

*Certified Mail No. 7000 0520 0021 6109 0423*  
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*In Reply Refer To: CWA-307-9-05-46*

Mr. Roger R. Fox  
Environmental Compliance Manager  
Clean Harbors Environmental Services, Inc.  
5756 Alba Street  
Los Angeles, California 90058

Dear Mr. Fox:

Enclosed please find a Finding of Violation and Administrative Order, which requires Clean Harbors Environmental Services, Inc. (Clean Harbors) to comply with the Federal categorical pretreatment standards. The U.S. Environmental Protection Agency (EPA) is issuing this Order to Clean Harbors in response to findings made during EPA's January 12, 2004, compliance inspection of Clean Harbors and EPA's review of data submitted by Clean Harbors under EPA's August 30, 2004 Information Request.

The enclosed Administrative Order requires that Clean Harbors comply with all of the Federal categorical pretreatment standards, submit historical and financial information by July 31, 2005, and self-monitor its wastewater discharges to the City of San Jose sewers from receipt of this Order through August of 2006.

If you have any questions regarding this matter, please contact Margaret Masquelier of my staff at (415) 972-3536.

Sincerely,

Alexis Strauss  
Director  
Water Division

Enclosure

cc: Mr. Phil McGinnis, City of San Jose  
Ms. Lila Tang, San Francisco Bay Regional Water Quality Control Board

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 9

In the Matter of	)	
Clean Harbors Environmental Services, Inc.	)	
1021 Berryessa	)	
San Jose, California 95133	)	
	)	
San Jose/Santa Clara Water Pollution Control Plant	)	FINDING OF VIOLATION
Industrial User	)	
San Jose, California	)	AND ORDER
	)	
Proceedings under Section 308(a)	)	
and 309(a)(3), (a)(4) and (a)(5)(A)	)	Docket No. CWA-307-9-05-46
of the Clean Water Act, as amended,	)	
33 U.S.C. Section 1318(a) and	)	
1319(a)(3), (a)(4) and (a)(5)(A)	)	

STATUTORY AUTHORITY

The following Finding of Violation and Order (Docket No. CWA-307-9-05-46) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) pursuant to Sections 308(a) and 309(a)(3), (a)(4) and (a)(5)(A) of the Clean Water Act [33 U.S.C. Sections 1318(a) and 1319(a)(3), (a)(4) and (a)(5)(A)] (hereinafter the Act). This authority has been delegated by the Administrator to the Regional Administrator who has, in turn, delegated it to the Director of the Water Division of EPA Region 9.

FINDING OF VIOLATION

The Director of the Water Division of EPA Region 9 finds that Clean Harbors Environmental Services, Inc. (“Clean Harbors”), is in violation of Section 307(d) of the Act [33 U.S.C. Section 1317(d)]. This Finding is made on the basis of the following:

1. Section 307(d) of the Act [33 U.S.C. Section 1317(d)] prohibits any owner or operator of any source from introducing pollutants into publicly owned treatment works (POTWs) in

violation of any effluent standard or prohibition or pretreatment standard promulgated pursuant to Section 307 of the Act.

2. Pursuant to Section 308(a) of the Act [33 U.S.C. 1318(a)], EPA is authorized to require any person to provide information needed to determine whether there has been a violation of the Act; and pursuant to 309(g) of the Act [33 U.S.C. 1319], EPA has the option of seeking administrative or judicial civil penalties against any person who fails to comply with an information request pursuant to Section 308(a) of the Act [33 U.S.C. 1318(a)].
3. Pursuant to Section 307(b) of the Act [33 U.S.C. 1317(b)], EPA promulgated general pretreatment standards in 40 CFR 403 for all industrial users and categorical pretreatment standards in 40 CFR Part 437 for centralized waste treatment (CWT) operations. These general and categorical pretreatment standards include the following:
  - a. Pursuant to 40 CFR Part 437 Subpart A, any CWT operation that generates wastewater by treating “metal-bearing wastes”, as defined under 40 CFR 437.2(l), accepted from off-site must comply with the daily-maximum and monthly-average discharge limits for antimony, arsenic, cadmium, chromium, cobalt, copper, lead, mercury, nickel, silver, tin, titanium, vanadium, zinc, and cyanide as specified under 40 CFR 437.15 or 437.16 by December 22, 2003;
  - b. Pursuant to 40 CFR Part 437 Subpart B, any CWT operation that generates wastewater by treating “oily wastes”, as defined under 40 CFR 437.2(p), accepted from off-site must comply with the daily-maximum and monthly-average discharge limits for chromium, cobalt, copper, lead, tin, zinc, bis(2-ethylhexyl) phthalate, carbazole, n-decane, fluoroanthene, and n-octadecane as specified under 40 CFR 437.25 or 437.26 by December 22, 2003;

- c. Pursuant to 40 CFR Part 437 Subpart C, any CWT operation that generates wastewater by treating “organic wastes”, as defined under 40 CFR 437.2(r), accepted from off-site must comply with the daily-maximum and monthly-average discharge limits for o-cresol, p-cresol, and 2,4,6-trichlorophenol as specified under 40 CFR 437.35 or 437.36 by December 22, 2003;
- d. Pursuant to 40 CFR Part 437 Subpart D, any CWT operation that generates wastewater by treating a combination of “metal-bearing”, “oily wastes”, and “organic wastes”, as defined under 40 CFR 437.2(l), (p), and (r), accepted from off-site must comply with the daily-maximum and monthly-average discharge limits for antimony, arsenic, cadmium, chromium, cobalt, copper, lead, mercury, nickel, silver, tin, titanium, vanadium, zinc, cyanide, bis(2-ethylhexyl) phthalate, carbazole, n-decane, fluoroanthene, n-octadecane, o-cresol, p-cresol, and 2,4,6-trichlorophenol as specified under 40 CFR 437.46 or 437.47 by December 22, 2003;
- e. Pursuant to 40 CFR 403.12(e) and (g), categorical industrial users must self-monitor at least twice per year for all parameters unless required more frequently by the local pretreatment program. In this case, the local pretreatment program, identified in paragraph 4 of this Order, requires that categorical industrial users monitor two times per year and submit reports with monitoring results on March 31<sup>st</sup> and September 30<sup>th</sup> of each year.
- f. Pursuant to 40 CFR 403.12(d), categorical industrial users must submit a status report on its compliance with categorical pretreatment standards. This report is due within 90 days of the final compliance date of the applicable categorical standards. This status report must include monitoring results for all regulated

parameters;

- g. Pursuant to 40 CFR 403.6(d), an industrial user may not increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement;
  - h. Pursuant to 40 CFR 403.12(g), an industrial user must perform sampling that is representative of the conditions occurring during the reporting period;
  - i. Pursuant to 40 CFR 403.12(g), an industrial user must submit the results of monitoring to the POTW if conducted more frequently than that required by the POTW;
  - j. Pursuant to 40 CFR 403.12(g), an industrial user must analyze wastewater discharge samples collected for its self monitoring reports for all regulated parameters using methods approved under 40 CFR 136.
4. Clean Harbors is a corporation and therefore a person within the meaning of Section 502(5) of the Act, [33 U.S.C. Section 1362(5)]. Clean Harbors operates the facility located at 1021 Berryessa San Jose, California (“the Facility”). The Facility is a non-domestic source and introduces pollutants within the meaning of Section 502(6) of the Act [33 U.S.C. Section 1362(6)] into the San Jose/Santa Clara Water Pollution Control Plant (“City of San Jose”), which is a POTW within the meaning of Section 307(b) and 40 CFR Section 403.3(o). Clean Harbors is therefore subject to the provisions of the Act, [33 U.S.C. Section 1251 et seq., including Section 307, 33 U.S.C. Section 1317].
5. On January 12, 2004, an EPA inspector conducted a compliance evaluation of the Facility and determined that:
- a. The Facility accepts and treats wastewater generated by various off-site industrial

processes. As a result, the Facility is subject to the categorical pretreatment standards set forth in 40 CFR Part 437 for centralized waste treatment (“CWT”) facilities.

- b. A Clean Harbors representative stated that the Facility installed its current wastewater treatment processes before the December 22, 2000 publication date of the final rule for CWT facilities. According to this information, the Facility’s CWT operations are regulated under the existing source CWT pretreatment standards set forth in 40 CFR 437.15, 437.25, 437.35, 437.46, and 437.47.
- c. Clean Harbors has a wastewater discharge permit that was issued by the City of San Jose, which requires Clean Harbors to comply with Federal and local regulations, including the CWT regulations at 40 CFR 437.15, Subpart A-Metals Treatment and Recovery.
- d. The Facility accepts and treats metal-bearing wastes generated from off-site industrial processes and the wastewater generated from treating this wastewater is discharged to the City of San Jose. Thus, the wastewater generated at the Facility from treating metal-bearing wastes is subject to the categorical pretreatment standards, which are listed in Table 1 below and at 40 CFR 437.15 under Subpart A–Metals Treatment and Recovery. These limits must be applied after treatment for metal-bearing wastes and before mixing with any other waste streams.

**Table 1: Limits for Clean Harbors’ discharge of Metal-bearing Wastewater 40 CFR 437.15 Subpart A-Metals Treatment and Recovery**

Parameter	Daily Average (mg/L)	Monthly Average (mg/L)
Antimony	0.249	0.206
Arsenic	0.162	0.104
Cadmium	0.474	0.0962
Chromium	15.5	3.07
Cobalt	0.192	0.124
Copper	4.14	1.06
Lead	1.32	0.283
Mercury	0.00234	0.000739
Nickel	3.95	1.45
Silver	0.120	0.0351

Tin	0.409	0.120
Titanium	0.0947	0.0618
Vanadium	0.218	0.0662
Zinc	2.87	0.641
Cyanide(T)	***	***

\*\*\*Cyanide limits must be determined by calculating the cyanide-bearing flow contribution to the total flow: see 40 CFR 433.12 (c)

- e. The Facility was accepting and treating oily wastes generated from off-site industrial processes and the wastewater generated from treating this wastewater was discharged to the City of San Jose. Clean Harbors was not permitted to accept and treat oily wastewater under its permit from the City of San Jose. The wastewater generated at the Facility from treating oily wastewater is subject to the categorical pretreatment standards, which are listed below in Table 2 and at 40 CFR 437.25 under Subpart B–Oils Treatment and Recovery. These limits must be applied after treatment for oily wastes and before mixing with other waste streams.

**Table 2: Limits for Clean Harbors' discharge of Oily Wastewater  
 40 CFR 437.25 Subpart B-Oils Treatment and Recovery**

Parameter	Daily Average (mg/L)	Monthly Average (mg/L)
Chromium	0.947	0.487
Cobalt	56.4	18.8
Copper	0.405	0.301
Lead	0.222	0.172
Tin	0.249	0.146
Zinc	6.95	4.46
Bis(2-ethylhexyl)phthalate	0.267	0.158
Carbazole	0.392	0.233
n-Decane	5.79	3.31
Fluoranthene	0.787	0.393
n-Octadecane	1.22	0.925

- f. The Facility was accepting and treating organic wastes generated from off-site industrial processes and the wastewater generated from treating this wastewater was discharged to the City of San Jose. Clean Harbors was not permitted to accept and treat organic wastewater under its permit from the City of San Jose. The wastewater generated at the Facility from treating organic wastes is subject to the categorical pretreatment standards, which are listed in Table 3 below and at 40

CFR 437.35 under Subpart C–Organics Treatment and Recovery. The standards listed at 40 CFR 437.35 must be applied after treatment for organic wastes and before mixing with other waste streams.

**Table 3: Limits for Clean Harbors' discharge of Organic Wastewater  
 40 CFR 437.35 Subpart C-Organics Treatment and Recovery**

Parameter	Daily Average (mg/L)	Monthly Average (mg/L)
o-Cresol	1.92	0.561
p-Cresol	0.698	0.205
2,4,6-Trichlorophenol	0.155	0.106

- g. The Facility is subject to the limits under Subparts A, B, and C of the CWT rule (listed under subparagraphs (d), (e), and (f) of this paragraph) and not the limits under Subpart D of the CWT rule since: it accepted and treated metal-bearing, oily, and organic wastes generated from off-site industrial processes, the wastewater generated from treating this wastewater was discharged to the City of San Jose, and the Facility had not demonstrated that it provided equivalent treatment of its wastewater discharges to that which the pretreatment standards were based on.
  - h. The Facility extracts contaminated groundwater from below the Facility and uses a portion of it for non-contact cooling water. The extracted groundwater is discharged to the City of San Jose. The Facility samples this groundwater quarterly and submits the analytical results to the California Regional Water Quality Control Board.
6. On August 30, 2004, EPA sent an information request (“Information Request”) under Section 308(a) of the CWA, which required that Clean Harbors submit: a description of the on-site treatment processes and operations, a list of industries serviced, its waste acceptance procedures, and monitoring data for CWT parameters.
  7. On or about November 12, 2004, Clean Harbors submitted a response (“Response”) to



EPA's Information Request, which was incomplete because it did not contain all information required by the Information Request.

8. Clean Harbors requested a meeting with EPA to discuss the status of Clean Harbors' compliance with the Federal CWT regulations. On March 28, 2005, EPA met with representatives from Clean Harbors. During the meeting, Clean Harbors stated they are currently in compliance with Subpart A of the CWT rule and with the City of San Jose's permit. EPA understood from the January 2004 inspection and communication with Clean Harbors following the inspection that, since June of 2004, the Facility limited wastes received and treated on-site to metal-bearing wastes (Subpart A, under the CWT rule); and from January through July 2004, the Facility had not been in compliance with its permit from the City of San Jose nor with the CWT rule since they accepted waste from multiple Subparts but did meet the segregation and monitoring requirements under Subpart A, B, and C or demonstrate equivalent treatment under Subpart D of the CWT rule. During the March 28<sup>th</sup> meeting, Clean Harbors representatives confirmed the accuracy of this information.
9. EPA finds Clean Harbors violated Section 308(a) of the Act [33 U.S.C. Section 1318(a)] since:
  - a. Clean Harbors did not submit all required information under EPA's August 30, 2004 Information Request. EPA's Information Request required that Clean Harbors submit: a description of its treatment process and operations, a list of industries serviced, waste acceptance procedures, monitoring data, communications with regulatory agencies, and information on mass removal levels for specified pollutants.

EPA finds that Clean Harbors is out of compliance with the Information Request since Clean Harbors' Response was missing documents, which EPA has confirmed that the City of San Jose received from Clean Harbors at an earlier date. Clean Harbors' Response to EPA was missing at least the following items: the Centralized Waste Treatment Sampling Baseline Report, prepared on December 9, 2003 by Lon R. Stewart; a letter from Clean Harbors to the City of San Jose dated March 19, 2004, which pertained to the applicability of the CWT rule to Clean Harbors; sample results submitted to the City of San Jose from 2004, which includes, but may not be limited to, those dated January 5, January 6, February 9, and March 1; and Clean Harbors' wastewater discharge permit issued by the City of San Jose.

- b. Clean Harbors did not adequately respond to Question 4a of EPA's Information Request, which requires the facility submit influent sampling results for arsenic, cadmium, mercury, lead, silver and cyanide, in addition to other pollutants. On page 6, section v. of Clean Harbors' Response, Clean Harbors responds to Question 4 and states that, "Upon receipt of materials the facility collects a representative sample of wastewater...the analysis are outlined in the facilities Waste Analysis Plan (WAP)." Both the Waste Analysis Plan (WAP) and the CWT Sampling Plan prepared by Clean Harbors states that incoming waste loads are sampled for arsenic, cadmium, mercury, lead, silver and cyanide, in addition to other pollutants. Since Clean Harbors sampled incoming waste loads for the pollutants specified under Question 4 of the Information Request, but did not submit this data, the facility is not in compliance with the Information Request.

- c. Clean Harbors did not adequately respond to Question 6 of EPA’s Information Request, which requires the facility provide information on mass removal levels achieved by its treatment process for specified pollutants. On page 10 of its Response, Clean Harbors responds to Question 6 by stating that, “Detailed analytical testing on USEPA pollutants of interest is not performed on incoming waste and is not available...[t]hus mass removal efficiencies cannot be computed as requested.” As described in paragraph 8 (b) of this Order, Clean Harbors stated that it performs analytical testing for the pollutants specified in the Information Request on incoming waste; thus, mass removal levels can be computed and Clean Harbors is not in compliance with the Information Request.
10. EPA finds Clean Harbors violated Section 307(d) of the Act [33 U.S.C. Section 1317(d)] by:
  - a. **Discharging wastewater with titanium concentrations that exceeded the Federal limit under the CWT rule.** On August 3, 2004, Clean Harbors discharged two batches of wastewater to the City of San Jose that had titanium concentrations measured at 0.198 mg/L and 0.005 mg/L. The average of these two samples is 0.102 mg/L, which is above the Federal daily maximum limit of 0.0947 mg/L under Subpart A of the CWT rule.
  - b. **Discharging wastewater regulated by the CWT rule and not sampling for all required pollutants.** From the January inspection and during conversations with a Clean Harbors representative following the inspection, EPA learned that, on at least two occasions between January and June of 2004, Clean Harbors accepted and treated

- oily and organic wastes and discharged the wastewater from the treatment of these wastes to the sewers without sampling for the required parameters.
- c. **Failing to submit the required monitoring results for mercury.** Clean Harbors was required to submit a 90-day status report to the City of San Jose by March 21, 2004, as required under 40 CFR 403.12(d). According to information submitted to EPA by the City of San Jose, Clean Harbors did not include the required analytical results for mercury on its 90-day status report.
- d. **Diluting wastestreams as a substitute for treatment.** The general prohibition at 40 CFR 403.6(d) prohibits industrial users from in any way attempting to dilute a wastewater discharge as a partial or complete substitute for treatment to achieve compliance with a pretreatment standard or requirement. From the January inspection and during conversations with a Clean Harbors representative following the inspection, EPA learned that on at least two occasions between January and June 2004 the Facility has commingled wastewaters that are classified under subparts A, B, and C (“Subparts”), which can be referenced at 40 CFR 437.10, 40 CFR 437.20, and 40 CFR 437.30, respectively, before they are separately treated and sampled, which is considered dilution.
- e. **Collecting unrepresentative samples of wastewater discharged.** Under 40 CFR 403.12(g), industrial users are required to conduct compliance sampling that is representative of a sampling day’s operation and of the conditions during a reporting period. Clean Harbors is not in compliance with this requirement since it failed to sample the wastewater the facility discharges to the City of San Jose as required by

the CWT regulations at 40 CFR 437 and described above under paragraph 5 (d)-(f) of this Order. The CWT regulations require that wastewater from each Subpart (A, B, and C) be sampled separately, prior to mixing with wastewater from other Subparts. From the January inspection and during conversations with a Clean Harbors representative following the inspection, EPA learned that on at least two occasions between January and June 2004 Clean Harbors commingled wastewater from different Subparts under the CWT rule prior to sampling for constituents from applicable Subparts, which is in violation of the CWT monitoring requirements.

- f. **Failing to submit all required sample results.** According to a City of San Jose inspector, Clean Harbors collected samples of wastewater before discharging them to the City of San Jose and did not submit the results of this sampling to the City of San Jose. The Federal pretreatment regulations at 40 CFR 403.12(g) require Clean Harbors to submit all sample results collected, if samples are analyzed using the same procedures that are required for self-monitoring reports.
- g. **Failing to use correct analytical methods for compliance monitoring.** The Federal pretreatment regulations at 40 CFR 403.12(g) require that Clean Harbors analyze compliance sample results for self-monitoring reports using methods published under 40 CFR 136. On February 10, 2004, a City of San Jose inspector stated that Clean Harbors had been using solid waste sampling methods to conduct compliance sampling on wastewater. Under 40 CFR 136, EPA requires that wastewater samples be analyzed using methods designed for wastewater, instead of those for solid wastes.

ORDER

Taking these Findings into consideration, and considering the potential environmental and human health effects of the violations, EPA has determined that compliance in accordance with the following requirements is reasonable. Pursuant to Section 308(a) and 309(a)(3), (a)(4) and (a)(5)(A) of the Act [33 U.S.C. Sections 1318(a) and 1319(a)(3), (a)(4) and (a)(5)(A)], IT IS HEREBY ORDERED that Clean Harbors comply with the following requirements:

Achieve and Maintain Compliance with Pretreatment Standards

11. **Immediately upon receipt of this Order** Clean Harbors must comply with the following requirements:
  - a. Achieve and maintain consistent compliance with the general pretreatment standards at 40 CFR 403 and the specific categorical pretreatment standards for CWT facilities, set forth in 40 CFR 437, which includes, but is not limited to, the following requirements:
    - (i) ***Segregate Waste Loads***: Waste loads received at the Facility must be segregated into one of the three categories: metal-bearing wastes, oily wastes, or organic wastes.
    - (ii) ***Establish Compliance Sample Points***: If Clean Harbors chooses to accept and treat wastes from all three categories, and receives approval to do so by a permit from the City of San Jose, compliance sampling shall be conducted by establishing three (3) separate sample points, each of which monitors for wastewater that has been

treated from each of the separate categories. Thus, the first compliance sample point ("CSP-1") will only monitor treated, metal-bearing wastewater for the parameters listed in Table 1 under paragraph 5(d) of this Order. The second compliance sample point ("CSP-2") will only monitor treated, oily wastewater for the parameters listed in Table 2 under paragraph 5(e) of this Order. The third compliance sampling point ("CSP-3") will only monitor treated, organic wastewater for the parameters listed in Table 3 under paragraph 5(f) of this Order. CSP-1, CSP-2, and CSP-3 may be located at the same physical location, but Clean Harbors must define how it will ensure that metal-bearing, oily, and organic waste will be kept segregated prior to sampling. The Facility may have less than three compliance sample points if it chooses to limit the waste received on-site to less than three Subparts. As an alternative to this monitoring scheme, the Facility may elect to apply for coverage under Subpart D from EPA and the City of San Jose. Upon approval from EPA and issuance of a permit by the City of San Jose, Clean Harbors may then establish one sample point (CSP-mix) instead of three, even if they accept and treat wastes from all three Subparts. Clean Harbors must do the following to apply for coverage under Subpart D:

- (A) Segregate wastewaters into one of the three categories: metal-bearing wastes, oily wastes, or organic wastes.
- (B) Install and operate treatment technologies in a manner that demonstrates treatment is equivalent in performance to that which the pretreatment standards are based on.

(C) Generate a report for approval by EPA and the City of San Jose that demonstrates it provides “equivalent treatment” as defined under 40 CFR 437.2(h).

The procedures for collecting compliance samples at CSP-1, CSP-2, CSP-3, and CSP-mix are described in the Self-Monitoring section of this Order.

- b. Conduct compliance sampling for cyanide in metals wastestreams as described under 40 CFR 437.4(b)(3). By **July 31, 2005**, Clean Harbors must submit a diagram and description of the location of the compliance monitoring point for cyanide and the date monitoring at this point began.
  - c. Use correct 40 CFR 136 analytical methods for analyzing all wastewater samples collected for compliance with Federal and local discharge requirements. (Note modifications to Appendix A of 40 CFR 136 for CWT facilities.)
12. By **July 31, 2005**, Clean Harbors shall submit a preliminary engineering plan outlining the steps that will be taken to maintain consistent compliance at CSP-1, CSP-2, and CSP-3 or CSP-mix with the categorical pretreatment standards set forth in 40 CFR 437.15, 437.25, and 437.35 or 437.46, respectively. This preliminary engineering plan shall be prepared by an independent professional qualified in performing such studies and shall include at least the following:
- (a) A Treatment Technology Report, which evaluates and compares the types of wastewater treatment technologies that would be appropriate for the waste types received on-site. This report should include, but not be limited to, an evaluation of the following treatment technologies:
    - (i) for metal-bearing waste streams: primary precipitation, liquid-solid separation,



secondary precipitation, clarification, and sand filtration;

(ii) for oily waste streams: emulsion breaking/gravity separation and dissolved air flotation; and

(iii) for organic waste streams: equalization and biological treatment.

(b) A detailed description of Standard Operating Procedures (SOPs) which establish specific, formalized procedures that must include, but not be limited to: procedures which ensure on-site operations perform treatment on each waste load in a manner equivalent to that which the CWT pretreatment standards are based on, procedures that ensure sampling is conducted as required by this Order and under 40 CFR 437, and procedures to ensure compliance with all pretreatment standards.

(c) A plan and supporting documentation by which Clean Harbors will incorporate logs, operator supervision, and any other form of verification policies and procedures necessary to demonstrate that SOPs are followed for the treatment and discharging of each waste load.

(d) A schedule of compliance, not to extend past September 30, 2005, that includes at least the following dates:

(i) The beginning and ending dates of any construction necessary to maintain compliance at CSP-1, CSP-2, and CSP-3 or CSP-mix with the categorical pretreatment standards set forth in 40 CFR 437.15, 437.25, and 437.35, or 437.46, respectively;

(ii) The dates of any new operating procedures that will be put into effect.

(e) An assessment of any future violations, if they occur, that are identified in the

monitoring required by the Self-Monitoring section of this Order.

13. Within five (5) days after the completion of each of the tasks identified as part of the compliance schedule required by paragraph 12(d) of this Order, Clean Harbors shall submit a notice of completion.

Historical Data

14. By **July 31, 2005**, Clean Harbors shall submit information on all oily and organic (as defined under 40 CFR 437.2(p) and (r)) waste loads it received, treated, and discharged to the City of San Jose from December 22, 2003 through receipt of this Order. This submittal must include: the date of acceptance of the oily or organic load, the generator and transporter of this load, the volume of this load, the method by which this waste was treated, what other wastewater the said load was mixed with prior to discharge, the sample results from the discharge of this load (or the mixed load), and the date the wastewater generated from treating the load was discharge to the City of San Jose.
15. **By July 31, 2005**, Clean Harbors shall submit a spreadsheet summarizing sample results for all batches discharged for the period covering January 1, 2004 to the present. This spreadsheet shall include the pollutant concentrations, date of discharge, volume of discharge, and denote any exceedances of Federal or local standards.
16. **By July 31, 2005**, Clean Harbors shall submit the following financial information:
  - a. The capital costs of (1) the pretreatment equipment at the facility, and (2) any future capital expenditures expected;
  - b. The dates when the pretreatment system began operation and when capital improvements have been made or were expected to be made;

- c. Projected or actual annual costs of operating and maintaining (O&M costs) the pretreatment system for each year from January 2000 through April 2005;
  - d. Chemical costs for pretreatment treatment operations for each year from January 1999 through April 2005, including difference in costs for any new chemicals used from past chemicals used.
17. **By July 31, 2005**, Clean Harbors shall submit the following information on groundwater extracted at the Facility that is discharged to the sewers:
- a. The name and address of the party responsible for causing the groundwater contamination.
  - b. A description of the processes that generated the pollutants present in the groundwater and a description of how the pollutants entered into the groundwater.
  - c. A spreadsheet summarizing all wastewater sample results from June 2003 through June 2004 of the extracted groundwater that was discharged to the sewer.
  - d. Any correspondence between Clean Harbors and local or state regulatory agencies concerning the nature and management of the groundwater.

Self Monitoring

18. Clean Harbors shall perform sampling that is representative of its discharge and adequate to determine compliance with the daily and monthly CWT pretreatment standards and be conducted in a manner that is no less stringent than the following provisions: Over one (1) 24-hour period each week for four (4) consecutive weeks, Clean Harbors must collect three (3) grab samples from every batch of wastewater discharged from each of the three (3) sample points (CSP-1, CSP-2, and CSP-3) or from three (3) grab samples from the

sample point CSP-mix. For each batch, an initial sample shall be taken within the first fifteen minutes of the discharge, a final sample shall be taken during the last fifteen minutes of the discharge of the batch, and a sample shall be taken in the middle of the discharge.

19. Clean Harbors may choose the monitoring scheme in this paragraph, in lieu of that required by paragraph 18, if: a) Clean Harbors submits a written, technical demonstration to EPA that the contents of the final discharge tank are well mixed and b) EPA finds that the technical demonstration verifies that the contents of the final discharge tank are well mixed. Over one (1) 24-hour period per week for four (4) consecutive weeks, Clean Harbors must collect one (1) grab sample from every batch of wastewater discharged from each of the three (3) sample points (CSP-1, CSP-2, and CSP-3) or one (1) grab sample from each batch discharged through CSP-mix.
20. Clean Harbors shall submit weekly self-monitoring reports including analytical results of samples collected as required under paragraphs 18 and 19 of this Order. These reports shall be submitted on the following dates: June 16, 2005, June 23, 2005, June 30, 2005, and July 7, 2005. Each submittal must contain a spreadsheet with all information listed under paragraph 33 of this Order and supporting documentation to that information.
21. The term 'full compliance' means compliance with all Federal discharge standards, for all parameters, at all sample points.
22. If Clean Harbors does not demonstrate full compliance with the Federal discharge requirements under 40 CFR 437 and 40 CFR 403 in the weekly monitoring, it must continue to sample on a weekly basis, as described in paragraphs 18 and 19, until full

- compliance with Federal discharge standards is met for six consecutive weeks.
23. If full compliance with federal discharge requirements is demonstrated from the weekly monitoring. Clean Harbors shall begin the following monitoring schedule: Over one (1) 24-hour period per month, Clean Harbors must collect three (3) grab sample from every batch of wastewater discharged from each of the three (3) sample points (CSP-1, CSP-2, and CSP-3) or one (1) grab sample from the sample point CSP-mix from August 1, 2005 until August 1, 2006. For each batch, an initial sample shall be taken within the first fifteen (15) minutes of the discharge, a final sample shall be taken during the last fifteen (15) minutes of the discharge of the batch, and a sample shall be taken in the middle of the discharge.
  24. Clean Harbors may choose the monitoring scheme in this paragraph, in lieu of that required by paragraph 23, if: a) Clean Harbors submits a written, technical demonstration to EPA that the contents of the final discharge tank are well mixed and b) EPA finds that the technical demonstration verifies that the contents of the final discharge tank are well mixed. Over one (1) 24-hour period per month, Clean Harbors shall collect one (1) grab sample from every batch of wastewater discharged from each of the three (3) sample points (CSP-1, CSP-2, and CSP-3) or from the single sample point CSP-mix from August 1, 2005 until August 1, 2006.
  25. Clean Harbors shall submit all monthly self-monitoring results no later than the 28th day of the following month. The first monthly report shall be due on September 28, 2005 for the monitoring data from August 1, 2005 through August 31, 2005. Each submittal must contain a spreadsheet with all information listed under paragraph 33 of this Order and

- supporting documentation to that information.
26. All samples collected from CSP-1 must be analyzed for pH, antimony, arsenic, cadmium, chromium, cobalt, copper, lead, mercury, nickel, silver, tin, titanium, vanadium, zinc and cyanide.
  27. All samples collected from CSP-2 must be analyzed for pH, chromium, cobalt, copper, lead, tin, zinc, bis(2-ethylhexyl)phthalate, carbazole, n-decane, fluoranthene, and n-octadecane.
  28. All samples collected from CSP-3 must be analyzed for pH, o-cresol, p-cresol, and 2,4,6-trichlorophenol.
  29. All samples collected from CSP-mix must be analyzed for pH, antimony, arsenic, cadmium, chromium, cobalt, copper, lead, mercury, nickel, silver, tin, titanium, vanadium, zinc, cyanide, bis(2-ethylhexyl)phthalate, carbazole, n-decane, fluoranthene, n-octadecane, o-cresol, p-cresol, and 2,4,6-trichlorophenol.
  30. The samples required in this Order must be collected on consecutive discharge days of the week. For instance, if the sample collected for the first week is taken on Monday then the sample collected for the second week shall be taken on Tuesday then the sample collected for the third week shall be taken on Wednesday, and so forth.
  31. For sampling required in this Order, Clean Harbors may flow composite samples taken from the same sample point before conducting laboratory analysis, provided that Clean Harbors uses approved compositing procedures listed under 40 CFR 136.
  32. Sampling required by this Order shall follow the requirements under 40 CFR 403, 40 CFR 136, and 40 CFR 437. Samples shall be representative of the discharge to the

sewers, be preserved in accordance with EPA requirements to preserve sample integrity, and analyses shall be performed using EPA approved analytical methods.

33. Clean Harbors shall record the following for each sample:
  - a. The sample results and EPA analytical methods used;
  - b. Date, time, location, and preservation of each sample;
  - c. The chain of custody forms for all samples;
  - d. The flow rate of wastewater discharged into the sewer during the collection of each sample and the average discharge flow rate for that month;
  - e. The hours of operation of the process during the sampling period;
  - f. The detection limits for each pollutant parameter analyzed;
  - g. The name of the laboratory used.
34. Clean Harbors may voluntarily sample more frequently than required by this Order. If additional samples are collected, Clean Harbors shall submit the results of the monitoring to EPA and the City of San Jose.

#### Submissions

35. All reports submitted pursuant to this Order shall be signed by a principal executive officer of Clean Harbors and shall include the following statement:

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, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I certify that all wastewater samples analyzed and reported herein are representative of the ordinary process wastewater flow from this facility. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

36. This Order is not and shall not be interpreted to be an NPDES permit under Section 402 of the Act [33 U.S.C. Section 1342], nor a control mechanism under 40 CFR 403.8(f)(iii), nor shall it in any way relieve Clean Harbors of obligations imposed by the Act, any Federal, State or local law, including the ordinance for Industrial Waste Discharges for the area tributary to the San Jose/Santa Clara Water Pollution Control Plant.

37. All submissions shall be mailed to the following addresses:

U.S. ENVIRONMENTAL PROTECTION AGENCY  
75 Hawthorne Street  
San Francisco, California 94105  
ATTN: Ms. Margaret Masquelier (WTR-7)

City of San Jose  
Wastewater Protection  
Source Control  
3099 North 1<sup>st</sup> Street  
San Jose, California 95134  
ATTN: Mr. Phil McGinnis

San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street Suite 1400  
Oakland, California 94612  
ATTN: Ms. Lila Tang, NPDES Permit Division

#### General Provisions

38. Failure to comply with this Order or the Federal categorical standards could subject Clean Harbors to civil action for appropriate relief, including judicial penalties under CWA section 309(d), 33 U.S.C. §1319(d). Failure to submit information required under CWA section 308 (including information required under this Order), or to comply with the NPDES permit or other CWA provisions, could subject Respondent to actions under CWA section 309(a) (for administrator compliance orders), section 309(b) (for judicial



injunctive relief), section 309(d) (for judicial penalties), and/or section 309(g) (for administrative penalties). 33 U.S.C. § 1319(a), (b), (d) and (g). In addition, CWA section 309(c), 33 U.S.C. § 1319(c), provides criminal sanctions for negligent or knowing violations of the CWA, and for knowingly making false statements.

39. The information required herein must be provided notwithstanding its possible characterization as confidential business information or trade secrets. EPA has promulgated regulations to protect the confidentiality of the business information it receives. These regulations are set forth in 40 C.F.R. Part 2. A claim of business confidentiality may be asserted in the manner specified by 40 C.F.R. § 2.203(b) for part or all of the information requested. EPA will disclose business information covered by such a claim only as authorized under 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the business information at the time EPA receives it, EPA may make it available to the public without further notice.
  40. The request for information included in this Order is not subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act because it is not a “collection of information” within the meaning of 44 U.S.C. § 3502(3) and 5 CFR § 1320.5(c) because it is directed to fewer than ten persons. Furthermore, it is exempt from OMB review under the Paperwork Reduction Act because it is an administrative action against a specific entity [44 U.S.C. § 3518(c)(1)(B) and 5 CFR § 1320.4(a)(2)]
  41. This Order takes effect upon signature.
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Alexis Strauss  
Director  
Water Division

Date