



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

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December 10, 2021

9:50 AM

DOCKET NO.: RCRA-08-2022-0002

Received by  
EPA Region VIII  
Hearing Clerk

IN THE MATTER OF:

CLEAN HARBORS ARAGONITE, LLC

RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA’s Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon filing this Consent Agreement and Final Order.

SO ORDERED THIS 10th DAY OF December, 2021.

KATHERIN  
HALL

Digitally signed by  
KATHERIN HALL  
Date: 2021.12.10  
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Katherin E. Hall  
Regional Judicial Officer

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

December 10, 2021

9:50 AM

**IN THE MATTER OF:**

Clean Harbors Aragonite, LLC  
11600 North Aptus Road  
Grantsville, UT 84029,  
  
Respondent.

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Docket No. RCRA-08-2022-0002

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**CONSENT AGREEMENT**

Complainant, United States Environmental Protection Agency Region 8 (Complainant), and Respondent Clean Harbors Aragonite, LLC (Respondent), by their undersigned representatives, hereby consent and agree as follows.

**I. INTRODUCTION**

1. This administrative proceeding is governed by the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules of Practice), Part 22 of Title 40 of the Code of Federal Regulations (40 C.F.R. Part 22).
2. Complainant and Respondent agree that entry of this consent agreement (Agreement) and its incorporation into a final order without further litigation and without adjudication of any issue of fact or law will avoid prolonged and potentially complicated litigation between the parties, and Complainant has concluded that this settlement is in the public interest.
3. This Agreement is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3), and 22.37(b).

## II. JURISDICTION

4. Pursuant to section 3006 of the Solid Waste Disposal Act, as amended by, *inter alia*, the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6926, the State of Utah's hazardous waste program was authorized to operate in lieu of the federal program on October 10, 1984. 49 Fed. Reg. 39683. The EPA has authorized revisions to the State of Utah's hazardous waste program a number of times since; most recently on March 7, 2008. 73 Fed. Reg. 12277 (regulations submitted by Utah dated September 30, 2003). All references to the State of Utah's authorized regulations are to the September 30, 2003 version, except where specifically noted.
5. Pursuant to Section 3008(a) of RCRA, the EPA may enforce federally-authorized state hazardous waste program requirements. EPA, therefore, has jurisdiction over this matter pursuant to section 3008(a), 42 U.S.C. § 6928(a) (Section 3008(a) of RCRA).
6. This Agreement is issued pursuant to Section 3008(a) of RCRA.
7. The Regional Judicial Officer for EPA Region 8 is authorized to approve this Agreement and incorporate it into a final order pursuant to 40 C.F.R. §§ 22.4(b) and 22.18(b).
8. Notification of this action has been given to the Utah Department of Environmental Quality (UDEQ) pursuant to section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
9. For purposes of this settlement only, Respondent admits the jurisdictional allegations contained herein and neither admits nor denies EPA's specific factual allegations and legal conclusions contained herein.
10. This Agreement contains all civil penalty and compliance settlement terms agreed to by the parties.
11. Respondent waives its rights to a hearing before any tribunal to contest any issue of law or fact set forth in this Agreement in any proceeding to enforce this Agreement and Final Order.

### **III. GENERAL ALLEGATIONS**

12. Respondent is organized under the laws of the State of Delaware and authorized to do business in the State of Utah (State).
13. Respondent is a "person" as defined at section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
14. Respondent owns and operates a hazardous waste treatment, storage and disposal facility located at 11600 North Aptus Road, Grantsville, UT 84029 (Facility).
15. The Facility is a "facility" as defined at 40 C.F.R. § 260.10, incorporated by reference at Utah Admin. Code R315-1-1(b).
16. On September 28, 2012, UDEQ, issued Hazardous Waste Treatment, Storage and Transfer Permit No. UTD981552177 to Clean Harbors Aragonite, LLC (Permit), which authorizes Respondent to treat, store and dispose of hazardous waste at the Facility. The Permit is effective until September 28, 2022.
17. On August 14-19, 2018, and September 10-12, 2019, EPA representatives inspected the Facility to evaluate Respondent's compliance with the hazardous waste air emission requirements in the Permit. The reports for each inspection were shared with Respondent.
18. In response to EPA requests, Respondent submitted additional information on September 14, 2018; December 7, 2018; September 20, 2019; and September 27, 2019. Respondent also provided responses to the inspection reports on June 24, 2019; and November 1, 2019.

### **IV. ALLEGED VIOLATIONS**

19. Permit Condition 4.B.8 and Permit Attachment 8, Section 6.2 require that Respondent monitor pumps in light liquid service and valves in gas/vapor service or in light liquid service on a monthly or quarterly basis using EPA Method 21.

20. Respondent has purged the pumps and valves associated with the Corrosives Unit, and the Blended Waste Feed, Aqueous Waste Feed, and Sludge Waste Feed operations with nitrogen gas prior to conducting EPA Method 21 monitoring in violation of EPA Method 21 and the Permit.
21. Permit Condition 4.B.8 and Permit Attachment 8, Section 6.2, require that Respondent equip each open-ended valve that contains or contacts hazardous waste with organic concentrations of at least 10 percent by weight with a cap, blind flange, plug or a second valve.
22. During the August 2018 inspection, the EPA observed that an open-ended line in the carbon treatment unit area and 24 open-ended valves associated with the carbon canister system did not have a cap, blind flange, plug or second valve in violation of the Permit.
23. Respondent installed caps on the open-ended valves during the August 2018 inspection.
24. Permit Condition 4.B.8 and Permit Attachment 8, Section 6.2, require that Respondent operate rupture disks located on each Tank Farm tank and the large sludge tank so that each rupture disk achieves a standard of no detectable emissions within five days of a pressure release.
25. During the August 2018 inspection, rupture disks identified as T306-F006, T307-F006 and T308-F006 were observed and measured to be operating above the no detectable emissions standard and there was no evidence of a pressure release in the preceding five days. During the September 2019 inspection, rupture disk T304-F006 was observed and measured to be operating above the no detectable emissions standard and there was no evidence of a pressure release in the preceding five days. During the inspections these rupture disks were operating above the no detectable emissions standard in violation of the Permit.

26. Permit Condition 4.B.8 and Permit Attachment 8, Section 6.4 require Respondent to record in a database the date when a first attempt at repair is made on Regulated Equipment and the date the repair is completed. The term “Regulated Equipment” as used in this Agreement is defined in Permit Attachment 8, Section 6.0, unless otherwise specifically stated.
27. For at least 12 instances, Respondent did not record the date of first attempt at repair and the date the repair was completed in its database or in its maintenance work orders in violation of the Permit.
28. Permit Condition 4.B.6 requires that Respondent maintain and operate the Facility in a manner that minimizes the possibility of fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air. In addition, Permit Condition 4.B.5 requires that Respondent maintain the tank systems and ancillary equipment in good repair.
29. During the August 2018 inspection, 12 pressure relief devices (PRDs) connected to the closed vent system were observed and measured by the EPA to have emissions greater than 500 parts per million (ppm). The EPA also observed and measured emissions greater than 10,000 ppm from five connectors.
30. During the September 2019 inspection, 10 PRDs were observed and measured by the EPA to have emission greater than 500 ppm. The EPA also observed and measured emissions greater than 10,000 ppm from one connector.
31. Respondent is in violation of Permit Condition 4.B.6 by failing to maintain and operate the Facility to prevent any sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air.

32. Permit Condition 4.B.8 and Permit Attachment 8, Sections 6.1 and 6.4, require that Respondent record the date of each inspection of Regulated Equipment, record information about defects found, including location, a description of the defect, and the corrective action taken to repair the defect.
33. On August 15, 2018, the EPA observed at least seven components with leak tags dated August 15, 2018. Leak detection and repair (LDAR) records subsequently provided by Respondent did not include entries for inspections, defect identification, or the dates repair actions were taken for these seven pieces of Regulated Equipment in violation of the Permit.
34. Permit Condition 1.J requires that Respondent ensure its personnel are adequately trained so that Respondent is properly operating and maintaining its facility at all times.
35. Respondent's records indicate that between December 2015 and November 2018, Respondent monitored 7079 components at the Tank Farm and identified 38 components as having emissions, for a leak rate of 0.54%. Between August 14-17, 2018, inspectors identified 23 leaking components at the Tank Farm out of 566 monitored, for a leak rate of 4.1%.
36. Respondent's records indicate that between November 2018 and October 2019, Respondent monitored 454 components at the Tank Farm and identified two components as having emissions, for a leak rate of 0.44%. Between September 10-12, 2019, the EPA identified 13 leaking components at the Tank Farm out of 379 monitored, for a leak rate of 3.4%.
37. Respondent has violated Permit Condition 1.J by failing to adequately train its employees to conduct accurate Method 21 monitoring.
38. Permit Condition 4.B.8 and Permit Attachment 8, Section 6.2 require that Respondent monitor Regulated Equipment using EPA Method 21. Section 6.1 of EPA Method 21 requires

that monitoring be conducted with a device that responds effectively to the constituents being monitored.

39. Respondent conducts Method 21 monitoring with a device that does not respond effectively to the constituents being monitored as required by the Permit.

40. Permit Condition 4.B.8 and Permit Attachment 8, Section 6.3 require that Respondent repair equipment leaks within 15 days.

41. During the September 2019 inspection, the EPA identified three pieces of Regulated Equipment that had emissions greater than 10,000 ppm measured using EPA Method 21 that the EPA had also identified as having emissions greater than 10,000 ppm during the August 2018 inspection.

42. Respondent failed to repair 3 equipment leaks within 15 days as required by the Permit.

## V. COMPLIANCE ORDER

43. Respondent consents and agrees to implement the following compliance requirements.

44. **Transmittal of Notices, Documents and Reports.** Respondent shall transmit, or ensure the transmittal of, all notices, documents or reports required to be submitted to the EPA pursuant to this Agreement via email to the maximum extent possible.

45. **Certification.** In all notices, documents or reports submitted to the EPA pursuant to this Agreement, Respondent shall, by signature of a senior management official, certify such notices, documents and reports as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering such information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant



penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

46. **Requests for Extension of Time.** Respondent may request in writing that EPA extend any deadline set forth in this Compliance Order. EPA will make a determination on any such request at its sole discretion depending on the totality of the circumstances at that time. Respondent shall include all information relating to Respondent's conclusion that the requested extension is warranted, and the certification set forth in paragraph 45 above. EPA's agreement to extend any deadline shall not be unreasonably withheld and EPA will communicate its decision to Respondent in writing and as expeditiously as possible.
47. **Flame Ionization Detector.** No later than 180 days after the effective date of this agreement (as defined in paragraph 67 below, (Effective Date)), Respondent will purchase and use a flame ionization detector (FID) to conduct EPA Method 21 monitoring of Regulated Equipment at the Facility. (The term "Regulated Equipment" as used in this Agreement is defined in Permit Attachment 8, Section 6.0, unless otherwise specifically stated.) No later than 14 days after receipt of the FID, Respondent must notify the EPA contact below of receipt of the FID, and include make/model and serial number information in the notification.
48. **Regulated Equipment Monitoring.** Unless otherwise required by the Permit to monitor more frequently, Respondent will monitor Regulated Equipment quarterly for eight consecutive quarters after entry of the final order. Because of nationwide and local hiring issues, the first quarter for this requirement will be January – March 2022.
49. **Training.** Starting in the first quarter of Calendar year 2022, and annually thereafter, Respondent will conduct training on EPA Method 21 and its LDAR program. New employees engaging in Method 21 monitoring cannot monitor without supervision until such training is

completed. Respondent will keep records for each training, including trainer(s), copies of materials used and attendees and make training records available promptly upon request.

50. **Leak Detection and Repair Program Document.** No later than 90 days after the Effective Date, Respondent will update a Facility-wide Leak Detection and Repair (LDAR) program document that describes how Facility personnel plan to implement the Facility LDAR program, including:

- a) a tracking program to manage and track changes to Regulated Equipment that ensures equipment is integrated into or removed from the LDAR program as appropriate,
- b) monitoring frequency and emission limits for each piece of Regulated Equipment, and
- c) the roles and responsibilities of personnel implementing the program and the training each will receive.

51. To confirm completion of the first iteration of the updated document, Respondent will transmit a copy of the Facility-wide LDAR program document to the EPA contact below no later than 14 days after the program document is updated, and in no event, later than 104 days after the Effective Date.

52. **Valve, Pressure Relief Device/Valve, and Connector Replacement and Improvement Program.** No later than 180 days after the Effective Date, Respondent will implement a Valve, Pressure Relief Device/Valve, and Connector Replacement and Improvement Program (Replacement and Improvement Program) as follows.

- a) All Permit requirements not directly addressed in this Program remain in full force and effect, except as they may otherwise be affected by the terms of this Agreement.
- b) The Replacement and Improvement Program runs for five years from the start date of the Program, and detailed reports on all Program activities are to be submitted annually to the EPA contact named below within 30 days of the end of each year of the Program. (Records also must be kept in the LDAR tracking program as required by the Permit and LDAR program document.)

- c) Respondent will develop and maintain a list of each existing valve, connector, pressure relief device and pressure release valve. Pressure release devices and pressure release valves are referred to herein as PRDs. The term Subject Equipment, as used herein, includes all equipment listed in this subparagraph and includes new such equipment as it comes on-line. The list will contain relevant information, including:
  - i) tag numbers and/or other unique identifiers, and
  - ii) information on the related unit (*e.g.*, the tank where the Subject Equipment is located), and other information that ties it to the Facility diagram.
- d) Replacement, repacking or improvement of chronically leaking Subject Equipment is required using Low-E equipment, if Low-E types of such equipment are available, when any piece of Subject Equipment is monitored at or above 500 ppm twice in any 2-year period.
  - i) After the first instance when a piece of Subject Equipment is monitored at or above 500 ppm but below 10,000 ppm, the Respondent shall make a first attempt at repair within 5 days of the monitoring event, unless the Permit requires Respondent to conduct repairs.
  - ii) Repair verification monitoring or monitoring conducted while the equipment is on delay of repair shall not count as a monitoring event for purposes of this paragraph.
  - iii) After a piece of Subject Equipment is properly replaced or repacked with Low-E equipment, that equipment no longer is subject to this program, but should be retained on the master list.
- e) Replacement, repacking, or improvement (required work) must be completed by no later than 30 days after the monitoring event triggering the requirement, except under the following circumstances.
  - i) Where required work for a valve does not require a unit shutdown, delay of required work beyond 30 days is permissible only under the following circumstances.
    - (1) Prior to the 30-day deadline, all necessary actions must be taken to obtain the required parts and associated materials as expeditiously as practicable. Documentation of the actions taken and the date of each such action shall be maintained and made available to the state or EPA on request.
    - (2) If the required equipment and associated materials are not available in time to complete the installation within 30 days, all reasonable actions must be taken to minimize emissions pending completion of the required work. Examples include: (A) more frequent monitoring, with additional repairs as needed; or (B) where practical, interim replacing or repacking with equipment that is expected to leak less; and

- (3) the required work is completed as quickly as possible after receipt of the equipment and necessary associated materials.
- ii) If required work requires a unit shutdown, the work shall be completed during the first shutdown following the monitoring event triggering the requirement, unless:
  - (1) insufficient time to obtain the required equipment and all necessary associated materials existed between the monitoring event and the shutdown, the circumstances are documented at that time, and the documentation is maintained; and
  - (2) the equipment is replaced at the next unit shutdown.
- f) Valve Replacement and Repair Before each newly installed or reinstalled (e.g., after repacking) valve is placed into service, the equipment's packing gland nuts or their equivalent (e.g., pushers) will be tightened to:
  - i) the manufacturer's recommended gland nut or packing torque; or
  - ii) any appropriate tightness that will minimize the potential for leaks of any magnitude.
- g) Each new valve and each repacked valve, except those serving as a closure device on an open-ended line, shall either be a "Low-E" valve, or fitted with Low-E packing, unless:
  - i) the work is being done in response to an emergency, or other circumstances requiring immediate installation and no such Low-E equipment is on hand;
  - ii) low E valves or Low-E packing are not available on a timely basis; or
  - iii) the equipment is only installed temporarily (e.g., temporarily creating a connection to a testing device).
- h) PRD Replacement and Repair If Low-E replacement equipment is not available, best efforts shall be used to install a replacement or improvement that, using good engineering judgment, will be the least likely to leak under the service, operating conditions, and type of equipment to which the PRD is connected, and which would not create a safety, major mechanical, major product quality, regulatory or other issue.
- i) Connector Replacement and Improvement If Low-E replacement equipment is not available, best efforts shall be used to install a replacement or improvement that, using good engineering judgment, will be the least likely to leak under the service, operating conditions, and type of equipment to which the connector is connected, and which would not create a safety, major mechanical, major product quality, regulatory or other issue.
- j) Existing connectors shall be replaced or improved in accordance with the following table and in compliance with the following paragraph ("gasket" means a sealing element that includes, but is not limited to, an O-ring, gasket, or D-ring):

<b>TABLE</b>	
<b><u>Connector Type</u></b>	<b><u>Replacement or Improvement Description</u></b>
Flanged	Replacement or improvement of the gasket
Threaded	Replacement or improvement of the thread sealing material or replacement of the connector with a like-kind connector or other
Compression	Replacement or improvement of compression fitting or replacement of the connector with like-kind connector
CamLock	Replacement or improvement of the gasket or replacement or improvement of the CamLock
Quick Connect	Replacement or improvement of the gasket, if applicable, or replacement of the connector (with either a like-kind connector or other) if there is no gasket
Any Type	Elimination ( <i>e.g.</i> , through welding, pipe, etc.)

- k) Nothing in this paragraph 52 requires Clean Harbors to utilize any valve, connector, or PRD that is not appropriate for its intended use, or to eliminate any existing valve, connector, or PRD.

53. **Independent LDAR Audit.** No sooner than 24 months and no later than 30 months after the Effective Date, Respondent will cause a third-party audit to be conducted of its LDAR program (Independent LDAR Audit), at Respondent’s sole expense, which includes a statistically significant comparative monitoring campaign, as defined in subparagraph b) below, as well as a review of LDAR applicability, and monitoring and repair records for Regulated Equipment across the Facility. The Independent LDAR Audit will be completed no later than

six months after the start date, and the auditor's final report submitted to EPA no later than 30 days after the six-month Audit period is complete.

- a) No sooner than three months prior to the start of the Independent LDAR Audit, Respondent shall inform EPA of its preferred third-party consultant (preferred auditor) and provide information sufficient for the EPA to assess whether the preferred auditor meets the requirements and conditions of this subparagraph. Respondent will not engage the preferred auditor unless and until EPA informs Respondent whether it objects to Respondent's preferred auditor. EPA will inform Respondent whether it objects or has no objection to Respondent's preferred auditor as quickly as practicable. If EPA objects, EPA will do so in good faith, in writing, and will state the basis for its objection. Upon receipt of EPA's objection, if any, Respondent will propose an alternative auditor pursuant to this subparagraph. Nothing in this subparagraph precludes the EPA from pursuing penalties and other relief for violations of any deadlines in this Agreement.
  - i) Respondent's preferred auditor must have extensive and well-documented experience in conducting LDAR audits; particularly in conducting statistically significant comparative monitoring campaigns.
  - ii) Respondent's preferred auditor must be an independent third party. Organizations related to Respondent (including, but not limited to, its parent company, subsidiaries, or other related entities), and employees of Respondent and any related organization, are not independent third parties. Second parties, including, but not limited to, contractors or consultants within the industry and with whom Respondent has a supply-chain relationship are not independent third parties.
  - iii) Respondent must disclose whether Respondent's preferred auditor has worked for Respondent in the past, and Respondent and the preferred auditor must disclose whether intends to work for Respondent in the future, so that EPA may assess the independence of the third party for purposes of conducting this audit; and
  - iv) Respondent's preferred auditor must understand and agree that they are authorized to communicate independently with EPA, and that they are to do so at either EPA's or Respondent's request.
- b) Comparative monitoring during the LDAR audit shall be undertaken as follows.
  - i) Hazardous Waste Management Unit Area or Areas (HWMU Area or Areas) is defined to mean one or more of the following areas of the Facility: Bulk Solids Sludge Pad Area; Decant Room Area; Direct Burn Truck Unloading Area (which is defined to include the Corrosives Feed, Blend Waste Feed, Aqueous Waste Feed and the Sludge Waste Feed Areas); Drive Through Direct Feed Area; Slag Pad Area; Tank Farm Area (which is defined to include the Aqueous Liquid Tanks and Blend Liquid Tanks Area); and the Train 1 Rotary Kiln Area.

- ii) Comparative Monitoring is defined as the monitoring which takes place during the Independent LDAR Audit. Only Regulated Equipment, as defined herein and in Permit Attachment 8, Section 6.0, is to be monitored for purposes of calculating Comparative Monitoring Leak Percentages, and for purposes of calculating Historic Average Leak Percentages.
  - iii) Comparative Monitoring Leak Percentages is defined as the leak percentages observed during the Comparative Monitoring for each type of Regulated Equipment in each of the HWMU Areas.
  - iv) Historic Average Leak Percentage is defined as follows for each type of Regulated Equipment.
    - (1) Valves – the average of the four quarterly monitoring periods immediately preceding initiation of the Independent LDAR Audit in each HWMU area.
    - (2) Pumps – the average of the twelve monthly monitoring periods immediately preceding initiation of the Independent LDAR Audit in each HWMU area.
    - (3) Connectors – the average of the four quarterly monitoring periods immediately preceding initiation of the Independent LDAR Audit in each HWMU area.
    - (4) PRDs – (as defined in paragraph 52.c) above) the average of the four quarterly monitoring periods immediately preceding initiation of the Independent LDAR Audit in each HWMU area.
  - v) A statistically significant percentage of Regulated Equipment in each HWMU Area shall be monitored by FID using EPA Method 21 in order to calculate Comparative Monitoring Leak Percentages. The auditor may independently determine the statistically significant percentage based on its experience, and the Facility-specific circumstances. The auditor is encouraged to seek input from EPA and Respondent before making such a determination.
  - vi) Comparative Monitoring Leak Ratio is defined as the ratio of the Comparative Monitoring Audit Leak Percentage to the Historic Average Leak Percentage for type of Regulated Equipment in each HWMU Area. If the denominator in this calculation is zero, it shall be assumed (for purposes of this calculation but not for any other purpose under this Agreement or under any applicable laws and regulations) that one leaking piece of equipment was found through routine monitoring during periods used for calculating the Historic Average Leak Percentages.
- c) The final Independent LDAR Audit Report (Final Audit Report) shall contain the following.
- i) An appropriately detailed analysis of the auditor’s findings on the following data for the last year of monitoring:

- (1) the completeness and accuracy of the list(s) of Regulated Equipment;
  - (2) the completeness, accuracy and timeliness of monitoring and repair under the Replacement and Improvement Program, and under the Permit if and where the Permit remains directly applicable; and
  - (3) the completeness, accuracy and timeliness of record-keeping under the Replacement and Improvement Program and any other record-keeping method in use at the Facility to track LDAR program compliance with the Permit at the start of the Independent LDAR Audit.
- ii) The raw data obtained during Comparative Monitoring in spreadsheet format.
  - iii) The Comparative Monitoring Audit Leak Percentage for each type of Regulated Equipment in each HWMU Area calculated pursuant to paragraph 53.b)i).
  - iv) The Historic Average Leak Percentage for each type of Regulated Equipment in each HWMU Area calculated using the monitoring periods pursuant to paragraph 53.b)iv).
  - v) The Comparative Monitoring Leak Ratio for each type of Regulated Equipment in each HWMU Area calculated pursuant to paragraph 53.b)vi).
  - vi) Based on observations made during the audit, the auditor is encouraged to make any recommendations it deems appropriate for continued improvement of Respondent's LDAR program at the Facility, and propose timing requirements for each recommendation.
- d) Respondent agrees to implement each recommendation in the Final Audit Report on a schedule to be determined by EPA. EPA will determine the timing after consideration of the auditor's proposed timing requirements and after consultation with UDEQ and Respondent. Upon EPA's issuance of the schedule for implementation of the recommendations, the recommendations will become requirements of this Agreement.

54. **Internal Quality Assurance Program.** No later than 90 days after the Effective Date, at times that are not announced to the Facility LDAR monitoring technicians, Respondent will conduct internal quality assurance/quality control audits of its LDAR program (Internal QA Program). Thereafter, Respondent shall conduct the Internal QA Program audits every 6 months. The internal auditor shall be an LDAR-trained employee or contractor who does not serve on a routine basis as an LDAR monitoring technician at the Facility. The Internal QA Program will include, among other things, confirming that piping and instrumentation diagrams



match Facility tags and the Regulated Equipment in the LDAR database(s); that all Regulated Equipment is being monitored at the required frequency; and that repairs (1st attempt and final) are being made within required timeframes.

- a) Respondent will address each issue identified during each Internal QA Program audit as quickly as practicable, but in no event later than 30 days after the issue is identified.
- b) Respondent will log and maintain all internal QA Program observations, steps taken to address issues and the date such steps are taken. Respondent will provide the log to the EPA upon request.

55. The EPA contact for implementation of this Agreement is:

Cindy Schafer (8ENF-ROR)  
Office of Enforcement, Compliance,  
& Environmental Justice  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202  
[Schafer.Cynthia@epa.gov](mailto:Schafer.Cynthia@epa.gov)

## **VI. CIVIL PENALTY**

56. Pursuant to section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and after consideration of the facts known to the EPA, EPA has determined that a civil penalty of \$224,903.00 is appropriate to settle this matter.

57. Respondent consents and agrees to:

- a) pay the civil penalty using any method provided on the following website <https://www.epa.gov/financial/makepayment>;
- b) identify each payment with the docket number that appears on the Final Order in this matter; and
- c) within 24 hours of payment email proof of payment to Ms. Schafer at [schafer.cynthia@epa.gov](mailto:schafer.cynthia@epa.gov) and Melissa Haniewicz at [Haniewicz.Melissa@epa.gov](mailto:Haniewicz.Melissa@epa.gov). Proof of payment means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the docket number that appears on the final order.

## VI. OTHER TERMS AND CONDITIONS

58. Failure by Respondent to comply with any of the terms of this Agreement shall constitute a breach of this Agreement and may result in the initiation of an administrative enforcement action, or referral of the matter to the U.S. Department of Justice for enforcement of this Agreement and for such other relief as may be appropriate.
59. Nothing in this Agreement shall be construed as a waiver by Complainant of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Agreement.
60. Upon incorporation into a final order by the Regional Judicial Officer (Final Order), this Agreement applies to and is binding upon Complainant and upon Respondent, and Respondent's officers, directors, agents, successors and assigns. Any change in ownership of, or corporate organization, structure or status of Respondent as such change may relate to Respondent's ownership or operation of the Facility (as defined below), shall not alter Respondent's responsibilities under this Agreement, unless EPA, Respondent and the transferee agree in writing to allow the transferee to assume such responsibilities.
61. Respondent shall notify EPA at the address specified below as soon as practicable, prior to any transfer described in or contemplated under the paragraph immediately above.
62. Each undersigned representative of the parties to this Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this Agreement and to execute and legally bind that party to this Agreement.
63. This Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the civil penalty owed for violations alleged in this Agreement.

64. This Agreement resolves Respondent's liability for Federal civil penalties and compliance under section 3008(a) of RCRA for the violations alleged herein.
65. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of the actions required under the Compliance Order section of this Agreement (Section V, paragraphs 43-54) is restitution, remediation, or required to come into compliance with the law.
66. Each party shall bear its own costs and attorneys' fees in connection with all issues associated with this Agreement.
67. This Agreement shall become effective on the date the Final Order is transmitted electronically to the Parties by the Regional Hearing Clerk (Effective Date).
68. Respondent may request in writing that EPA terminate this Agreement at any time after the date the last activity required under the Compliance Order has been conducted by Respondent. EPA may terminate this Agreement at its sole discretion depending on the totality of the circumstances at that time. EPA's agreement to terminate this Agreement shall not be unreasonably withheld and EPA will determine whether to agree to termination and communicate its decision to Respondent in writing and as expeditiously as possible.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY REGION 8,  
Complainant.

**JANICE PEARSON**

Digitally signed by JANICE  
PEARSON

Date: 2021.12.01 16:04:49 -07'00'

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Signature and date  
Janice Pearson, Chief  
RCRA/OPA Enforcement Branch  
Enforcement and Compliance Assurance Division

CLEAN HARBORS ARAGONITE, LLC,  
Respondent.



12/1/2021

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Signature and date  
Eric Gerstenberg  
Chief Operating Officer

## CERTIFICATE OF SERVICE

The undersigned certifies that the attached **CONSENT AGREEMENT** and the **FINAL ORDER** in the matter of **CLEAN HARBORS ARAGONITE, LLC; DOCKET NO.: RCRA-08-2022-0002** was filed with the Regional Hearing Clerk on December 10, 2021.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Chuck Figur, Enforcement Attorney, and sent via certified receipt email on December 10, 2021, to:

Respondent's Legal Representative

Timmery Fitzpatrick, Assistant General Counsel  
Clean Harbors Aragonite, LLC  
Fitzpatrick.timmery@cleanharbors.com

EPA Financial Center

Jessica Chalifoux  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
Chalifoux.Jessica@epa.gov

December 10, 2021

MELISSA  
HANIEWICZ

Digitally signed by  
MELISSA HANIEWICZ  
Date: 2021.12.10  
10:30:32 -07'00'

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Melissa Haniewicz  
Regional Hearing Clerk