired of  
5 the person or persons directly responsible for gathering the information.

6 K. RESERVATION OF RIGHTS

7 57. EPA expressly reserves all rights and defenses that it may have.

8 58. Except as otherwise set forth above in paragraph 38, EPA hereby reserves all of its  
9 statutory and regulatory powers, authorities, rights and remedies, both legal and equitable,  
10 including the right to require that each Respondent perform tasks in addition to those  
11 required by this CA/FO. EPA further reserves all of its statutory and regulatory powers,  
12 authorities, rights and remedies, both legal and equitable, which may pertain to any  
13 Respondent's failure to comply with any of the requirements of this CA/FO, including  
14 without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42  
15 U.S.C. § 6928(c).

16 59. Except as otherwise set forth above in paragraph 38, this CA/FO shall not be construed as  
17 a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or  
18 authorities, civil or criminal, which EPA has under RCRA, the Comprehensive  
19 Environmental Response, Compensation and Liability Act of 1980, as amended, or any  
20 other statutory, regulatory or common law enforcement authority of the United States.

21 60. Compliance by Respondents with the terms of this CA/FO shall not relieve any  
22 Respondent of its obligations to comply with any applicable local, state, or federal laws  
23 and regulations.

24 61. The entry of this CA/FO and Respondents' consent to comply shall not limit or otherwise  
25 preclude EPA from taking additional enforcement actions should EPA determine that  
26  
27

1 such actions are warranted except as they relate to Respondents' liability for federal civil  
2 penalties for the specific alleged violation and facts as set forth in Sections B and C of  
3 this CA/FO.

4 62. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does  
5 not relieve any Respondent of any obligation to obtain and comply with any applicable  
6 local, state, or federal permits. Compliance by Respondents with the terms of this CA/FO  
7 shall not relieve any Respondent of any obligations to comply with RCRA or any other  
8 applicable local, state, or federal laws and regulations.

9 L. OTHER CLAIMS

10 63. Nothing in this CA/FO shall constitute or be construed as a release from any other claim,  
11 cause of action or demand in law or equity by or against any person, firm, partnership,  
12 entity or corporation for any liability it may have arising out of or relating in any way to  
13 the generation, storage, treatment, handling, transportation, release, or disposal of any  
14 hazardous constituents, hazardous substances, hazardous wastes, pollutants, or  
15 contaminants found at, taken to, or taken from the Facility.

16 M. MISCELLANEOUS

17 64. This CA/FO may be amended or modified only by written agreement executed by EPA  
18 and each Respondent.

19 65. The headings in this CA/FO are for convenience of reference only and shall not affect  
20 interpretation of this CA/FO.

21 66. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this  
22 proceeding.

23 N. EFFECTIVE DATE

24 67. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective  
25 on the date that the Final Order contained in this CA/FO, having been approved and  
26  
27

1 issued by either the Regional Judicial Officer or Regional Administrator, is filed.

2  
3 **IT IS SO AGREED,**

4  
5 For Respondent **CALPINE CCFC GP, INC.**

6  
7 6/21/2012

W Thaddeus Miller

8 Date

9 W. Thaddeus Miller  
Chief Legal Officer  
Calpine CCFC GP, Inc.

10  
11 For Respondent **CALPINE CONSTRUCTION FINANCE COMPANY, L.P.**

12  
13 6/21/2012

W Thaddeus Miller

14 Date

15 W. Thaddeus Miller  
Chief Legal Officer  
Calpine CCFC GP, Inc., General Partner

16  
17  
18  
19 For Complainant **U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IX**

20  
21 7/11/12

Jeff Scott

22 Date

23 Jeff Scott  
Director  
Waste Management Division  
United States Environmental Protection Agency,  
Region IX

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

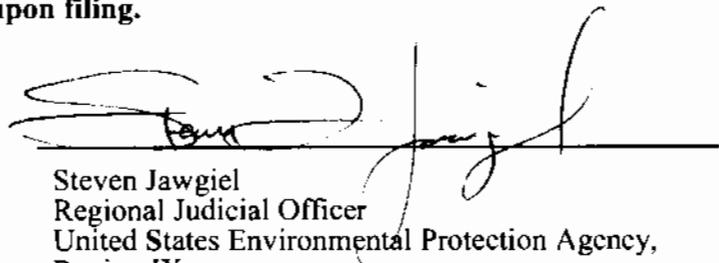
**FINAL ORDER**

**IT IS HEREBY ORDERED** that this Consent Agreement and Final Order ((U.S. EPA Docket No. RCRA-09-2012-0010) be entered and that Respondents pay a civil penalty in the amount of **THIRTEEN THOUSAND AND FIVE HUNDRED DOLLARS (\$13,500)** within thirty (30) days after the Effective Date of this Consent Agreement and Final Order, in accordance with the term of this Consent Agreement and Final Order. A copy of the payment transmittal shall be sent to the EPA Region IX addresses specified in Section G of this Consent Agreement and Final Order within such 30-day period.

**This Final Order shall be effective upon filing.**

07/13/12

Date

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

## CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing Consent Agreement and Final Order in the matter of Calpine CCFC GP, Inc., and Calpine Construction Finance Company, L.P., has been filed with the Regional Hearing Clerk, Region IX, and that copies have been sent

by Certified Mail, Return Receipt Requested, to:

W. Thaddeus Miller  
Chief Legal Officer  
Calpine CCFC GP, Inc.  
717 Texas Avenue, Suite 1000  
Houston, TX 77002

Certified Mail No.

by Regular Mail to:

Kerry E. Shea  
Davis Wright Tremaine LLP  
505 Montgomery Street, Suite 800  
San Francisco, CA 94111-6533

by Hand Delivery to:

Letitia D. Moore  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

7/16/12  
Date

  
Bryan Goodwin  
Regional Hearing Clerk



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

Certified Mail No. 7011 1570 0003 5224 1867  
Return Receipt Requested

In reply, refer to WST-3

JUL 16 2012

Mr. W. Thaddeus Miller  
Chief Legal Officer  
Calpine CCFC GP, Inc.  
717 Texas Avenue, Ste. 1000  
Houston, TX 77002

Re: Consent Agreement and Final Order  
In the Matter of Calpine CCFC GP, Inc.,  
and Calpine Construction Finance Company, L.P.

Dear Mr. Miller:

Please find enclosed the final executed Consent Agreement and Final Order (CA/FO) negotiated between the United States Environmental Protection Agency, Region IX (EPA), and Calpine CCFC GP, Inc., and Calpine Construction Finance Company, L.P. (Calpine).

This CA/FO sets out the terms for resolution of the Resource Conservation and Recovery Act (RCRA) administrative civil penalty action against Calpine for alleged violations of hazardous waste management requirements at the Sutter Energy Center facility in Yuba City, California.

Calpine's full compliance with the payment terms of this CA/FO and completion of all tasks in accordance with the terms of this CA/FO will close this case. If you have any questions regarding the RCRA requirements and regulations governing your operations or the rules which govern the proceedings terminated by the enclosed document, please contact Christopher Rollins of my staff at (415) 947-4166, or Letitia Moore, in the Office of Regional Counsel, at (415) 972-3928.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Scott".

Jeff Scott, Director  
Waste Management Division

Enclosure