
I. INTRODUCTION

1. This is an administrative action instituted pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a).
2. This Administrative Order on Consent (“Consent Order”) is issued by the U.S. Environmental Protection Agency (EPA) Region 3, to Respondent Max Environmental Technologies, Inc. (hereinafter “Respondent”). This Consent Order provides for the performance of immediate measures to eliminate the potential release of solid and hazardous waste into the environment and to ensure that future ongoing operations do not cause or contribute to releases. This Order pertains to Respondent’s ownership and operation at 233 Max Lane, Yukon, Pennsylvania 15698 (hereinafter “the Facility” or “the Site”).
3. Respondent, MAX Environmental Technologies, Inc. (“Respondent”) is a corporation incorporated in the Commonwealth of Pennsylvania, and it has been identified as the owner and operator of the Facility.
4. Respondent consents to, and agrees not to contest, EPA’s jurisdiction to issue this Consent Order or to enforce its terms. Further, Respondent waives any right to request a hearing on this matter pursuant to section 3008(b) of RCRA, 42 U.S.C. §6928(b), and 40 C.F.R. Part 24, and consents to the issuance of this Consent Order without a hearing under Section 3008(b) of RCRA, 42 U.S.C. §6928(b)
5. Respondent’s participation in this Consent Order does not constitute an admission by Respondent of liability. Respondent neither admits nor denies the Findings of Fact set forth below, except to the extent that those allegations provide EPA with a jurisdictional basis to enforce this Consent Order.
6. The EPA hereby takes this action pursuant to RCRA Section 3008(a), 42 U.S.C. § 6928(a), having determined that the issuance of this Consent Order is necessary to protect human health or the environment.
7. The EPA notified the Pennsylvania Department of Environmental Protection of this action pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), on December 13, 2023.
8. This Consent Order is issued under the authority vested in the Administrator of the EPA by Section 3008 of RCRA. This authority has been delegated to the Regional Administrators of the EPA by Delegation 8-22 (January 18, 2017), and redelegated to the Director, Enforcement and Compliance Assurance Division (ECAD) on April 15, 2019 pursuant to Regional Delegation 8-9-A.

II. PARTIES BOUND

9. This Consent Order shall apply to and be binding upon Respondent and Respondent’s officers, directors, employees, agents, successors, assigns, heirs, trustees, receivers, and upon all persons, including but not limited to contractors and consultants, acting on behalf of Respondent. Any change in the ownership or corporate status of the Respondent including, but not limited to, any

transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this Consent Order. Notice of this Consent Order shall be given to any successors in interest prior to transfer of the Facility, or any portion of the Facility, or its operations. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure by Respondent to fully perform the obligations under this Consent Order.

10. Respondent shall provide a copy of this Consent Order to any subsequent owners or successors before any interest in the Facility or Site is transferred. Respondent shall be responsible for and liable for completing all the activities required pursuant to this Order, regardless of whether there has been a transfer of ownership or control of the Site or whether said activities are to be performed by employees, agents, contractors, subcontractors, laboratories, and/or consultants of the Respondent.
11. Respondent shall provide a copy of this Consent Order within seven (7) days¹ of the Effective Date of this Consent Order, or the date that such services are retained, whichever is later, to all contractors, subcontractors, laboratories, and consultants that are retained to conduct or monitor any portion of the Work performed pursuant to this Consent Order. Respondent shall condition all contracts or agreements with contractors, subcontractors, laboratories, and/or consultants in connection with this Consent Order, on compliance with the terms of this Consent Order.
12. Not later than sixty (60) days prior to any voluntary transfer by Respondent of any interest in the Site or the operation of the Facility, the Respondent shall notify the EPA of the proposed transfer. In the case of a voluntary transfer through a bankruptcy, the Respondent shall notify the EPA within twenty-four (24) hours of the decision to transfer property. Respondent shall notify the EPA of any involuntary transfers immediately upon the Respondent's initial receipt of notice of any involuntary transfer. Not later than three (3) days after any transfer, Respondent shall submit copies of the transfer documents to the EPA.

III. STATEMENT OF PURPOSE

13. The two-fold purpose of this Consent Order is to: (1) require Respondent to conduct the Work required in Section VIII (Work to be Performed) of this Consent Order, as well as any additional work determined to be necessary, to ensure compliance with RCRA, supporting regulations and Commonwealth of Pennsylvania Hazardous Waste Storage and Treatment Permit No. PAD004835146 ; and (2) to ensure that the actions and timeframes for such actions are designed and implemented to protect public health and the environment now and in the future.

¹ "Day" or "day" shall mean a calendar day unless otherwise noted. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal or Commonwealth of Pennsylvania holiday, the period shall run until the close of business of the next working day.

IV. DEFINITIONS

14. Unless otherwise expressly provided in this Consent Order, terms used in this Consent Order that are defined in RCRA, 42 U.S.C. § 6901-6992k, shall have the same meaning assigned to them in RCRA. Whenever terms listed below are used in this Consent Order or its Appendices, the following definitions shall apply solely for purposes of this Order.
15. A “solid waste” is defined in Section 1004(27) of RCRA, 42 U.S.C. § 6903(27), as any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Clean Water Act, 42 U.S.C. § 1342, or source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended.
16. A “hazardous waste” is defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), as a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
17. Pursuant to the EPA regulations, a solid waste is a hazardous waste if it is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b) and it exhibits any of the characteristics of hazardous waste identified in Subpart C of 40 C.F.R. Part 261, or it is listed in Subpart D of 40 C.F.R. Part 261.

V. FINDINGS OF FACT

Facility Information and Background

18. The Facility is located approximately 30 miles southeast of Pittsburgh, Pennsylvania, in South Huntingdon Township, Westmoreland County, Pennsylvania. The Facility is surrounded by agricultural and residential properties. Waste operations are permitted on 137 acres of the 160-acre Facility.
19. The Facility is owned by Respondent and Respondent operates the treatment and disposal facility for hazardous and residual waste.² Specifically, Respondent manages waste for treatment with the following hazardous waste codes: electric arc furnace dust (K061), corrosives (D002), arsenic (D004), barium (D005), cadmium (D006), chromium (D007), lead (D008), selenium (D010), silver (D011), and waste acid/pickle liquor (K062). Respondent also generates hazardous waste on-site in the form of wastewater treatment sludge from the treatment of listed landfill leachate (F039). Respondent has conducted these processing activities at the Facility since at least 2002. Currently, Respondent has a Commonwealth of Pennsylvania National Pollutant Discharge Elimination

² The Facility was formerly owned by Mill Service, Inc., and began operations in 1964. In 2002, Mill Service, Inc. changed its corporate name to Max Environmental Technologies, Inc.

System Permit (“NPDES”), NPDES Permit No. PA0027715 (hereinafter the “CWA Permit”), a Commonwealth of Pennsylvania Hazardous Waste Storage and Treatment Permit, RCRA Permit No. PAD004835146 (hereinafter “RCRA Subtitle C Permit”), and a Commonwealth of Pennsylvania Solid Waste Permit No. 301071 (hereinafter “RCRA Subtitle D Permit”) for its operations at the Facility. In addition, Respondent is under a Corrective Action Permit issued by EPA on January 28, 2021 (EPA Id. No. PAD 004 835 146). The Corrective Action Permit requires Respondent to comply with its PADEP permits and to sample and analyze residential well water for Safe Drinking Water Standards for the following constituents: arsenic, barium, cadmium, fluoride, iron, lead, manganese, nickel, selenium, silver, ammonia, and sulfate.

20. Waste management units at the Facility include five (5) closed impoundments, an active RCRA Subtitle D landfill, waste storage tanks and containers, waste treatment tanks, and a leachate management wastewater treatment system. Respondent uses the following buildings and locations for its operations at the Facility:
- a. Active Subtitle D Landfill: Disposal Area 6, also known as Landfill 6, is an active residual waste landfill unit opened in 1988. It covers approximately 16.5 acres. It is constructed with a double liner, a leachate collection system, and leak detection system. The Subtitle D Permit requires the disposal area to be capped within one year of final waste placement. In 2021 Respondent completed closure of approximately 4 acres of Landfill 6.
 - b. Solid Waste and Stabilization and Solidification Pits. Hazardous waste treatment operations are currently performed within three solid waste and stabilization and solidification (“SWSS”) pits. The SWSS pits are permitted, in-ground hazardous waste tanks. Treatment processes include neutralization/precipitation, chemical reduction/oxidation, oil separation and solidification.
 - c. Containment and Processing Building. The containment and processing (“CAP”) building is divided into four bays. The bays are designed to allow for the storage and retrieval of hazardous waste for treatment or retreatment.
 - d. Leachate Management/Wastewater Treatment System. Leachate from the treatment and disposal units, contact surface water, and contaminated groundwater are treated at the Facility’s wastewater treatment plant. The effluent is discharged to Sewickley Creek under NPDES Permit No. PA0027715. The sludge generated at the wastewater treatment plant was previously disposed in the RCRA Subtitle D landfill on-site as residual waste. In 2011, EPA determined that the sludge should be classified as a listed hazardous waste F039. The sludge is currently being managed and taken off-site as a listed hazardous waste.
 - e. Container Storage Areas. Respondent currently stores hazardous waste containers in Area #3 (South of Lagoon #3) and Area #4 (West of Area #3).

21. The Facility is located in an area with potential environmental justice (EJ) concerns. An EIScreen report³, using a one-mile radius around the property, identified nine (9) environmental indicators above the 80th percentile.

RCRA Compliance Evaluation Inspection

22. On March 20-24, 2023, EPA representatives conducted an inspection (the “Inspection”) of the Yukon Facility. The primary purpose of the Inspection was to determine Respondent’s compliance with the requirements of the Yukon CWA Permit, and to determine Respondent’s compliance with RCRA and its RCRA Subtitle C and D Permits. Following the Inspection, by email dated September 15, 2023, EPA provided Respondent a copy of the inspection report documenting the findings of the Inspection (the “Inspection Report”). On October 27, 2023, Respondent provided a response to the EPA concerning the findings of the Inspection Report.
23. During the Inspection, Inspectors observed significant damage and deterioration to the exterior walls surrounding the door frames to bays 1 and 2 of the CAP building, where hazardous waste with waste codes D004, D006 and D008 were observed being stored, such that large holes were present in the walls or the walls were missing (southern wall of bay 1). In addition, bay 4 of the CAP building was not equipped with a wall or door along its eastern side.
24. Inspectors observed precipitation entering the CAP building through the roof of bay 4 and coming into contact with bulk, non-containerized, untreated hazardous waste. The Inspectors observed precipitation mixing with untreated hazardous waste and leaving the CAP building, and also draining into a collection sump that conveys fluids to the Facility’s wastewater treatment system.
25. The Inspectors also observed vehicles that came in contact with the waste in and outside the CAP building, tracking the waste across the Facility between the CAP building and the SWSS pits at the Facility. In addition, Inspectors observed hazardous waste materials spilled on containment pads outside the SWSS pits.
26. The Inspectors observed that the leachate leak detection tube at the northeast corner of the CAP building was not accessible for monitoring because it was covered by backfill, and, as a result, Respondent was unable to monitor the leachate collection and removal system for leaks as required by the RCRA Subtitle C Permit.
27. The Inspectors observed five open drums of hazardous waste in the in the CAP building. Respondent was not adding to or removing waste from the containers at such time. In addition, Inspectors observed three roll-off containers containing hazardous waste being stored at the Facility that were not completely covered with tarps and with straps that were not completely fastened.
28. The Inspectors observed that the concrete secondary containment pad for container storage Area No. 2 had settled, causing liquid to accumulate in the southeast corner of the pad and not to drain towards the sump in the center of the secondary containment pad. The current condition of the

³ The EIScreen report is part of the Administrative Record.

containment pad is no longer operating to meet the intent for spills and accumulated precipitation to drain properly.

29. The Inspectors observed that Respondent's representatives did not follow the designated procedures for sample collection as required in the Waste Analysis and Classification Plan ("WACP") of its RCRA Subtitle C Permit. For example, Inspectors observed Respondent's representatives collect grab samples instead of required composite samples for hazardous waste acceptance screening and for hazardous waste post-treatment verification testing. Inspectors also observed these samples were not taken with the required sampling tools as specified in the WACP. In addition, Respondent's WACP requires that representative samples of incoming bulk wastes must be collected from a minimum of three locations evenly distributed along the container and composited. During the Inspection, Inspectors observed Respondent's representatives only collect a single grab sample from one location in a SWSS pit for both incoming wastes and treated wastes, which does not meet the WACP requirements for representative sampling.

RCRA Case Development Investigation Evaluation

30. The EPA National Enforcement Investigations Center ("NEIC") RCRA field team provided support to this investigation during the Inspection by collecting samples of stabilized hazardous waste for LDR treatment verification purposes. On March 21, 2023, the NEIC RCRA field team collected five grab samples (S01-S05) from a mixture of four treated waste batches that had recently been disposed in Landfill 6 (Inspection Report Appendix RCRA A, photos 26-31). The four treated waste batches that were disposed in Landfill 6, and sampled by NEIC, had been assigned by Respondent the following treatment batch numbers: W030908, W031510, W031311, and W031405. Waste treatment records and manifests for these treatment batch numbers are provided in Inspection Report Appendix RCRA D.
31. On March 23, 2023, NEIC RCRA field team also collected five grab samples (S06 – S10) of treated hazardous waste from treatment batch number W032003. These five grab samples were collected from three separate roll-off containers with the following container numbers: 512015, S358, and RT4427 (S06-S10, Inspection Report Appendix RCRA A, photos 86-93). The waste treatment record for this treatment batch is provided in Inspection Report Appendix RCRA E.
32. All field sampling, field measurements/monitoring, and/or laboratory measurements performed by NEIC RCRA field team during the Inspection were within the scope of NEIC's ISO/IEC 17025 accreditation issued by the ANSI National Accreditation Board (certificate No. FT-0303). All NEIC RCRA field team activities were documented in field records. Samples collected during the field activities were shipped (via common carrier) to and received by the NEIC laboratory in Denver, Colorado on March 29, 2023.
33. Table 1 below summarizes the ten (10) waste sample results (S01 – S10) that exceeded the TCLP limit for lead and cadmium. Additionally, five (5) of these samples (S01 – S05) also exceeded the universal treatment standard ("UTS") for Thallium (0.11 mg/L TCLP).

Table 1. TCLP ELEMENTAL RESULTS AND 40 CFR §§ 268.40 AND 268.48 LDR AND UNIVERSAL TREATMENT STANDARDS FOR NONWASTEWATER SAMPLES

Station No.	(milligrams per liter [mg/L] TCLP)													
	Antimony	Arsenic	Barium	Beryllium	Cadmium	Chromium	Lead	Mercury	Nickel	Silver	Selenium	Thallium	Vanadium	Zinc ⁵
S01 ¹	< 0.081	< 0.354	< 1.01	< 0.011	112	0.040	5.89	< 0.005	0.876	< 0.044	0.298	0.426	< 0.011	140
S02 ¹	< 0.081	< 0.354	< 1.01	< 0.011	81.5	0.038	3.51	< 0.005	0.697	< 0.044	0.293	0.329	< 0.011	80.9
S03 ¹	< 0.081	< 0.354	< 1.01	< 0.011	52.7	0.036	2.84	< 0.005	0.417	< 0.044	< 0.289	0.372	< 0.011	36.8
S04 ¹	< 0.081	< 0.354	< 1.01	< 0.011	114	0.036	16.2	< 0.005	0.572	< 0.044	< 0.289	0.340	< 0.011	279
S05 ¹	< 0.081	< 0.354	< 1.01	< 0.011	147	0.041	7.74	< 0.005	0.712	< 0.044	0.304	0.394	< 0.011	529
S06 ²	< 0.081	< 0.354	< 1.01	< 0.011	2.86	< 0.034	4.15	< 0.005	0.166	< 0.044	< 0.289	< 0.03	< 0.011	107
S07 ²	< 0.081	< 0.354	< 1.01	< 0.011	2.34	< 0.034	3.12	< 0.005	0.158	< 0.044	< 0.289	< 0.03	< 0.011	82
S08 ²	< 0.081	< 0.354	< 1.01	< 0.011	2.55	< 0.034	2.97	< 0.005	0.154	< 0.044	< 0.289	< 0.03	< 0.011	75
S09 ²	< 0.081	< 0.354	< 1.01	< 0.011	2.59	< 0.034	2.47	< 0.005	0.165	< 0.044	< 0.289	< 0.03	< 0.011	141
S10 ²	< 0.081	< 0.354	< 1.01	< 0.011	2.33	< 0.034	3.09	< 0.005	0.142	< 0.044	< 0.289	< 0.03	< 0.011	70.4
LDR ³ and Universal Treatment Standards ⁴	1.15	5	21	1.22	0.11	0.6	0.75	0.025	11	0.14	5.7	0.2	1.6	4.3

1 Values for these samples are an average of three measurement replicates (n=3).

2 Values for these samples are an average of two measurement replicates (n=2).

3 The applicable LDR treatment standards for hazardous waste numbers D004-D011 are provided, as referenced in 40 CFR § 268.40, Treatment Standards for Hazardous Waste.

4 The applicable universal treatment standards for antimony, beryllium, nickel, thallium, vanadium, and zinc are provided, as referenced in 40 CFR § 268.48, Table UTS.

5 As specified in footnote 5 of 40 CFR § 268.48, Table UTS, zinc is not an underlying hazardous constituent in characteristic wastes, according to the definition at 40 CFR § 268.2(i).

34. These results in Table 1 indicate that Respondent may be disposing D006 and D008 hazardous waste on-site. Respondent's treatment of hazardous waste by stabilization as observed by the NEIC RCRA field team does not ensure that treated wastes meet the appropriate LDR treatment standards prior to disposal in Landfill 6 at the Facility.
35. On March 23, 2023, the NEIC RCRA field team observed bay 4 of the CAP building during moderate to heavy rainfall. Precipitation was observed entering bay 4 through holes in the building roof and falling directly onto the untreated hazardous waste stored within (Inspection Report Appendix RCRA B, video P3230388.MOV) and exiting the CAP building. Holes in the bay roof are visible near the upper left skylight in photo 101 of Inspection Report RCRA Appendix A. In addition, the stormwater that entered bay 4 pooled near the bay's entrance and at the toe of the piled waste and was observed draining from the bay floor through a discharge pipe at the building's northeast corner (Inspection Report Appendix RCRA A, photo 102). This sump drains into the Facility's wastewater treatment system.

Follow up to RCRA Evaluations

36. On October 24, 2023, PADEP performed an Inspection of the Facility to determine Respondent's compliance with their RCRA Subtitle C and D permits. PADEP's inspection report, issued to Respondent on January 26, 2024 confirmed the findings of EPA's Inspection of the Facility during March 20-24, 2023. MAX responded by letter dated February 7, 2024, which letter is part of the administrative record.
37. On December 21, 2023, EPA issued Respondent MAX, a Notice of Potential Violations and Opportunity to Confer ("NOPVOC") letter for violations of the RCRA Subtitle C and Subtitle D Permits and the CWA Permits. The RCRA permit violations cited in the NOPVOC for the Yukon Facility are substantial and include the failure to meet the treatment standards for Land Disposal Restrictions ("LDR") and Universal Treatment Standards ("UTS") for hazardous waste; failure to maintain the containment building standard requirements set forth in the RCRA Subtitle C Permit; failure to maintain a containment system that is designed and operated in accordance with the RCRA Subtitle C permit; failure to follow the designated procedures for sampling at the Facility according to the Waste Analysis and Classification Plan ("WACP"); and, failure to maintain and operate the Facility to minimize the possibility of a release of hazardous waste.
38. On February 9, 2024, the EPA met with representatives from Respondent MAX to discuss the current conditions at the Facility, the potential impacts to the surrounding environment, and the community. During this meeting, the EPA expressed its concern with the continued operation of the Facility, the potential for hazardous waste being released at and from the Facility, and next

steps that may be necessary to abate any unreasonable risks to human health and the environment presented by the Facility.

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

39. Based on Section V (Findings of Fact) set forth above, and after consideration of the Administrative Record, and pursuant to Section 3008 of RCRA, the EPA has determined that:
- a. The Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15);
 - b. The wastes received and processed at the Facility by Respondent as described in Paragraph 20, above, are each a “solid waste” within the meaning of Section 1004(27) of RCRA 42 U.S.C. § 6903(27), and/or “hazardous waste” within the meaning of Section 1004(5) of RCRA, 42 U.S.C. §6903(5); Respondent’s operations at the Facility are subject to regulation under RCRA, supporting regulations, and the Commonwealth of Pennsylvania Hazardous Waste Storage and Treatment Permit No. PAD004835146; and
 - c. The Work required of Respondent by this Consent Order will address compliance with RCRA, supporting regulations and Commonwealth of Pennsylvania Hazardous Waste Storage and Treatment Permit No. PAD004835146 as necessary to protect human health and the environment.

VII. ORDER ON CONSENT

40. Based upon the Administrative Record for the Site and the Findings of Fact (Section V) and Conclusions of Law and Determinations (Section VI) set forth above, and in consideration of the promises set forth herein, the following is hereby agreed to and ordered. Respondent shall comply with all provisions of this Consent Order, including, but not limited to, all documents incorporated by reference into this Consent Order.
41. Respondent shall finance and perform the Work in accordance with this Consent Order, plans, standards, specifications and schedules set forth in this Consent Order or developed by Respondent and approved by EPA pursuant to this Consent Order.

VIII. WORK TO BE PERFORMED

Cessation of Operations that May Result in Releases of Hazardous Waste into the Environment

42. **Prohibition of Waste Management Activities.** Respondent shall not conduct treating and disposing hazardous waste on-site operations other than as described below as of the Effective Date of this Consent Order, including any and all operations at the Facility that may result in the release of hazardous waste and/or hazardous waste constituents into the environment. Facility operations that must immediately cease include the disposal of untreated hazardous waste in Landfill 6 , placement and/or storage of bulk hazardous waste in Bay 4 of the CAP at the Facility, and the unpermitted discharge of sludge, and/or any other wastes, directly onto the ground, including onto asphalt, concrete, or other surfaces.

43. **Authorized Interim Waste Management Operations.** Respondent may perform the following operations at the Facility in accordance with its RCRA Subtitle C Permit until EPA has notified Respondent in writing that normal operations may resume at the Facility:
- A. Hazardous waste storage and treatment in all three of its solid waste stabilization and solidification units in accordance with the terms and conditions of the RCRA Subtitle C Permit.
 - B. Hazardous waste storage in container areas 3 and 4.
 - C. Hazardous waste storage in containers in all bays of the CAP.
 - D. Bulk hazardous waste storage in bay 2 of the CAP.
 - E. Bulk and container storage of treatment reagent in bays 1, 2, and 3 of the CAP.
 - F. Bulk residual waste storage in bays 1, 2 and 3 of the CAP.
 - G. Residual waste disposal in Landfill 6 from off-site generators approved by PADEP.
 - H. Treated hazardous waste, that has been sampled and analyzed in accordance with Paragraph 58, below, may be disposed in Landfill 6 provided such sample analysis has determined such waste to be residual waste.
44. The restrictions described in Paragraph 42, above (Prohibition), shall remain in full force until Respondent has : (a) met and submitted all required submissions to EPA, (b) obtained a Professional Engineer(s) and qualified environmental contractor(s) or consultant(s) to perform the Work, (c) obtained the appropriate permits, permit revisions or other approvals from federal, state, and local authorities, including but not limited to, solid waste, hazardous waste, building, and/or electrical permits and approvals, if necessary, (d) performed the Work as specified in this Consent Order, and (e) EPA notifies Respondent in writing that operations may resume at the Facility.

Work Project Coordinator(s), Professional Engineer, and Contractor/Auditor Selection

45. **Project Coordinator.** Respondent shall designate a Project Coordinator(s). Respondent shall notify the EPA in writing within three (3) calendar days of the Effective Date of this Consent Order of the name, address, phone number, electronic mail address and qualifications of its Project Coordinator(s). The EPA Project Coordinators will be Andrew Van Woert, VanWoert.Andrew@epa.gov and Rebecca Serfass, Serfass.Rebecca@epa.gov. The PADEP Project Coordinator shall be Sharon Svitek, Program Manager, Bureau of Waste Management, ssvitek@pa.gov Respondent's Project Coordinator(s) shall be responsible for overseeing the implementation of this Consent Order. The EPA, PADEP and Respondent shall have the right to change their respective Project Coordinators. The EPA must be notified in writing at least ten (10) calendar days prior to any changes to Respondent's Project Coordinator(s).
46. The EPA Project Coordinators shall be the EPA's designated representatives for the Facility. Unless otherwise provided in this Consent Order, all reports, correspondence, notices, or other submittals relating to or required under this Consent Order shall be in writing and shall be sent to the EPA Project Coordinators at the email addresses specified in Paragraph 45, above, unless

notice is given in writing to Respondent of a change in delivery or correspondence address. Reports, correspondence, notices, or other submittals shall be delivered by electronic mail, unless otherwise directed by the EPA. All correspondence shall include a reference to the case caption EPA Docket No. RCRA-03-2024-0081RA.

47. **Professional Engineer and Contractor Selection.** Respondent shall retain a Professional Engineer, and one or more qualified environmental contractors or consultants to perform the Work and Respondent shall, within ten (10) calendar days after the Effective Date of this Consent Order, notify the EPA of the name(s), title(s), and qualifications of such contractor(s) or consultant(s). Respondent shall also notify the EPA of the name(s), title(s), and qualification(s) of any Professional Engineer and contractor(s) or subcontractor(s) retained to perform the Work at least seven (7) calendar days prior to commencement of such Work. All Work performed under this Consent Order shall be under the direction and supervision of one or more Professional Engineers, and one or more environmental contractors or consultants with the technical expertise sufficient to adequately perform all aspects of the Work for which it is responsible. Additionally, Respondent shall ensure that when a license is required, only licensed individuals shall be used to perform the Work. The EPA retains the right to disapprove any or all the contractors and/or subcontractors retained by Respondent. If the EPA disapproves a selected contractor, Respondent shall retain a different contractor and shall notify the EPA of that contractor's name and qualifications within five (5) calendar days after the EPA's disapproval. Such replacement contractor shall also be subject to EPA's acceptance.
48. With respect to any proposed environmental contractor or consultant, Respondent shall demonstrate that the proposed contractor maintains compliance with ASQ/ANSI E4:2014 "Quality management systems for environmental information and technology programs – Requirements with guidance for use" (American Society for Quality, February 2014), by submitting a copy of the proposed contractor's Quality Management Plan (QMP). The QMP shall be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, Mar. 2001, reissued May 2006) or equivalent documentation as determined by the EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to the EPA review for verification that such persons meet objective assessment criteria (e.g., experience, capacity, technical expertise) and do not have a conflict of interest with respect to the project.
49. **Off-Site Shipment of Waste for Disposal.** In the event Respondent ships any waste off-site for disposal prior to approval and performance of the Work plan(s), Respondent shall comply with all applicable legal requirements, including, but not limited to, hazardous waste determinations, RCRA's manifest requirements, and land disposal restrictions. Within one (1) week following any off-site shipment of waste, the Respondent shall provide documentation to EPA that includes a description of the waste any characterization/waste determination of the waste, the amount of waste, the transporter, shipping papers (manifest or bill of lading) and the destination facility).

Containment Storage and Processing Building, and Hazardous Waste Containment Pads

50. Within fifteen (15) days of the Effective Date of this Consent Order, Respondent shall retain a professional engineer to perform a structural and mechanical evaluation of the CAP building at the Facility, in addition to all secondary hazardous waste containment pads for the permitted hazardous waste storage areas at the Facility.
51. Within sixty (60) days of the Effective Date of this Consent Order, Respondent shall submit to EPA, for review and approval (Section X. EPA Approvals), the professional engineer's inspection plan to perform a structural evaluation of the CAP building at the Facility and all secondary hazardous waste containment pads for the permitted hazardous waste storage areas located at the Facility. EPA shall coordinate the review of the Plan with PADEP.
52. Within sixty (60) days of the Effective Date of this Consent Order, Respondent shall submit to EPA, for review and approval, the professional engineer's work plan(s) to repair or modify the CAP building at the Facility to meet RCRA Subtitle C's Containment Building requirements (i.e. to be completely enclosed), to repair, if necessary, the CAP building leachate collection system, and to modify or repair any and all secondary hazardous waste containment pads for the permitted hazardous waste storage areas at the Facility used for the storage of hazardous waste to prevent the tracking/ release of such waste into the environment. EPA shall coordinate the review of the Plan with PADEP.
53. Within one hundred and twenty (120) days of EPA's approval (Section X. EPA Approvals) of the professional engineer's work plan(s), Respondent shall complete the necessary repairs or modifications in accordance with such approved work plan(s) for the CAP building at the Facility, and the CAP building leachate collections system at the Facility, and the secondary hazardous waste containment pads at the Facility.

Sampling and Laboratory Procedures

54. Within thirty (30) days of the Effective Date of this Consent Order, Respondent shall retain one or more qualified environmental contractors or consultants (hereinafter "Auditor") to audit the Respondent's sampling and laboratory procedures at the Facility. The Auditor shall evaluate: (1) the Respondent's Quality Assurance Project Plan ("QAPP"), (2) the Respondent's treatment processes such as the current effectiveness and reliability of such treatment, including alternative methods to improve effectiveness and reliability of such treatment, (3) the Respondent's laboratory standard operation procedures ("SOPs"), analytical test methods for sampling, equipment calibration, and chain of custody procedures, and (4) the Auditor shall perform sampling of all waste on-site that has been treated but not disposed in Landfill 6 as of the Effective Date of this Consent Order, including any and all waste received by the Facility after the Effective Date of this Consent Order. In addition, the Auditor shall sample residential monitoring wells 300 feet from the perimeter of Landfill No. 6 adjacent to or surround the Facility, and analyze such samples for arsenic, barium, cadmium, fluoride, iron, lead, manganese, nickel, selenium, silver, ammonia, and sulfate.

55. Within thirty (30) days of EPA's approval of Respondent's proposed Auditor, Respondent shall submit to EPA for review and approval (Section X. EPA Approvals), the Auditor's inspection/audit plan to perform the Work specified in in this Section. The Auditor's inspection/audit plan shall propose third party laboratories for EPA's approval (Section X. EPA Approvals) to perform all of the Auditor's sample analysis required under this Consent Order. EPA shall coordinate the review of the Audit Plan with PADEP.
56. Within sixty (60) days of EPA's approval of the Auditor's inspection/audit plan, Respondent shall submit to EPA for review, a report prepared by the Auditor of her/his findings and recommendations for the Facility and overview of the Work required under this Order. EPA shall coordinate the review of the implementation of the report with PADEP.
57. Within sixty (60) days of EPA's approval of the Auditor's report, Respondent shall submit to EPA for review and approval, a work plan(s) to implement and perform the recommendations and findings described in the Auditor's report. The approval and performance of any approved work plan shall be in accordance with Section X (EPA Approvals). EPA shall coordinate the review of the workplan with PADEP.
58. All sample collection and analysis performed by the Auditor pursuant to this Consent Order shall be sent to a PADEP accredited laboratory unaffiliated with the Respondent until the termination of this Consent Order or as otherwise specified by EPA. Split samples shall be provided to Respondent upon request at all times during the duration of this Consent Order.

Reporting and Other Communication

59. Within forty-five (45) days of the Effective Date of this Consent Order, Respondent shall provide to EPA documentation regarding all off-site shipments of any wastes from the Facility from the date of EPA's Inspection dated March 20, 2023, including, but not limited to bills of lading, manifests, waste determinations, and waste analyses from such shipments until the Effective Date of this Consent Order.
60. Monthly Progress Reports. Beginning one (1) week after the Effective Date of this Consent Order and continuing on a monthly basis thereafter until otherwise directed in writing by the EPA Project Coordinators, Respondent shall submit a written progress report to the EPA and PADEP concerning actions undertaken pursuant to this Consent Order. These reports shall describe all significant developments during the preceding reporting period, including, but not limited to, the actions performed and any problems encountered, analytical data received during the reporting period relating to this Consent Order, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems. These progress reports shall include documentation of actions taken and proposed to be taken to comply with the terms of this Consent Order.
61. Monthly Progress Meetings. Respondent shall participate in monthly virtual progress meetings with the EPA and PADEP during the duration of this Consent Order until termination of the same to discuss actions taken to comply with the Consent Order, anticipated next steps, and problems anticipated or encountered during the Work being performed.

IX. ADDITIONAL WORK

62. The EPA may determine, or Respondent may propose, that certain tasks, including but not limited to stabilization, site characterization, delineation, investigatory work, or procedure/methodology modifications, are necessary in addition to or in lieu of the tasks included in Section VIII (Work to be Performed) of this Consent Order to meet the purposes set forth in Section III (Statement of Purpose) of this Consent Order. If the EPA determines that Respondent shall perform additional work, the EPA will specify in writing the basis for its determination that the additional work is necessary. Within twenty (20) calendar days after the receipt of such determination, Respondent shall have the opportunity to meet or confer with the EPA to discuss the additional work. If required by the EPA, Respondent shall submit for EPA approval a work plan for the additional work. Such work plan shall be submitted within thirty (30) calendar days of receipt of the EPA's determination that additional work is necessary, or according to an alternative schedule established by the EPA. Upon approval of a work plan for any additional work, Respondent shall implement such work plan in accordance with the schedule and provisions contained therein. EPA shall coordinate the review of the workplan with PADEP.

X. EPA APPROVALS

63. The EPA shall coordinate with PADEP and EPA shall provide Respondent with its written approval, approval with conditions and/or modifications, or disapproval for any work plan, report, specification, or schedule submitted pursuant to or required by this Consent Order.
64. Respondent shall revise any work plan, report, specification, or schedule in accordance with the EPA's written comments within thirty (30) days of Respondent's receipt of the EPA's written comments unless the EPA has specified an alternative due date, in which case Respondent shall submit to the EPA any revised work plan, report, specification, or schedule in accordance with the due date specified by the EPA. Revised submittals are also subject to EPA approval, approval with conditions and/or modifications, or disapproval. Any revised submittal that is not approved, or approved with conditions and/or modifications, shall be considered noncompliant with the terms of this Consent Order.
65. Upon receipt of the EPA's written approval, Respondent shall commence work and implement any approved work plan in accordance with the schedule and provisions contained therein. If no schedule is contained in an approved work plan, then Respondents shall commence work and implementation of the work plan within ten (10) days of receipt of the EPA's written approval of the work plan.
66. Any EPA-approved report, work plan, specification, or schedule shall be incorporated by reference into this Consent Order as if set forth fully herein. Prior to the EPA's written approval, no work plan, report, specification, or schedule shall be construed as approved and final. Oral advice, suggestions, or comments given by the EPA representatives will not

constitute an official approval, nor shall any oral approval or oral assurance of approval be considered binding.

67. Noncompliance with any requirements of this Consent Order, including reports, work plans, specifications, schedules, and attachments approved by the EPA pursuant to this Consent Order, shall be considered a violation of the requirements of this Consent Order, and shall subject Respondent to the statutory penalty provisions and enforcement actions pursuant to Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), and any other applicable sanctions.

XI. MODIFICATION OF THE WORK PLAN(S)

68. If at any time during the implementation of the Work, Respondent identifies a need for a compliance date modification or revision of a work plan, supporting plans, documents, reports, specifications, and/or schedule, Respondent shall submit a memorandum documenting the need for the modification or revision to the EPA Project Coordinators. The EPA in its sole discretion will determine if the modification or revision is warranted and may provide written approval or disapproval. Any approved modified compliance date or work plan modification is incorporated by reference into this Consent Order.

XII. QUALITY ASSURANCE

69. As part of any work plan that requires sampling or analysis, Respondent and its contractors shall include a Quality Assurance Project Plan ("QAPP"), for the EPA review and approval. The QAPP shall address quality assurance, quality control, and chain of custody procedures for all sampling, monitoring, and analytical activities. Respondents shall follow "EPA Requirements for Quality Assurance Project Plans" (QA/R5)" (EPA/240/B-01/003, March 2001, reissued May 2006), "Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/240/R 02/009 (Dec. 2002), and "Uniform Federal Policy for Quality Assurance Project Plans," Parts 1 3, EPA/505/B-04/900A though 900C (Mar. 2005), as well as other applicable documents identified by the EPA. The QAPP shall be incorporated into this Consent Order by reference.
70. Contractor(s) for Respondent shall follow the "Field Branches Quality System and Technical Procedures" ([Quality System and Technical Procedures for LSASD Field Branches | US EPA](#)), and other relevant EPA guidance, for sampling and analysis activities, as appropriate. Work plans shall contain quality assurance/quality control (QA/QC) and chain of custody procedures for all sampling, monitoring, and analytical activities. Any deviations from the approved work plans must be approved by the EPA prior to implementation; must be documented, including reasons for the deviations; and must be reported in the applicable monthly progress report.
71. All work plans required under this Consent Order shall include data quality objectives for each data collection activity to ensure that data of known and appropriate quality are obtained, and that data are sufficient to support their intended use(s).
72. The names, addresses, and telephone numbers of all analytical laboratories that Respondent's contractors propose to use must be specified in the applicable work plan(s).

73. Respondent shall monitor to ensure that high quality data are obtained by its contractors, consultants or contract laboratories. Respondent and its contractors shall ensure laboratories used for analyses perform such analyses according to the latest approved edition of "Test Methods for Evaluating Solid Waste (SW-846)" or other methods approved by the EPA. If methods other than the EPA methods are to be used, Respondent and its contractors shall specify all such protocols in the applicable work plan. The EPA may reject any data that does not meet the requirements of the approved work plan and the EPA analytical methods and may require resampling and additional analysis.
74. Respondent and its contractors shall ensure that all laboratories they use for analyses participate in a QA/QC program equivalent to the program that the EPA follows. Respondent shall, upon the EPA's request, make arrangements for the EPA to conduct a performance and QA/QC audit of the laboratories chosen by the Respondent and its contractor, whether before, during, or after sample analyses. Upon the EPA's request, Respondent and its contractors shall have its laboratories perform analyses of samples provided by the EPA to demonstrate laboratory QA/QC and performance. If the audit reveals deficiencies in a laboratory's performance or QA/QC, Respondent shall submit a plan to address the deficiencies and the EPA may require resampling and additional analysis.
75. The EPA reserves the right to require a change in third party laboratories for reasons which may include, but shall not be limited to, QA/QC, performance, conflict of interest, or confidential agency audit information. In the event the EPA requires a laboratory change, Respondent shall propose two alternative laboratories within thirty (30) days. Once the EPA approves of the laboratory change, Respondent shall ensure that laboratory service shall be made available within fifteen (15) days. This paragraph is not intended to apply to Respondent's use of its own laboratory so long as the lab maintains its PADEP certification.

XIII. DOCUMENT CERTIFICATION

76. Any report or other document submitted by Respondent pursuant to this Consent Order which makes recommendations as to whether or not further actions are necessary or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this Consent Order shall be certified by a responsible corporate officer of Respondent. A responsible corporate officer means: a president, secretary, treasurer, or vice-president in charge of a principal business function.
77. The certification required by the above Paragraph, shall be in the following form:

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 the information, the information submitted is, to be 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.

Signature: _____

Name: _____

Title: _____

Date: _____

XIV. SAMPLING, ACCESS, AND DATA AVAILABILITY

- 78. All results of sampling, testing, modeling, or other data generated (including raw data if requested) by Respondent, or on Respondent’s behalf, during implementation of this Consent Order shall be submitted to the EPA within thirty (30) days of Respondent’s receipt of the data. Respondent shall tabulate data chronologically by media, as appropriate. EPA may require Respondent to validate any data submitted to EPA under this Consent Order in accordance with a mutually agree scope and schedule. The EPA will make available to Respondent data generated by the EPA for the purposes of oversight of the Work, including but not limited to laboratory test reports, unless it is exempt from disclosure by any federal or state law or regulation.
- 79. Respondent shall notify the EPA Project Coordinators in writing at least ten (10) days prior to conducting any sampling related to compliance with this Consent Order. At the EPA’s request, Respondent shall allow split or duplicate samples to be taken by the EPA or the EPA’s representative.
- 80. Site Access. Pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), Respondent shall provide access to the Site at reasonable times to the EPA, the EPA’s contractors, PADEP, and any other oversight officials. Respondent shall also provide access at reasonable times to the EPA, the EPA’s contractors, PADEP, and any other oversight officials to all records and documentation in its possession or control, including those records and documents in the possession or control of the Respondent’s contractors and employees, related to the conditions at the Site and the actions conducted pursuant to this Consent Order. Respondent shall use its best efforts to gain access to areas owned by or in the possession of someone other than the Respondent as necessary to implement this Consent Order. Such access shall be provided to the EPA, its contractors, PADEP, and any other oversight officials. These individuals shall be permitted to move freely about the Site and appropriate off-site areas in order to conduct actions that the EPA determines to be necessary. The EPA, its contractors, PADEP, and any other oversight officials will notify Respondent of their presence on the Site by presenting their credentials. All parties with access to the Site under this Paragraph shall comply with all approved health and safety plans and regulations.
- 81. Pursuant to this Section, any denial of access at reasonable times to any portion of the Facility where a request for access was made for the purposes of enforcing the requirements of RCRA or this Consent Order shall be construed as a violation of the terms of this Consent Order subject to the penalty provisions outlined in Section XVIII (Failure to Comply) of this Consent Order.

82. Respondent shall make available to the EPA all employees and persons, including contractors, who engage in activities under this Consent Order and ensure their cooperation with the EPA with respect to this Consent Order.
83. Access Agreements. Where action under this Consent Order is to be performed in areas owned by, or in possession of, someone other than Respondent, Respondent shall use their best efforts to obtain all necessary access agreements within forty-five (45) days of approval of any work plan for which access is necessary or as otherwise specified, in writing, by the EPA Project Coordinators. Any such access agreement shall provide for access by the EPA and its representatives to move freely in order to conduct actions that the EPA determines to be necessary. The access agreement shall specify that Respondent is not the EPA's representatives with respect to any liabilities associated with activities to be performed. Respondent shall provide the EPA's Project Coordinators with copies of any access agreements. Respondent shall immediately notify the EPA if after using Respondent's best efforts they are unable to obtain such agreements within the time required. Best efforts as used in this Paragraph shall include, at a minimum, a certified letter from Respondent to the present owner of such property requesting access agreements to permit Respondent, the EPA, and the EPA's authorized representatives to enter such property to perform any necessary work under this Consent Order. Respondent shall, within ten (10) days of its receipt of a denial of access, submit in writing, a description of its efforts to obtain access. The EPA may, at its discretion, assist Respondent in obtaining access. In the event the EPA obtains access, Respondent shall undertake the Work on such property and Respondent shall reimburse the EPA for all costs and attorneys' fees, if any, incurred by the United States in obtaining such access.
84. Confidential Business Information. Respondent may assert a claim of business confidentiality covering part or all the information submitted to the EPA pursuant to the terms of this Order under 40 C.F.R. § 2.203 in the manner described at 40 C.F.R. § 2.203(b) and substantiated with the information described at 40 C.F.R. § 2.204(e)(4). However, Respondent shall not assert confidentiality claims with respect to any data related to Site conditions, sampling, monitoring, or the Work performed pursuant to this Consent Order. Information the EPA determines is confidential will be given the protection specified in 40 C.F.R. Part 2. If no such claim or substantiation accompanies the information when it is submitted to the EPA, it may be made available to the public by the EPA without further notice to Respondents.
85. Privileged Documents. Respondent may assert that certain documents, records, and other information are privileged under the attorney-client privilege, or any other privilege recognized by federal law. If Respondent asserts such a privilege in lieu of providing documents, Respondent shall provide the EPA with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the author's name and title; (4) the name and title of each addressee and recipient; (5) a description of the contents; and (6) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the work requirements of this Consent Order shall be withheld on the grounds that they are privileged.
86. All data, information, and records created or maintained relating to any solid or hazardous waste found at the Site shall be made available to the EPA upon request unless Respondent

asserts a claim that such documents are legally privileged from disclosure. Respondent shall have the burden of demonstrating to the EPA by clear and convincing evidence that such privilege exists.

87. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.
88. Nothing in this Consent Order shall be construed to limit the EPA's right of access, entry, inspection, and information gathering pursuant to applicable law, including but not limited to RCRA and the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA").

XV. RECORD RETENTION

89. Respondent shall preserve all documents and information, including raw data, relating to the Work performed under this Consent Order, or otherwise required to be maintained by its permits or RCRA relating to any solid waste or hazardous waste, for five (5) years following completion of the Work required by this Consent Order.
90. Respondent shall acquire and retain copies of all documents that relate to the Facility that are in the possession of its employees, agents, accountants, contractors, or attorneys.
91. After the five-year retention period and ninety (90) days before any document or information is destroyed, Respondent shall notify the EPA that such documents and information are available to the EPA for inspection, and upon request, shall provide the originals or copies (at no extra cost) of such documents and information to the EPA. Notification shall be in writing and shall reference the Effective Date, caption, and docket number of this Consent Order and shall be addressed to the EPA Region 3 Director, Enforcement and Compliance Assurance Division. In addition, Respondent shall provide documents and information retained under this Section at any time before expiration of the five-year retention period at the written request of the EPA.
92. All documents pertaining to this Consent Order shall be stored by Respondent in a centralized location at the Facility, or an alternative location approved by the EPA, to promote reasonable access by the EPA or its representatives.

XVI. EMERGENCY RESPONSE

93. In the event that Respondent identifies a threat to health or the environment at any time during the implementation of this Consent Order, which warrants more immediate action than pursuant to any work plan or other requirement of this Consent Order, or warrants action before an otherwise applicable work plan is approved, Respondent shall provide oral notification to the EPA Project Coordinators within twenty-four (24) hours of discovery and notify both the EPA and the PADEP in writing within seven (7) days of such discovery, summarizing the nature, immediacy, and magnitude of such threat(s).

94. Proper notification, as required in this section, does not relieve Respondent of any other notification responsibility Respondent may have under any other law, including, but not limited to, Section 103 of the CERCLA, as amended, or Section 304 of the Emergency Planning and Community Right to Know Act, as amended.
95. If the EPA determines that immediate action is required, the EPA Project Coordinators may orally authorize and require Respondent to take actions to abate the threat prior to approval of any plan or in addition to a plan after approval.
96. If the EPA or any other federal, state, or local agency identifies such a threat at the Facility or at any location encompassed by this Consent Order at any time during implementation of this Consent Order, the EPA will notify Respondent orally and in writing. If the EPA determines that immediate action is required, the EPA Project Coordinators may orally authorize and require Respondent to take actions to abate the threat prior to approval of a plan or in addition to a plan after approval.
97. Any requirements made pursuant to this section shall be immediately incorporated into this Consent Order by reference and are immediately enforceable and shall not relieve Respondent of any other requirement of this Consent Order.

XVII. OTHER APPLICABLE LAWS

98. All actions required to be taken pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. Respondent shall obtain or cause their representatives to obtain all permits and approvals necessary under such laws and regulations to perform Work pursuant to this Consent Order and shall submit timely applications and requests for any such permits and approvals.

XVIII. FAILURE TO COMPLY

99. In the event that Respondent willfully violates, or fails, or refuses to comply with any of the terms or provisions of this Consent Order, the EPA may commence a civil action in the United States district court where Respondent is doing business to require compliance with this Consent Order and to seek a civil penalty of up to \$73,045 for each day during which such violation occurred or is occurring and for each day where there was or is a failure or refusal to comply pursuant to Section 3008(c) of RCRA, 42 U.S.C. § 6928(c). Failure to perform any requirement of this Consent Order shall be a violation of this Consent Order, beginning on the first day that performance is scheduled to commence.

XIX. RESERVATION OF RIGHTS

100. The EPA expressly reserves all rights and defenses that it may have, including the rights both to disapprove work performed by Respondent pursuant to this Consent Order and to request that Respondent perform tasks in addition to those stated in the Section VIII (Work to be Performed) above.
101. The EPA hereby 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 Consent Order, including without limitation the assessment of penalties under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g). This Order shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, and/or authorities, civil or criminal, which the EPA has under RCRA, CERCLA, or any other statutory, regulatory, or common law authority of the United States. Nothing in this Consent Order shall diminish, impair, or otherwise adversely affect the authority of the EPA to enforce the provisions of this Consent Order.

102. This Consent Order shall not limit or otherwise preclude the EPA from taking additional enforcement action pursuant to RCRA, or any other available legal authority, should the EPA determine that such action is warranted and necessary to protect human health and the environment.
103. If the EPA determines that activities in compliance or noncompliance with this Consent Order have caused or may cause a release of solid and/or hazardous waste or hazardous constituents or may pose a threat to human health and/or the environment, or if the EPA determines that Respondent is not capable of undertaking any of the Work ordered, the EPA may order Respondent to stop further implementation of this Consent Order for such period of time as the EPA determines to be necessary to abate any such release or threat and/or to undertake any additional corrective measures.
104. This Consent Order is not intended to be nor shall it be construed as a permit. Approval of any work plan does not constitute a warranty or representation that the work plans will achieve the required cleanup or compliance with environmental requirements. Compliance by Respondent with the terms of this Consent Order shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, state, or federal laws and regulations, including but not limited to, their obligation to obtain and/or comply with any permit issued under RCRA or any other applicable local, state, or federal laws or regulations; nor is this Consent Order intended to be, nor shall this Consent Order be construed to be, a ruling or determination on, or of, any issue related to any local, state, or federal permit.

XX. OTHER CLAIMS

105. Nothing in this Consent Order shall constitute or be construed as a release from any claim, cause of action, demand, or defense in law or equity against any person, firm, partnership, 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 wastes, or pollutants or contaminants found at, taken to, or taken or migrating from the Facility.

XXI. SUBSEQUENT MODIFICATION

106. This Consent Order may only be amended by mutual agreement of the EPA and Respondent. Such an amendment shall be in writing, shall have as its effective date immediately upon receipt by Respondent, and shall be incorporated into this Consent Order.

107. No informal advice, guidance, suggestion, or comment by the EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondent shall relieve Respondent of its obligation to obtain such formal approval as may be required by this Consent Order, and to comply with all requirements of this Consent Order unless it is formally modified. Any deliverables, plans, technical memoranda, reports, specifications, schedules, and attachments required by this Consent Order are, upon approval by the EPA, incorporated into and enforceable under this Consent Order.

XXII. TERMINATION AND SATISFACTION

108. The provisions of this Consent Order shall be deemed terminated and satisfied by Respondent upon written notice from the EPA that Respondent has demonstrated that all the terms of this Consent Order, including any additional work as may be performed pursuant to Section IX (Additional Work) have been addressed to the satisfaction of the EPA. Termination of this Consent Order shall not terminate the Respondent's obligation to comply with: Sections XIV (Sampling, Access and Data Availability); XV (Record Retention); and XIX (Reservation of Rights) of this Consent Order.

XXIII. SEVERABILITY

109. If a court issues an order that invalidates any provision of this Consent Order or finds that Respondent has sufficient cause not to comply with one or more provisions of this Consent Order, Respondent shall remain bound to comply with all provisions of this Consent Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.

XXIV. IRS NOTICE REQUIREMENTS

110. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at henderson.jessica@epa.gov, within 30 days after the Effective Date of this Order, below, and EPA recommends encrypting IRS Form W-9 email correspondence.
 - d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of this Consent Order per Paragraph XXV, below, and
 - ii. provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.
111. 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. § 162-21(b)(2), performance of the activities in Section VIII of this Order (Work to be Performed) is restitution, remediation, or required to come into compliance with the law.

XXV. EXTENSION OF TIME BASED ON FORCE MAJEURE

112. "Force Majeure Event," for purposes of this Consent Order, is defined as any event arising from causes beyond the control of either Respondent, of any entity controlled by Respondent or any contractor of either Respondent, that delays or prevents the performance of any obligation under this Consent Order subsequent to Respondent exercising best efforts to fulfill the obligation(s) at issue. The requirement that each Respondent exercises "best efforts to fulfill the obligation" includes using best efforts to anticipate any Force Majeure Event and best efforts to address the effects of any such event: (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay. Unanticipated or increased costs or expenses associated with the performance of Respondent's obligations under this Consent Order or Respondent's financial inability to perform any obligation under this Consent Order shall not constitute circumstances beyond Respondent's control nor serve as the basis for an extension of time under this Consent Order.
113. If at any time during the implementation of this Consent Order, any Force Majeure Event occurs that may delay the performance of any obligation under this Consent Order, including implementation of an EPA-approved plan or schedule, Respondent shall, within seven (7) calendar days of determining that such event may delay the performance of such obligation, provide to EPA a written request for an extension of time to comply with any such obligation (Force Majeure Extension of Time Request). Such Extension of Time Request shall include, at a minimum, the following information for each specific obligation(s) for which an extension of time is sought.
- I. The specific obligation(s) for which an extension of time is sought, including each applicable deadline.

- II. A detailed explanation and description of the Force Majeure Event at issue and the reasons for the requested extension of time, including all supporting documentation.
 - III. The amount of time for which an extension of time is sought.
 - IV. A detailed description of all actions taken to prevent or minimize the amount of time for which an extension of time is sought, including a detailed description of each Respondents' best efforts to fulfill the obligation.
 - V. A detailed description, including a schedule for implementation, of all actions to be taken to prevent or mitigate the amount of time for which an extension is sought and the effect of any delay on any other obligation pursuant to this Consent Order.
 - VI. A statement as to whether, in the opinion of Respondents, the Force Majeure Event at issue may cause or contribute to an endangerment to public health, welfare, or the environment.
114. Respondent shall be deemed to know of the occurrence of, or reasonable likelihood of an occurrence of, any circumstance or event that may delay the performance of any obligation under this Consent Order of which Respondent, any entity controlled by Respondent or any contractor of Respondent knew or reasonably should have known.
115. Any Force Majeure Extension of Time Request shall be submitted in accordance with this Consent Order and EPA may, in its unreviewable discretion, approve or disapprove any Force Majeure Extension of Time Request.
116. EPA's approval, including conditional approval, of any Force Majeure Extension of Time Request shall not, of itself extend the time for performance of any other obligation not explicitly addressed in such approval.
117. Failure to comply with the above requirements may preclude Respondent from asserting any claim of Force Majeure or other related defense for non-compliance with the terms of this Consent Order for the time period such non-compliance is related to a reportable event.

XXVI. EFFECTIVE DATE

118. This Consent Order shall be effective seven (7) days after the EPA's signature of the Consent Order. If modifications are made by the EPA to this Consent Order, such modifications will be effective on the date received by Respondent. The Consent Order shall remain in effect until the provisions identified in the Consent Order have been met in accordance with EPA approval, all the RCRA regulations promulgated thereunder, and written notice of termination pursuant to Section XXII (Termination and Satisfaction) has been issued.

In re: Max Environmental Technologies, Inc.

RCRA-03-2024-0081RA

In the Matter of Max Environmental Technologies, Inc. Inc. Docket No. RCRA-03-2024-0081RA:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 3

Karen Melvin
Director, Enforcement and Compliance Assurance
Division

In re: Max Environmental Technologies,
Inc.

RCRA-03-2024-0081RA

Max Environmental Technologies, Inc.

A handwritten signature in black ink, appearing to read "Robert Shawver", written over a horizontal line.

Robert Shawver, CEO
