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IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
NORTH SLOPE BOROUGH,	)	Case No. 3:22-cv-00059-JWS
	)	
Defendant.	)	
	)	
THE STATE OF ALASKA,	)	
	)	
Non-Aligned Party,	)	
Joined Pursuant to	)	
33 U.S.C. § 1319(e)	)	
_____	)	

CONSENT DECREE

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WHEREAS, Plaintiff United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), has filed a complaint in this action concurrently with lodging this Consent Decree alleging that Defendant, North Slope Borough (“NSB”), violated the Resource Conservation and Recovery Act (“RCRA”) and the Clean Water Act (“CWA”) (together, the “Acts”).

WHEREAS, the Complaint alleges that, at some or all of its facilities located in Anaktuvuk Pass, Atkasuk, Utqiagvik, Kaktovik, Nuiqsut, Point Hope, Point Lay, Wainwright, Prudhoe Bay, and Deadhorse, Defendant violated Section 3005 of RCRA, 42 U.S.C. § 6925, RCRA Subtitle C, and its implementing regulations, and Sections 301(a), 311(b)(3), and 311(j) of the CWA, 33 U.S.C. §§ 1311(a) and 1321(b)(3) and (j), and its implementing regulations.

WHEREAS, the State of Alaska (“State”) has been joined in this action pursuant to the requirements of Section 309(e) of the Clean Water Act, 33 U.S.C. § 1319(e). No allegation is made in the Complaint that the laws of Alaska prevent Defendant from raising revenues needed to comply with such judgment.

WHEREAS, on December 1, 2021, Defendant submitted the SPCC Inventories in accordance with the requirements below.

WHEREAS, Defendant has represented that it has full authority to compromise claims related to the properties described in Appendices B and D.

WHEREAS, the Parties recognize, and the Court, by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation between the Parties on the claims addressed in the Complaint, and that this Consent Decree is fair, reasonable, and in the public interest.

NOW THEREFORE, before taking any further testimony, without further adjudication of

any issue of fact or law, and upon the consent and agreement of the Parties, it is hereby ORDERED, ADJUDGED, and DECREED:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, Section 3008(a) of RCRA, 42 U.S.C § 6928(a), and Sections 311(b)(7), (e), and (n) of the CWA, 33 U.S.C. §§ 1321(b)(7), (e), and (n), and over the Parties. Venue lies in this District pursuant to Section 3008(a) of RCRA, 42 U.S.C § 6928(a), Section 311(b)(7) of the CWA, 33 U.S.C. § 1321(b)(7), and 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because Defendant resides and is located in this judicial district and the violations alleged in the Complaint are alleged to have occurred in this judicial district. For purposes of this Decree, or any action to enforce this Decree, Defendant consents to the Court's jurisdiction over this Decree and any such action and over Defendant and consents to venue in this judicial district.

2. For purposes of this Consent Decree, Defendant agrees that the Complaint states claims upon which relief may be granted pursuant to Sections 3004, 3005 and 3008 of RCRA, 42 U.S.C. §§ 6924, 6925, and 6928, and Section 311(e) of the CWA, 33 U.S.C. § 1321(e), and a civil penalty may be awarded pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g) and Section 311(b)(7)(C) of the CWA, 33 U.S.C. § 1321(b)(7)(C).

II. APPLICABILITY

3. The obligations of this Consent Decree apply to and are binding upon the United States, and upon Defendant and any successors, assigns, or other entities or persons otherwise bound by law.

4. No transfer of ownership or operation of its facilities, whether in compliance with the procedures of this Paragraph or otherwise, shall relieve Defendant of its obligation to ensure

that the terms of the Decree are implemented. At least 30 Days prior to such transfer, Defendant shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the proposed written agreement, to EPA and DOJ in accordance with Section XVI (Notices). Any attempt to transfer ownership or operation of its facilities without complying with this Paragraph constitutes a violation of this Decree.

5. Defendant shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Decree, as well as to any contractor retained to perform work required under this Consent Decree, and any Auditor(s) hired pursuant to Section VI (Third Party Verification). Defendant shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

6. In any action to enforce this Consent Decree, Defendant shall not raise as a defense the failure by any of its officers, directors, employees, agents, contractors, or Auditors to take any actions necessary to comply with the provisions of this Consent Decree.

### III. DEFINITIONS

7. Terms used in this Consent Decree that are defined in the Acts or in regulations promulgated pursuant to the Acts have the meanings assigned to them in the Acts or such regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions apply:

“API 653” shall mean the American Petroleum Institute Standard 653 for Tank Inspection, Repair, Alteration, and Reconstruction, Fifth Edition (November 2014), or any subsequent edition of API 653;

“Audit” shall mean a third party audit as described in Section VI;

“Auditor(s)” shall mean an independent third party auditor selected and approved pursuant to Section VI;

“Audit Finding” shall mean each way in which any document, record, report, diagram, test, system, review, evaluation, policy, practice, plan, training, procedure, personnel, equipment, or other item, action, or omission deviates from, or does not comply and conform with the CWA, RCRA, 40 C.F.R. Parts 112 and 260 through 279, or this Consent Decree, including appendices;

“Baseline Data” shall mean information regarding the baseline condition of BSTs, including shell thickness and bottom thickness;

“Bulk Storage Container” is defined in 40 C.F.R. § 112.2;

“Bulk Storage Tanks” or “BST” are Bulk Storage Containers that are not Mobile/Portable Oil Storage Containers. Examples of Bulk Storage Tanks include above-ground storage tanks;

“Certified Inspector” shall mean an inspector who meets the certification requirements set forth in the applicable industry standard, including STI SP001, Section 4.2, and API 653, Section 3.4;

“Co-generator” shall mean any person, other than Defendant, whose act or process at any RCRA Facility produces Solid Waste or Hazardous Waste or whose act at any RCRA Facility first causes a Solid Waste or Hazardous Waste to become subject to regulation. This definition shall not be construed to limit Defendant’s liability for any violations of RCRA, 40 C.F.R. Parts 260 through 279, or this Consent Decree with respect to any Solid Waste or Hazardous Waste generated, accumulated, stored, treated, or disposed of at any RCRA Facility;

“Communities” shall mean the following communities and industrial locations:

Anaktuvuk Pass, Atqasuk, Utqiagvik, Kaktovik, Nuiqsut, Point Hope, Point Lay, Wainwright,

Prudhoe Bay, and Deadhorse;

“Complaint” shall mean the complaint filed by the United States in this action;

“Comprehensive Hazardous Material, Solid Waste, Hazardous Waste, and Used Oil Management Plan” means the plan submitted and approved pursuant to Section V.B and periodic updates to this plan approved pursuant to Paragraph 15;

“Consent Decree” or “Decree” shall mean this Decree and all appendices attached hereto;

“Continuous Release Detection Method” or “CRDM” is defined in STI SP001, Section 2, as a means of detecting a release of liquid through inherent design. Examples include release prevention barriers, double-walled or double-bottomed above-ground storage tanks, elevated above-ground storage tanks, steel diked above-ground storage tanks, and concrete exterior above-ground storage tanks with integral secondary containment and interstitial monitoring opening;

“Day” shall mean a calendar day unless expressly stated to be a business day. In computing any period of time for a deadline under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period runs until the close of business of the next business day;

“Defendant” shall mean the North Slope Borough;

“DOJ” shall mean the United States Department of Justice and any of its successor departments or agencies;

“EPA” shall mean the United States Environmental Protection Agency and any of its successor departments or agencies;

“Effective Date” shall have the definition provided in Section XVII;

“Formal External Inspection” or “FEI” shall mean an external inspection of a Bulk

Storage Container performed by a Certified Inspector for the purpose of assessing integrity in accordance with applicable industry standards, including API 653, Section 6.3.2, and STI SP001, Section 7;

“Formal Internal Inspection” or “FII” shall mean an internal inspection of a Bulk Storage Container performed by a Certified Inspector for the purpose of assessing integrity in accordance with applicable industry standards, including API 653, Section 6.4.2.1, and STI SP001, Section 8;

“Hazardous Material” shall mean any material, product, or chemical for which an employer is required to maintain a Safety Data Sheet by the Occupational Safety and Health Administration’s Hazard Communication Standard codified at 29 C.F.R. § 1910.1200. Examples of hazardous materials include ethylene glycol, gasoline, diesel fuel, propane, motor oils, greases, lubricants, solvents, paint thinners, surfactants, degreasers, paints, batteries, lamps, bleach, caustic soda, and acidic or caustic cleaners;

“Hazardous Waste” is defined in 40 C.F.R. § 261.3;

“Hazardous Waste Management Facility” or “Hazardous Waste Management Facilities” shall mean all contiguous land, and structures, other appurtenances, and improvements on the land owned or operated by Defendant in the Communities listed in Appendix B which meets or has met the definition of a “facility” in 40 C.F.R. § 260.10 at any time since August 30, 2012. A Hazardous Waste Management Facility is comprised of one or more HWMUs and may also include one or more SWMUs. Appendix B describes and depicts the minimum extent and boundaries of each known Hazardous Waste Management Facility;

“Hazardous Waste Management Unit” or “HWMU” is defined in 40 C.F.R. § 260.10 as “a contiguous area of land on or in which Hazardous Waste is placed, or the largest area in which



there is significant likelihood of mixing Hazardous Waste constituents in the same area. Examples of Hazardous Waste Management Units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed;”

“Household Waste” is defined in 40 C.F.R. § 261.4(b)(1) to mean “any material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas);”

“Manifest” is defined in 40 C.F.R. § 260.10 as “the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A), or the electronic manifest, originated and signed in accordance with the applicable requirements of [40 C.F.R.] parts 262 through 265;”

“Mobile/Portable Oil Storage Container” or “MOSC” shall mean an oil storage container that is mobile or portable with a capacity to store 55 gallons or greater. Mobile/Portable Oil Storage Containers are Bulk Storage Containers that are not Bulk Storage Tanks. Examples of Mobile/Portable Oil Storage Containers include, but are not limited to, 55-gallon drums, skid tanks, totes, and intermediate bulk containers;

“Oil” is defined in 40 C.F.R. § 112.2 as “oil of any kind or in any form, including, but not limited to: fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels; and, other oils and greases, including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, or oil mixed with wastes other than dredged spoil;”

“Overfill Prevention Device” shall mean any device required under 40 C.F.R. §

112.8(c)(8);

“Paragraph” shall mean a portion of this Decree identified by an Arabic numeral;

“Parties” shall mean the United States and Defendant;

“Piping” shall mean any pipe containing oil and regulated under 40 C.F.R. Part 112, including 40 C.F.R. §§ 112.8(d) and 112.7(c), whether above-ground or buried;

“Professional Engineer” shall mean a licensed engineer required to certify an SPCC Plan under 40 C.F.R. § 112.3(d);

“RCRA Facility” shall mean all lands, properties, buildings, structures, facilities, tracts, and areas owned or operated by Defendant at which Hazardous Materials, Solid Waste, or Hazardous Waste are, or could potentially be, generated, accumulated, stored, treated, or staged prior to acceptance by the initial transporter;

“RCRAInfo System” shall mean EPA’s comprehensive information system for management of data supporting RCRA, accessed via [rcrainfo.epa.gov](https://rcrainfo.epa.gov) and available to the public via <https://rcrapublic.epa.gov/rcrainfoweb/action/main-menu/view>;

“Routine Inspection” shall mean any routine or periodic inspection of Bulk Storage Containers, Mobile/Portable Oil Storage Containers, Piping, or Overfill Prevention Devices as required by 40 C.F.R. Part 112 and in accordance with industry standards, if applicable, including API 653, Section 6.3.1, and STI SP001, Section 6;

“Section” shall mean a portion of this Decree identified by a Roman numeral;

“Shipping Paper” shall mean a bill of lading or other such detailed list of Solid Waste offered for transport;

“Sized Secondary Containment” shall mean any secondary means of oil containment as required by 40 C.F.R. § 112.8(c)(2) and (11);

“Solid Waste” is defined in 40 C.F.R. § 260.10 as a solid waste as defined in 40 C.F.R. § 261.2;

“Solid Waste Management Unit” or “SWMU” shall mean any discernable unit at which Solid Wastes have been placed at any time, irrespective of whether the unit was intended for the management of Solid Waste or Hazardous Waste. Such units include any area at a Hazardous Waste Management Facility at which Solid Wastes have been routinely and systematically released. For the purposes of this definition, a discernable unit includes landfills, surface impoundments, land treatment units, waste piles, tanks, container storage areas, incinerators, injection wells, wastewater treatment units, waste recycling units, and other physical, chemical or biological treatment units;

“SPCC Facility” shall mean each facility owned and/or operated by Defendant and subject to regulation under 40 C.F.R. Part 112, including those facilities listed in Appendix D;

“SPCC Plan” shall mean a Spill Prevention, Control, and Countermeasure Plan prepared in accordance with 40 C.F.R. Part 112;

“STI SP001” shall mean the Steel Tank Institute Standard SP001 for the Inspection of Aboveground Storage Tanks, 6th Edition (January 2018), or any subsequent edition of STI SP001;

“Third Party” shall mean any entity that is not the Defendant, an affiliated entity of the Defendant, or the United States;

“United States” shall mean the United States of America, acting on behalf of EPA;

“Universal Waste” is defined in 40 C.F.R. §§ 260.10 and 273.9 as “any of the following hazardous wastes that are subject to the universal waste requirements of [40 C.F.R.] Part 273: (1) Batteries as described in [40 C.F.R.] § 273.2; (2) Pesticides as described in [40 C.F.R.] § 273.3;

(3) Mercury-containing equipment as described in [40 C.F.R.] § 273.4; (4) Lamps as described in [40 C.F.R.] § 273.5; and (5) Aerosol cans as described in [40 C.F.R.] § 273.6;” and

“Used Oil” is defined in 40 C.F.R. §§ 260.10 and 279.1 as “any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.”

#### IV. CIVIL PENALTY

8. Within 30 Days after the Effective Date, Defendant shall pay a total sum of \$6.5 million as a civil penalty, together with interest accruing from October 7, 2021, at the rate specified in 28 U.S.C. § 1961 as of the date of lodging.

9. Defendant shall pay the civil penalty due by FedWire Electronic Funds Transfer (“EFT”) to the DOJ account, in accordance with instructions provided to Defendant by the Financial Litigation Unit (“FLU”) of the United States Attorney’s Office for the District of Alaska after the Effective Date. The payment instructions provided by the FLU will include a Consolidated Debt Collection System (“CDCS”) number, which Defendant shall use to identify all payments required to be made in accordance with this Consent Decree. The FLU will provide the payment instructions on behalf of Defendant to:

Brian Stibitz  
Reeves Amodio LLC  
500 L Street  
Anchorage, AK 99501  
brian@reevesamodio.com

Defendant may change the individual to receive payment instructions on its behalf by providing written notice of such change to DOJ and EPA in accordance with Section XVI (Notices).

\$3,196,721 of the total civil penalty amount shall be deposited in the Oil Spill Liability Trust Fund. The payment shall reference the Civil Action Number assigned to this case and DOJ

Number 90-5-1-1-12099 and shall specify that the payment is made toward CWA civil penalties to be deposited into the Oil Spill Liability Trust Fund pursuant to 33 U.S.C. § 1321(s) and 26 U.S.C. § 9509(b)(8).

10. At the time of payment, Defendant shall send notice that payment has been made: (i) to EPA via email at [cinwd\\_acctsreceivable@epa.gov](mailto:cinwd_acctsreceivable@epa.gov) or via regular mail at EPA Cincinnati Finance Office, 26 W. Martin Luther King Drive, Cincinnati, Ohio 45268; (ii) to DOJ via email in accordance with Section XVI; and (iii) to EPA via email in accordance with Section XVI. Such notice shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in *United States v. North Slope Borough* and shall reference the civil action number, CDCS Number and DOJ case number 90-5-1-1-12099.

11. Defendant shall not deduct any penalties paid under this Decree pursuant to this Section or Section X (Stipulated Penalties) in calculating its federal income tax.

## V. COMPLIANCE REQUIREMENTS

### A. Compliance with Applicable Law

12. Defendant shall comply with all applicable requirements of RCRA and its implementing regulations at 40 C.F.R. Parts 260 through 279, and the Spill Prevention, Control, and Countermeasure (“SPCC”) regulations promulgated by EPA pursuant to Section 311(j) of the CWA, 33 U.S.C. § 1321(j).

#### RCRA-Specific Compliance Measures

### B. Comprehensive Hazardous Material, Solid Waste, Hazardous Waste, and Used Oil Management Plan

13. Within 120 Days of the Effective Date, Defendant shall submit to EPA a Comprehensive Hazardous Material, Solid Waste, Hazardous Waste, and Used Oil Management Plan (“Comprehensive Plan”) that meets the requirements of Appendix A to this Consent Decree.

The Comprehensive Plan is subject to Section VII (Approval of Deliverables) and shall be submitted in accordance with Section XVI (Notices).

14. Following submission of the Comprehensive Plan, Defendant shall review it at least annually and revise it as necessary to comply with Appendix A or to account for changes in technology or circumstances.

15. The revised Comprehensive Plan is subject to Section VII (Approval of Deliverables) and shall be submitted annually by March 31st of each calendar year in accordance with Section XVI (Notices).

16. Defendant must comply with the terms of the approved Comprehensive Plan and any subsequent revisions. In the event of a conflict between the Comprehensive Plan or its subsequent revisions and the terms of this Consent Decree, the terms of the Decree shall control.

C. Waste Inventory and Hazardous Waste Determinations

17. Defendant shall comply with its obligations under 40 C.F.R. § 262.11.

18. Within 60 Days of the Effective Date, Defendant shall identify all Solid Waste located, accumulated, or stored at any RCRA Facility.

19. For all Solid Waste identified pursuant to Paragraph 18, Defendant shall conduct Hazardous Waste determinations at the point of waste generation in accordance with 40 C.F.R. § 262.11 and generate and retain the records as required by 40 C.F.R. § 262.11(f).

20. Within 90 Days of the Effective Date, Defendant shall provide EPA with an inventory of the Solid Waste identified pursuant to Paragraph 18 of this Consent Decree and all records generated pursuant to 40 C.F.R. § 262.11(f) in accordance with Section XVI (Notices).

The inventory shall include:

- a. the location(s) of the Solid Waste;

- b. a narrative description of the Solid Waste;
- c. the total weight or volume of each Solid Waste;
- d. an indication of whether the Solid Waste is contained in a container or tank and, if so, the volumetric capacity and material of construction of the container or tank;
- e. a determination of whether the Solid Waste is Hazardous Waste; and
- f. the applicable waste code(s) in accordance with 40 C.F.R. Part 261,

Subparts C and D.

D. Waste Transport and Manifests

21. Defendant shall comply with the manifesting requirements set forth at 40 C.F.R. Part 262, Subpart B.

22. From the Effective Date until termination of this Consent Decree, Defendant shall provide EPA notice of the anticipated transport of Solid Waste or Hazardous Waste at least two days prior to transport. The notice shall include the anticipated transport date and either:

- a. The name and street address (if available) or approximate coordinates, and EPA generator identification number for the location(s) from which Defendant is offering the Solid Waste or Hazardous Waste; and an inventory of the Solid Waste and Hazardous Waste to be transported that includes a description of the Solid Waste and Hazardous Waste, the quantity of Solid Waste and Hazardous Waste, and all applicable Hazardous Waste codes; or

- b. A copy of the Manifest(s), or other Shipping Paper(s), signed by an authorized representative of Defendant, if such documents have been prepared for the anticipated transport of Solid Waste or Hazardous Waste.

23. From the Effective Date until termination of this Consent Decree, within 15 Days of the end of each calendar month in which Hazardous Waste or Solid Waste is offered for transport or received at a designated facility, Defendant shall provide EPA with:

a. a spreadsheet in Excel (.XLS format) listing the Manifests that accompanied each transport of Hazardous Waste or Solid Waste from Defendant for the purposes of storage, treatment, or disposal during the preceding calendar month, which contains:

(1) the EPA generator identification number for the location(s) from which Defendant is offering the Hazardous Waste or Solid Waste;

(2) the Manifest number; and

(3) the date an authorized representative of Defendant signed the Manifest; and

b. legible copies of:

(1) each “Generator Copy” of any Manifest(s) that accompanied each transport of Hazardous Waste or Solid Waste from Defendant for the purposes of storage, treatment, or disposal during the preceding calendar month;

(2) all “Designated Facility to Generator” copies of any Manifest(s) that include the designated facility’s certification of receipt of the Hazardous Waste and Solid Waste received by Defendant during the preceding calendar month, unless the designated facility has uploaded the Manifest(s) to the e-Manifest module in the RCRAInfo System; and

(3) each Shipping Paper that accompanied each transport or shipment of Solid Waste from Defendant for the purposes of storage, treatment, or disposal of the Solid Waste during the preceding calendar month.

c. All notices, inventories, Manifests, and Shipping Papers submitted pursuant



to Paragraphs 22 and 23 shall be submitted in accordance with Section XVI (Notices).

E. Hazardous Waste Management Unit Closure

24. Defendant shall comply with the closure and post-closure (as necessary) requirements set forth in 40 C.F.R. Part 265, Subpart G.

25. Defendant shall close each HWMU within each Hazardous Waste Management Facility in accordance with the following requirements:

a. Within 180 Days of the Effective Date, Defendant shall identify each HWMU and SWMU within each Hazardous Waste Management Facility and submit to EPA a report that includes: (1) the street address (as applicable) and latitude and longitude of the Hazardous Waste Management Facility; (2) the parcel number(s), lot and tract number(s), or other identifier(s) used on platted maps corresponding to the locations of the Hazardous Waste Management Facility; (3) the specific locations of all HWMUs and SWMUs within each Hazardous Waste Management Facility (e.g., building name/number, street address, if different from main facility address, location relative to the main facility, etc.); and (4) a map depicting the boundaries of each Hazardous Waste Management Facility and the locations of each HWMU and SWMU within each Hazardous Waste Management Facility. The report shall be submitted in accordance with Section XVI (Notices).

b. Within 360 Days of the Effective Date, Defendant shall submit to EPA proposed closure plans for each HWMU within each Hazardous Waste Management Facility that meet the requirements of Appendix C and 40 C.F.R. Part 265. Defendant may submit a separate plan for each HWMU or may submit a consolidated plan that covers each HWMU within each Hazardous Waste Management Facility.

c. Defendant shall notify EPA at least 60 days prior to the date closure

operations for the first HWMU are expected to begin within each Hazardous Waste Management Facility.

d. Within 60 days of completion of closure of each HWMU and final closure of every HWMU within the Hazardous Waste Management Facility, Defendant shall provide EPA with the following:

(1) a certification that the HWMU, or each HWMU within the Hazardous Waste Management Facility in the case of final closure of the Hazardous Waste Management Facility, has been closed in accordance with the closure plan. The certification shall be signed by Defendant or an authorized representative of Defendant and shall state:

“I, the undersigned, owner/operator of the [name of the Hazardous Waste Management Facility], hereby certify under penalty of law that I have reviewed the approved closure plan for the [name of Hazardous Waste Management Unit/Facility] and, to the best of my knowledge, information, and belief, all closure activities were performed in accordance with the specifications identified in the approved closure plan.”

(2) a certification from a professional engineer that the HWMU, or each HWMU within the Hazardous Waste Management Facility in the case of final closure of the Hazardous Waste Management Facility, has been closed in accordance with the closure plan. The certification shall be signed by a licensed professional engineer and shall state:

“I, the undersigned, a qualified professional engineer, hereby certify under penalty of law that I have reviewed the approved closure plan for the [name of Hazardous Waste Management Unit/Facility], and, to the best of my knowledge, information, and belief, all closure activities were performed in accordance with the specifications identified in the approved closure plan. The certification shall also include the professional engineer’s license number, business address, and telephone number.”

e. Defendant shall submit all notices and survey plats required by 40 C.F.R. §§ 265.116, 265.119, and 270.14(b)(14) to EPA at the same time Defendant provides EPA with the certification of final closure of every HWMU within a Hazardous Waste Management Facility

pursuant to Paragraph 25.d.

f. Within 390 Days of the Effective Date, or other such time as the Parties agree to in writing, Defendant shall submit to EPA post-closure plans in accordance with 40 C.F.R. Part 265 for each HWMU that cannot achieve clean closure under the closure performance standards at 40 C.F.R. § 265.111 and Appendix C.

26. The proposed closure plans and post-closure plans are subject to Section VII (Approval of Deliverables) and shall be submitted in accordance with Section XVI (Notices).

27. Defendant may amend any approved closure plan prior to the notification of final closure of the Hazardous Waste Management Facility. Any amendments to an approved closure plan must comply with 40 C.F.R. § 265.112(c), are subject to Section VII (Approval of Deliverables), and shall be submitted in accordance with Section XVI (Notices).

28. Performance of its obligations under this Consent Decree does not relieve Defendant from any corrective action obligations under RCRA or its implementing regulations or otherwise limit the authority of the EPA to exercise all administrative authorities, including ordering corrective action or other actions necessary to prevent an imminent or substantial endangerment to health or the environment.

F. Application for Storage Permit

29. Within 60 Days of the Effective Date, Defendant shall submit to EPA an Engineering Evaluation Report that evaluates at least two locations for a hazardous waste storage facility within the North Slope Borough and includes the following:

- a. A general description of each location evaluated for a hazardous waste storage facility;
- b. The street address (as applicable), latitude and longitude, and the parcel

number(s), lot and tract number(s), or other identifier(s) used on platted maps that describe or identify each location evaluated for a hazardous waste storage facility;

c. Aerial photographs of each location, with the boundaries of the hazardous waste storage facilities clearly marked;

d. On-the-ground photographs clearly depicting the North, South, East, and West-facing sides of each location, including existing improvements, evaluated for a hazardous waste storage facility;

e. An evaluation of how each location evaluated for a hazardous waste storage facility, once constructed or retrofitted, will comply with the requirements of 40 C.F.R. Part 264;

f. A recommendation for which of the locations evaluated is most suitable for a hazardous waste storage facility taking into consideration: (1) compliance with 40 C.F.R. Part 264, (2) geography of the site, (3) access to transportation, (4) potential environmental receptors, (5) access to trained personnel, and (6) construction time; and

g. A certification and stamp from a Professional Engineer.

30. The Engineering Evaluation Report shall be submitted in accordance with Section XVI (Notices).

31. Within 540 Days of the Effective Date, Defendant shall submit a complete application for a RCRA permit to store Hazardous Waste in the North Slope Borough by email and mail to:

RCRA Corrective Action, Permits and PCB Section  
Land, Chemicals & Redevelopment Division  
US EPA, Region 10  
1200 Sixth Avenue, Suite 155, Mail Stop: 15-H04  
Seattle, Washington 98101-3123  
R10enforcement@epa.gov

32. The application required by Paragraph 31 shall comply with 40 C.F.R. Part 270, Subpart B. Defendant shall thereafter cooperate with EPA in the issuance of the RCRA permit.

33. Within 180 days of EPA's issuance of the RCRA permit, or such other time as the Parties agree to in writing, Defendant shall commence construction of the Hazardous Waste storage facility.

CWA-Specific Compliance Measures

G. SPCC Inventories

34. On or before December 1, 2021, Defendant submitted for review a deliverable containing an inventory of each SPCC Facility ("SPCC Inventories"), certified by a Professional Engineer. The SPCC Inventories were submitted to EPA and DOJ in accordance with Section XVI (Notices).

35. Each SPCC Inventory shall include:

a. a facility diagram identifying the location of each facility component that requires identification under 40 C.F.R. § 112.7(a)(3), including Bulk Storage Tanks ("BSTs"), areas where one or more Mobile/Portable Oil Storage Container are located ("MOSC storage areas"), Piping, Sized Secondary Containment, underground oil storage tanks, and transfer stations;

b. information related to each BST, including the type of oil it presently contains, material of construction, condition, configuration, shell capacity, nominal capacity, double-wall or single-wall construction, any continuous release detection method, age and date of installation, available Baseline Data, applicable industry standard for construction and integrity testing and inspection, date of most recent Formal Internal Inspection ("FII"), and date of most recent Formal External Inspection ("FEI");

c. information related to any Overfill Prevention Device associated with each BST, including a description of the device, its operation and maintenance, and inspection procedures and frequencies;

d. information related to each MOSC storage area including the types of containers, and existing schedule for Routine Inspection, and either: (1) the number of MOSCs and the type of oil and storage capacity for each MOSC or (2) an estimate of the potential number of MOSCs, the types of oil, and anticipated storage capacities;

e. information related to each Piping, including the material of construction, diameter, length, age and date of installation, depth of cover for buried pipelines, material being transported, pressure rating, type of corrosion protection, and inspection and integrity testing frequency and procedures; and

f. information related to the existing method of Sized Secondary Containment for each BST and MOSC storage area, including (1) the Sized Secondary Containment capacity required by 40 C.F.R. § 112.8(c)(2) and (11); (2) the capacity of the existing Sized Secondary Containment; (3) the condition of the existing Sized Secondary Containment; (4) Defendant's rationale for determining whether the existing Sized Secondary Containment is sufficiently impervious to oil; and (5) Defendant's determination and rationale for whether the existing Sized Secondary Containment for each BST and MOSC storage area complies with 40 C.F.R. § 112.8(c)(2) and (11).

36. On or before January 1, 2022, EPA submitted a Notice of Completion of Review of the SPCC Inventories.

37. If Defendant identifies or becomes aware of any additional BST, MOSC storage area, or Piping after submitting the SPCC Inventories, Defendant shall incorporate such additional BST, MOSC storage area, or Piping into the SPCC Tracking System, as described in Section V.L of this Consent Decree, and provide written notice to EPA within 30 Days of the identification.

H. Installation of Secondary Containment

38. By March 1, 2022, Defendant shall submit to EPA for review a plan, certified by a Professional Engineer, that addresses each BST and MOSC storage area without adequate Sized Secondary Containment, as required by 40 C.F.R. Part 112 and identified in the SPCC Inventories (“Secondary Containment Plan”). The Secondary Containment Plan is subject to Section VIII (Review of Deliverables), and shall be submitted to the Auditor pursuant to Paragraph 108, and to EPA and DOJ in accordance with Section XVI (Notices).

39. The Secondary Containment Plan shall:

a. identify each BST and MOSC storage area without adequate Sized Secondary Containment that Defendant will continue to operate and prepare a plan for providing adequate Sized Secondary Containment that includes: (1) capacity calculations and construction material of the new Sized Secondary Containment; (2) the date of the proposed installation; (3) the name and contact information of the contractor that will perform the installation; and (4) the rationale for Defendant’s determination that the proposed Sized Secondary Containment is sufficiently impervious to oil;

b. identify any BST that Defendant will replace and prepare a plan for adequate Sized Secondary Containment for the new BST that includes: (1) the capacity of the new BST; (2) the capacity calculations and construction material of the new Sized Secondary

Containment; (3) the proposed date of installation; and (4) the rationale for Defendant's determination that the proposed Sized Secondary Containment is sufficiently impervious to oil;

c. identify each BST without adequate Sized Secondary Containment that Defendant will no longer operate and provide a plan for removal or closure, including: (1) the dates of removal or closure; and (2) if Defendant elects to permanently close the BST, a description of how Defendant will comply with the permanent closure requirements in 40 C.F.R. § 112.2; and

d. identify each MOSC storage area without adequate Sized Secondary Containment that Defendant will no longer operate and describe a plan to relocate or dispose of the MOSCs in that storage area.

40. The Secondary Containment Plan shall also include a schedule for installing adequate Sized Secondary Containment for each BST and MOSC storage area identified in Paragraphs 39.a and b. All Sized Secondary Containment that Defendant is required to install shall be scheduled to be completed no earlier than May 15, 2022, the latest date for EPA's Notice of Completion of Review of the Secondary Containment Plan, and no later than November 1, 2023. The installation schedule shall prioritize the installation of Sized Secondary Containment for BSTs and MOSC storage areas presenting the highest risk of harm based on an analysis of the following factors: (1) the proximity of the BST or MOSC storage area to waters of the United States; (2) the difference between the capacity of Sized Secondary Containment required by 40 C.F.R. § 112.8(c)(2) and (11) and the capacity of existing Sized Secondary Containment; (3) the volume of the BST or MOSC storage area; (4) the number of MOSCs in a particular storage area; and (5) the date of the most recent FII and FEI of the BST, if applicable.



41. After Defendant receives EPA's Notice of Completion of Review of the Secondary Containment Plan, it shall implement the Secondary Containment Plan by the dates set forth therein, in accordance with good engineering practice and applicable industry standards.

42. Within 30 Days of completion of the full implementation of the Secondary Containment Plan, Defendant shall submit to EPA for review a Secondary Containment Final Report, in which Defendant shall summarize each action taken to ensure compliance with the requirements of Paragraphs 39 and 40 of this Consent Decree and the secondary containment requirements in 40 C.F.R. Part 112, including the general secondary containment requirements in 40 C.F.R. § 112.7(c). The Secondary Containment Plan Final Report is subject to Section VIII (Review of Deliverables) and shall be submitted to the Auditor pursuant to Paragraph 108, and to EPA and DOJ in accordance with Section XVI (Notices).

I. Formal Integrity Inspection Schedule

43. By March 1, 2022, Defendant shall submit to EPA for review a plan that compiles or schedules the compilation of the Baseline Data for each BST ("Baseline Inspection Plan"). The purpose of the Baseline Inspection Plan is to determine and record Baseline Data for each BST from which Defendant will develop a Formal Integrity Inspection Schedule in accordance with applicable industry standards and Paragraph 48 of this Consent Decree. The Baseline Inspection Plan is subject to Section VIII (Review of Deliverables), and shall be submitted to the Auditor pursuant to Paragraph 108, and to EPA and DOJ in accordance with Section XVI (Notices).

44. The Baseline Inspection Plan shall include:

a. the industry standard (e.g., API 653, STI SP001) applicable to the FII and FEI of each BST. If the BST is subject to STI SP001, the Baseline Inspection Plan shall identify

the category of the BST in accordance with STI SP001, Section 5.4;

b. any available Baseline Data for each BST, including the date and the results of the most recent FEI and/or FII;

c. a schedule for an initial FII and/or FEI by a Certified Inspector for each BST where the BST's Baseline Data is unknown or incomplete, including (1) each BST that has not undergone an FII and/or FEI as required by applicable industry standards and (2) each BST for which Defendant cannot locate the records of the most recent FII and/or FEI required by applicable industry standards;

d. the date and results of the most recent leak test conducted in accordance with STI SP001, Section 9 for each BST designated as Category 2 in accordance with STI SP001; and

e. a schedule for a leak test by a Certified Inspector for any Category 2 BST for which Defendant cannot produce records of the most recent leak test as required by applicable industry standards.

45. All FEIs, FIIs, and leak tests that Defendant must conduct pursuant to Paragraphs 44.c and e shall be scheduled for completion no earlier than May 15, 2022, the latest date for EPA's Notice of Completion of Review of the Baseline Inspection Plan, and no later than November 1, 2023. The schedule shall prioritize those BSTs presenting the highest risk of harm based on an analysis of the following factors: (1) the proximity of the BST to waters of the United States; (2) the length of time between the last FEI, FII, and/or leak test, as required by applicable industry standards, and the present; (3) volume of the BST; and (4) any available Baseline Data.

46. After Defendant receives EPA's Notice of Completion of Review of the Baseline Inspection Plan, it shall implement the Baseline Inspection Plan in accordance with the dates set forth therein, good engineering practice, and applicable industry standards.

47. The Certified Inspector(s) must conduct all FIIs, FEIs, and leak tests identified in the Baseline Inspection Plan in accordance with applicable industry standards. The Certified Inspector(s) shall collect, document, and analyze inspection data, and generate reports that shall include the inspection data, results, and Certified Inspector's recommendations ("Baseline Inspection Reports"). Defendant shall require that the Certified Inspector(s) draft any Baseline Inspection Report in accordance with applicable industry standards before December 1st of the year in which an FII, FEI, or leak test was completed. Defendant shall upload and store each Baseline Inspection Report in the SPCC Tracking System, as described in Section V.L of this Consent Decree.

48. Within 120 Days of the completion of all FEIs, FIIs, and leak tests required by the Baseline Inspection Plan, Defendant shall submit for EPA review a schedule, certified by a Professional Engineer, for formal integrity inspections of each BST ("Formal Integrity Inspection Schedule"). The Formal Integrity Inspection Schedule is subject to Section VIII (Review of Deliverables) and shall be submitted to the Auditor pursuant to Paragraph 108, and to EPA and DOJ in accordance with Section XVI (Notices). The Formal Integrity Inspection Schedule shall:

- a. for each BST, identify the applicable industry standard for integrity inspections; the frequency of FIIs, FEIs and leak tests; the date of the last FII, FEI, and leak test; and the date of the next FII, FEI, and leak test; and
- b. for any BST with a schedule for FIIs, FEIs, or leak tests that does not

directly adhere to the applicable industry standard, include an evaluation of environmental equivalency, in accordance with 40 C.F.R. § 112.7(a)(2).

49. After Defendant receives EPA's Notice of Completion of Review of the Formal Integrity Inspection Schedule, it shall implement the Formal Integrity Inspection Schedule in accordance with the dates set forth therein, good engineering practice, and applicable industry standards.

J. Routine Inspection Plan

50. By March 1, 2022, Defendant shall submit to EPA for review a plan for the Routine Inspection of facility components that require inspection pursuant to 40 C.F.R. Part 112, including each BST, MOSC storage area, Piping, and Overfill Prevention Device ("Routine Inspection Plan"). The Routine Inspection Plan is subject to Section VIII (Review of Deliverables) and shall be submitted to the Auditor pursuant to Paragraph 108, and to EPA and DOJ in accordance with Section XVI (Notices).

51. The Routine Inspection Plan shall include the following for each SPCC Facility:
- a. a schedule for the Routine Inspection of any facility component requiring periodic or routine inspection pursuant to 40 C.F.R. Part 112, including each BST, MOSC storage area, and Overfill Prevention Device, and all aboveground valves, Piping, and appurtenances, in accordance with industry standards, if applicable, including API 653 and STI SP001; and
  - b. a Routine Inspection checklist that is specific to each SPCC Facility and developed in accordance with applicable industry standards, including API 653 and STI SP001.

52. After Defendant receives EPA's Notice of Completion of Review of the Routine Inspection Plan, Defendant shall implement the Routine Inspection Plan in accordance with the dates set forth therein, good engineering practice, and applicable industry standards.

K. Revised SPCC Plan

53. Within 180 Days after receiving EPA's Notice of Completion of Review of the Formal Integrity Inspection Schedule or the Secondary Containment Final Report, whichever is later, Defendant shall submit to EPA for review a revised SPCC Plan incorporating each SPCC Facility. The revised SPCC Plan is subject to Section VIII (Review of Deliverables), and shall be submitted to the Auditor pursuant to Paragraph 108, and to EPA and DOJ in accordance with Section XVI (Notices).

54. The SPCC Plan shall satisfy the requirements of 40 C.F.R. Part 112 for each SPCC Facility.

55. The SPCC Plan shall also incorporate the relevant sections and/or otherwise include and address:

- a. the SPCC Inventories, as applied to each SPCC Facility;
- b. the Formal Integrity Inspection Schedule, as it applies to the BSTs in each SPCC Facility;
- c. a discussion of the Secondary Containment Final Report, as it applies to the secondary containment at each SPCC Facility; and
- d. the Routine Inspection Plan, as it applies to the BSTs, MOSCs, Piping, Overfill Prevention Devices, and other equipment in each SPCC Facility.

L. SPCC Tracking System

56. Within 120 Days of the Effective Date Defendant shall develop, implement, and maintain a computerized data management and compliance tracking system (“SPCC Tracking System”). The SPCC Tracking System shall serve as a centralized tool to comprehensively manage Defendant’s SPCC Facilities’ compliance with the requirements of 40 C.F.R. Part 112. The SPCC Tracking System shall be accessible by the Environmental Official and oil-handling personnel at each SPCC Facility. The SPCC Tracking System shall include at least the following features:

- a. a searchable database of all information included in the SPCC Inventories;
- b. the ability to track the Formal Integrity Inspection Schedule for each individual BST and upload and store the results of all FIIs, FEIs, and leak tests, if applicable;
- c. the ability to schedule and track all Routine Inspections and upload and store the results of each Routine Inspection;
- d. the ability to notify oil-handling personnel at each SPCC Facility of SPCC-related deadlines, including due dates for all Routine Inspections, FIIs, FEIs, and leak tests, in accordance with the Formal Integrity Inspection Schedule; and
- e. the revised SPCC Plan, after Defendant submits it to EPA in accordance with Paragraph 53, and the ability to incorporate any SPCC Plan revisions and amendments.

57. Upon completion of development of the SPCC Tracking System, Defendant shall notify EPA in accordance with Section XVI (Notices). Within 30 days of notice, Defendant shall provide EPA with remote access to the SPCC Tracking System to confirm that the SPCC Tracking System includes at least the features described in Paragraph 56. Thereafter, Defendant shall provide remote access at least annually at any reasonable time and upon EPA request to

allow EPA to confirm that the SPCC Tracking System is being updated in accordance with Paragraph 58. Access to the SPCC Tracking System under this Paragraph shall be temporary, but must allow EPA sufficient time to review the components of the SPCC Tracking System and to otherwise ensure compliance with the terms of this Consent Decree. Nothing in this paragraph shall be construed to restrict or modify EPA's information gathering authorities.

58. Defendant shall regularly update the SPCC Tracking System to add new or corrected information related to the SPCC Facilities. Such new information shall include: (1) the inspection reports from FIIs, FEIs, and leak tests, such as those required by Paragraph 47; (2) reports from Routine Inspections; and (3) information on any repairs, replacements, additions, or other changes to equipment regulated by 40 C.F.R. Part 112. The SPCC Tracking System must be updated within 15 days of completion of the reports or changes.

59. If Defendant is required to amend an SPCC Plan, pursuant to 40 C.F.R. § 112.4 or § 112.5, Defendant shall incorporate the amendment into the SPCC Tracking System.

60. Upon EPA request, Defendant shall provide EPA with any information stored in the SPCC Tracking System.

#### Other Compliance Measures

##### M. Training

61. All employees and contractors of Defendant, and any employees of Defendant's Co-generators over which Defendant has authority, who can reasonably be expected to generate, handle, inspect, or manage oil, Hazardous Materials, Solid Waste, Hazardous Waste, Universal Waste, or Used Oil, or complete records related to the same shall undergo annual training. Initial training for employees shall be completed within 75 Days of EPA's approval of the Comprehensive Plan pursuant to Section V.B. Any new employees hired, current employees re-

assigned, or former employees reactivated who are covered by this paragraph shall undergo initial training within 75 Days of EPA's approval of the Comprehensive Plan pursuant to Section V.B. or within 75 Days of the employee's first day of employment or reactivation, whichever is later. After initial training is complete, each employee covered by this paragraph shall receive annual training once per calendar year.

62. Such training shall comply with 40 C.F.R. §§ 262.17(a)(7) and 112.7(f), including physical demonstrations, on-line tutorials, on-the-job training, or other training methods, as appropriate to the duties of each employee, and shall address:

a. relevant legal requirements under RCRA and its implementing regulations at 40 C.F.R. Parts 260 through 279;

b. for all oil-handling personnel, the operation and maintenance of equipment to prevent discharges; applicable pollution control laws, rules, and regulations; general facility operations; and the contents of the SPCC Plan at the SPCC Facility in which the employee works;

c. defendant's policies and procedures as described in the Comprehensive Plan, including, procedures for minimizing the generation of Hazardous Waste, procedures for managing Hazardous Material, Solid Waste, Hazardous Waste, Universal Waste, and Used Oil, and roles and responsibilities for implementing the Comprehensive Plan; and

d. the individual responsibilities of employees, contractors, and Co-generators as described in the Comprehensive Plan.

N. Designation of Defendant's Environmental Official

63. No later than 15 Days after the Effective Date, Defendant shall designate one North Slope Borough official who will direct Defendant's environmental compliance efforts



arising from this Consent Decree (“Environmental Official”) and provide EPA a notice of said designation. The notice shall include the name, contact information, and resume of the proposed Environmental Official and shall be submitted in accordance with Section XVI (Notices).

64. The Environmental Official shall be responsible for monitoring Defendant’s compliance with RCRA, CWA, and the implementing regulations, including:

- a. the regulations at 40 C.F.R. Parts 260 through 279;
- b. the Oil Pollution Prevention regulations at 40 C.F.R. Part 112, which include spill prevention and response planning; and
- c. the obligations established by this Consent Decree.

65. In the notice submitted pursuant to Paragraph 63, Defendant shall certify that the Environmental Official meets, at a minimum, the following criteria:

- a. a bachelor’s degree in environmental science or environmental engineering, or a field closely related to environmental science or environmental engineering or five years of equivalent field experience;
- b. five years of environmental experience working in environmental compliance, including compliance activities, at a minimum, related to RCRA and CWA requirements, the Oil Pollution Prevention regulations at 40 C.F.R. Part 112, and the regulations at 40 C.F.R. Parts 260 through 279;
- c. either (1) two years of experience working as a team leader in an environmental field, and in managing complex environmental projects similar in scope to the those projects at the RCRA Facilities and SPCC Facilities contemplated by this Consent Decree or (2) three years of experience working as an apprentice to a team leader in an environmental field, and in managing complex environmental projects similar in scope to the needs at the

RCRA Facilities and SPCC Facilities; and

d. professional or technical training, certification and credentials required to manage and direct an environmental program at the RCRA Facilities and the SPCC Facilities or have the ability to complete such requirements within the first 60 Days after designation pursuant to Paragraph 63.

66. The Environmental Official shall be responsible for coordinating compliance with applicable federal, state and local environmental regulations, including 40 C.F.R. Part 112 and 40 C.F.R. Parts 260 through 279, and at a minimum, must meet the following criteria:

- a. be a full-time, permanent employee of Defendant;
- b. have authority to manage all Defendant's activities, including those activities performed by contractors, subcontractors, and Co-generators over which Defendant has authority, to ensure compliance with applicable federal, state, or local environmental regulations at the RCRA Facilities and the SPCC Facilities;
- c. have authority to order actions as necessary to comply with federal, state, or local environmental regulations;
- d. be part of a dedicated working group that has the authority to allocate and expend appropriated funds.
- e. coordinate the securing of all permits and the creation and implementation of any plan required to comply with applicable federal, state, or local environmental regulations;
- f. oversee the implementation of the compliance measures required by Section V of this Consent Decree; and
- g. coordinate with the Third Party Auditor in the following ways: (1)  
coordinate on timing of all compliance measures and deliverables required by this Consent

Decree; (2) allow and assist with access to relevant documents associated with any RCRA Facility or SPCC Facility; and (3) allow access to any area of any RCRA Facility or SPCC Facility where the Third Party Auditor must perform a Site Visit.

67. Defendant shall make all possible efforts to designate an Environmental Official, and any replacement Environmental Official designated pursuant to Paragraph 69, who resides year-round within North Slope Borough. If, despite Defendant's efforts, the designated Environmental Official does not reside year-round in North Slope Borough, he or she must:

a. visit North Slope Borough at least biweekly between June 1 and October 1 of each year and as necessary to ensure Defendant's compliance with the requirements in Paragraph 64 and 66 for the duration of the Consent Decree;

b. accompany the Third Party Auditor in-person at all times when the Third Party Auditor visits the North Slope Borough for matters related to this Consent Decree; and

c. possess all the authorities and credentials required by Paragraphs 64 through 66.

68. All notices required by this Section shall include the name, title, physical address, mailing address, cell and landline telephone number, and email address of the Environmental Official.

69. If, for any reason, Defendant needs to replace the Environmental Official during the term of this Consent Decree, Defendant shall use best efforts to designate a new Environmental Official at least 30 Days prior to the outgoing Environmental Official's departure. Defendant shall certify in writing to EPA within 10 Days after designation that the new Environmental Official meets, at a minimum, the criteria in Paragraphs 64 through 67 above. If Defendant has not designated a new Environmental Official 30 Days prior to the outgoing

Environmental Official's departure, Defendant shall explain in writing to EPA what efforts it has undertaken to designate a new Environmental Official and propose a new schedule.

70. This Section shall not be construed to restrict Defendant's authority to replace any Environmental Official so long as each successor shall have the same applicable qualifications and responsibilities required by this Section.

O. Table of Compliance Requirements

71. The following tables summarize Defendant's compliance requirements under this Section:

**RCRA-Specific Compliance Measures**

<b>Deliverable</b>	<b>Due Date</b>	<b>EPA Review</b>
Comprehensive Plan	120 Days of the Effective Date	In accordance with Section VII (Approval of Deliverables)
Revised Comprehensive Plan (as necessary)	March 31st of each calendar year	In accordance with Section VII (Approval of Deliverables)
Solid Waste Inventory	90 Days of the Effective Date	NA
Notice of Transport of Solid or Hazardous Waste	Rolling, at least two Days prior to transport	NA
Solid & Hazardous Waste Manifests (spreadsheet, Generator Copy, Designated Facility to Generator Copy, Shipping Papers)	Rolling, within 15 Days of the end of each calendar month in which waste is shipped to or received at a designated facility	NA
Report identifying each HWMU and SWMU within each Hazardous Waste Management Facility	180 days of the Effective Date	NA
Hazardous Waste Management Unit Closure Plans	360 Days of the Effective Date	In accordance with Section VII (Approval of Deliverables)
Closure Notification	60 Days prior to the expected commencement of closure operations for the first HWMU within each Hazardous Waste Management Facility	NA

Certification of Closure	60 Days of completion of closure of each HWMU and final closure of every HWMU within the Hazardous Waste Management Facility	NA
HWMU Post-Closure Plans (as necessary)	390 Days of the Effective Date or other such time as the Parties agree to in writing	In accordance with Section VII (Approval of Deliverables)
Engineering Evaluation Report	60 Days of the Effective Date	NA
Submit application for a RCRA permit to store Hazardous Waste in the North Slope Borough	540 Days of the Effective Date	Permit review by EPA in ordinary course, outside CD
Commence construction of the Hazardous Waste storage facility	180 days of EPA's issuance of the RCRA permit, or such other time as the Parties agree to in writing	NA

### SPCC-Specific Compliance Measures

<b>Deliverable</b>	<b>Due Date</b>	<b>EPA Review</b>
SPCC Inventories	Submitted.	By January 1, 2022 in accordance with Paragraph 36
Secondary Containment Plan	By March 1, 2022	Full review within 75 Days of submission in accordance with Section VIII (Review of Deliverables)
Installation of Secondary Containment	Between May 15, 2022 and November 1, 2023	NA
Secondary Containment Final Report	30 Days of completion of full implementation of Secondary Containment Plan	Full review within 75 Days of submission in accordance with Section VIII (Review of Deliverables)
Baseline Inspection Plan	By March 1, 2022	Full review within 75 Days of submission in accordance with Section VIII (Review of Deliverables)
FII, FEI, and Leak Tests for all applicable BSTs	Between May 15, 2022 and November 1, 2023	NA
Baseline Inspection Reports	By December 1 of the year each inspection was completed	NA
Formal Integrity Inspection Schedule	120 Days of completion of full implementation of the Baseline Inspection Plan	Full review within 75 Days of submission in accordance with Section VIII (Review of Deliverables)

Routine Inspection Plan	By March 1, 2022	Full review within 75 Days of submission in accordance with Section VIII (Review of Deliverables)
Revised SPCC Plan	180 Days of EPA’s Notice of Completion of Review for Formal Integrity Inspection Schedule or Secondary Containment Final Report (whichever is later)	Full review within 75 Days of submission in accordance with Section VIII (Review of Deliverables)
Access to SPCC Tracking System	120 Days of the Effective Date and at least annually thereafter for the duration of the Consent Decree	NA

**Other Compliance Measures**

<b>Deliverable</b>	<b>Due Date</b>	<b>EPA Review</b>
Initial Training of New Employees	75 Days of EPA’s approval of Comprehensive Plan	NA
Ongoing Training for Existing and New Employees	At least annually; within 75 Days of onboarding new/re-assigned/re-activated employees	NA
Notice of Designated Environmental Official	15 Days of Effective Date	NA

VI. THIRD PARTY VERIFICATION

A. Auditor Hiring Procedures

72. In accordance with the procedures set forth below, Defendant shall hire an independent Third Party Auditor (“Auditor”) to perform all the duties set forth in Paragraphs 83 through 114 in order to assess Defendant’s compliance with the requirements of this Consent Decree, RCRA, Sections 301 and 311 of the CWA, and 40 C.F.R. Parts 112, and 260-279.

73. Defendant shall give the Auditor a copy of this Consent Decree and all appendices, as well as all other information and access necessary to complete the Audits set forth herein. Defendant’s contract with the Auditor shall require the Auditor to perform all of the duties in Paragraphs 83 through 114 and upon EPA’s request, within a reasonable time and upon

reasonable notice, to be fully available to consult with EPA about Defendant's compliance with this Consent Decree, RCRA, Sections 301 and 311 of the CWA, and 40 C.F.R. Parts 112 and 260-279.

74. Defendant shall bear all costs associated with the Auditor, cooperate fully with any reasonable requests of the Auditor, and provide the Auditor with access, upon reasonable notice and taking into account operational impacts, to all records, employees, contractors, and properties under Defendant's ownership or control that the Auditor deems reasonably appropriate to effectively perform the duties described in Paragraphs 83 through 114. Defendant shall ensure that the Auditor(s) conduct the Audits in accordance with the requirements set forth in Paragraphs 83 through 114 of this Decree.

75. Hiring Process. On October 26, 2021, Defendant submitted to the United States the name and qualifications of three (3) proposed independent Third-Party Auditors that both Defendant and each proposed Auditor certify meet the following conditions:

a. the Auditor has experience with Sections 301 and 311 of the CWA, RCRA, and 40 C.F.R. Parts 112 and 260-279 regarding the requirements for oil spill prevention, control, and countermeasures and the management of Solid Waste, Hazardous Waste, Used Oil, and Universal Waste;

b. the Auditor and its personnel have not been employed by Defendant, have not conducted research and/or development for Defendant, and have not provided advisory services of any kind (including but not limited to design, construction, financial, engineering, hazardous waste management, legal, or consulting services) to Defendant, within the last three (3) years; and

c. the Auditor has not been retained by Defendant to satisfy any of the

requirements of Section V (Compliance Requirements) of this Consent Decree.

76. Each Auditor proposed by Defendant for consideration executed the certification attached hereto as Appendix E.

77. Defendant shall not employ the Auditor or its personnel to provide any other commercial, business, or voluntary services to Defendant during the monitorship and for a period of at least three (3) years following the Auditor's submission of its final Audit Report, and Defendant shall not provide future employment to the Auditor or any of its personnel who managed, conducted, or otherwise participated in the Audits for a period of at least three (3) years following the Auditor's submittal of its final Site Visit Audit Report, Records Audit Report, Closure Plan Audit Report, or Deliverable Audit Report, pursuant to Paragraphs 89, 95, 103, or 110 whichever is latest.

78. On November 1, 2021, the United States notified Defendant in writing that the Auditor candidates it proposed were preliminarily approved. By no later than January 19, 2022, Defendant shall select and propose to the United States for final approval one of the preliminarily approved candidates to serve as the Auditor and to perform the activities set forth in Paragraphs 83 through 114. The contract for the auditing services shall include the restrictions described in Paragraph 75.

79. If the United States does not provide final approval of the candidate selected pursuant to Paragraph 78, then Defendant shall, within 45 Days of receipt of the United States' written notification, submit to the United States for approval the names and qualifications of two (2) proposed alternative Auditors that meet the qualifications set forth in Paragraph 75.

80. Auditor Replacement Procedure: If after approval, either the United States or Defendant independently determines that the approved Auditor cannot satisfactorily perform the



required Audits, within 60 Days of that determination or receiving the United States' notice of the same, Defendant shall submit to the United States for approval the name and qualifications of two (2) proposed replacement Auditors that meet the qualifications set forth in Paragraph 75 above. If Defendant and the United States do not agree on the need to select a replacement Auditor, Defendant may invoke the dispute resolution procedures in Section XII (Dispute Resolution) of this Consent Decree.

81. Nothing in Paragraphs 75 through 80 precludes the United States from assessing stipulated penalties for missed Audit deadlines associated with the need to replace an Auditor unless Defendant successfully asserts that the inability of the Auditor to perform the required Audit was due to a Force Majeure event in accordance with Section XI (Force Majeure) of this Consent Decree.

82. Within 30 Days of the United States' final approval of the Auditor, the Auditor shall meet with EPA to provide an overview and detailed project plan of how it will perform all of its obligations in this Consent Decree. The Auditor shall bring its key personnel to such meeting, including the lead manager(s) and senior staff involved in implementing its obligations. Representatives of the Defendant may attend this meeting.

B. Auditor Responsibilities

83. The Auditor must comply with the procedures and requirements in this Section to adequately verify Defendant's compliance with the requirements of this Consent Decree, Sections 301 and 311 of the CWA, RCRA, and 40 C.F.R. Parts 112, 260-279.

84. The Auditor shall act independently to provide an objective and fair assessment of Defendant's compliance with this Consent Decree.

85. Neither Defendant nor the United States will be bound by any recommendations or conclusions of the Auditor. However, if Defendant violates any requirement of this Consent Decree, Defendant will be liable for stipulated penalties to the United States, pursuant to Section X (Stipulated Penalties) regardless of the recommendations or conclusions of the Auditor.

86. Site Visits. The Auditor shall conduct site visits to each Community to assess Defendant's compliance with the requirements of this Consent Decree, RCRA, Sections 301 and 311 of the CWA, and 40 C.F.R. Parts 112, and 260-279. The Auditor shall conduct the site visits as follows:

NUMBER OF SITE VISITS	TIME PERIOD
Five (5) Communities	Between two and three years after the Effective Date.
All remaining Communities	Between three years and five years after the Effective Date.

87. During each site visit the Auditor shall review all of Defendant's RCRA Facilities, Hazardous Waste Management Facilities, and SPCC Facilities located within the selected Communities. The Auditor shall provide EPA with written notice of each site visit at least 30 Days in advance. The Auditor shall provide notice to Defendant 15 Days prior to any site visit.

88. Upon completion of a site visit, the Auditor will notify the Defendant of such completion and between 48 hours and 7 Days after such notification will conduct an out-briefing with Defendant in which the Auditor shall orally convey the major Audit Findings. The Auditor shall notify EPA of the scheduled date of the out-briefing for each Audit when scheduled, but no later than forty-eight (48) hours before the out-briefing. EPA shall have the right to have its representatives (including contractors) attend the out-briefing either in person, telephonically, or

via videoconference. If the out-briefing date changes, the Auditor shall notify EPA at least forty-eight (48) hours prior to the re-scheduled out-briefing.

89. The Auditor shall submit a report of the Audit results of a site visit (“Site Visit Audit Report”) to EPA and Defendant simultaneously within 30 Days of completing each site visit.

90. The Site Visit Audit Reports shall contain the following information:

a. a description of all the types of information and records reviewed in each Audit and the locations, buildings, SPCC Facilities, RCRA Facilities, Hazardous Waste Management Facilities, oil, Solid Waste, Hazardous Waste, Universal Waste, Used Oil, equipment, processes, practices, and other items reviewed, observed, or evaluated during the Audit;

b. a description of when and how the Audit was conducted;

c. identification of Defendant’s personnel interviewed by the Auditor or otherwise involved with the Audit;

d. four (4) copies of any relevant photos or videos taken or reviewed during the Audit;

e. each Audit Finding, identified and listed separately; and

f. the auditor’s Recommendations to correct each Audit Finding.

91. The Auditor shall not share draft reports with Defendant prior to the submission of the Site Visit Audit Report.

92. The Site Visit Audit Report and any findings or recommendations of the Auditor shall not be subject to any privilege or protection.

93. Within 60 Days of receiving each Site Visit Audit Report, Defendant shall submit to EPA, in accordance with Section XVI (Notices), a response to the Site Visit Audit Report.

Defendant's response shall include:

- a. a description of Defendant's actions to address each Audit Finding, including schedules;
- b. an explanation of any Audit Finding identified by the Site Visit Audit Report with which the Defendant does not agree; and
- c. for any actions recommended by the Auditor that Defendant does not intend to implement, an explanation for why Defendant will not or cannot implement the recommendation.

94. Records Audit. Defendant shall provide the Auditor with the following records at the same time they are provided to EPA:

- a. all waste inventories and hazardous waste determination documentation required by Paragraph 20;
- b. all notices of anticipated transport of Solid Waste or Hazardous Waste required by Paragraph 22;
- c. all lists of Manifests accompanying each transport or shipment of Hazardous Waste and Solid Waste required by Paragraph 23.a; and
- d. all Manifests and Shipping Papers required by Paragraph 23.b.

95. For three years from the Effective Date, the Auditor shall prepare three reports per year (nine reports during the term of the Consent Decree), to be submitted to EPA on February 15, May 15, and October 15 of each year. The first report shall evaluate all records received pursuant to Paragraph 94, and each subsequent report shall evaluate all records received since the

prior report. Each Records Audit Report shall include the Auditor's assessments and Audit Findings as to whether:

- a. the waste inventory complies with Paragraph 20;
- b. the Hazardous Waste determination documentation required by Paragraph 20 complies with 40 C.F.R. § 262.11(f) and, based on this documentation, if the hazardous waste determinations complied with 40 C.F.R. § 262.11;
- c. there are inconsistencies between the Hazardous Waste determination documentation and the waste inventory required by Paragraph 20; and
- d. the Manifest or Shipping Paper produced pursuant to Paragraph 23 is: (1) legible and internally consistent; (2) deviates from the notice of anticipated transport provided pursuant Paragraph 22 in any way (including changes in the generator identification number, changes in the generator address/approximate coordinates, changes in the description of the Solid Waste or Hazardous Waste, changes in the quantity of Solid Waste or Hazardous Waste, or changes in any hazardous waste codes); (3) contains any changes, including discrepancies noted in Box 18A, between the "Generator Copy" and the "Designated Facility to Generator" copy; (4) in the case of a Shipping Paper, lists any Solid Waste that is potentially Hazardous Waste; (5) and in the case of a Manifest, complies with 40 C.F.R. Part 262, Subpart B and the Manifest instructions, as applicable.

96. The Auditor shall include in each Records Audit Report the Auditor's recommendations to correct each Audit Finding.

97. Within 60 Days of receiving each Records Audit Report, Defendant shall submit to EPA, in accordance with Section XVI (Notices), a response to the Records Audit Report that shall include:

- a. a description of Defendant’s actions to address each Audit Finding, including schedules;
- b. an explanation of any Audit Finding identified by the Records Audit Report with which the Defendant does not agree; and
- c. for any actions recommended by the Auditor that Defendant does not intend to implement, an explanation for why Defendant will not or cannot implement the recommendation.

98. The Auditor shall not share any draft reports with Defendant prior to the submission of a Records Audit Report.

99. The Records Audit Reports and any findings or recommendations of the Auditor shall not be subject to any privilege or protection.

100. Closure Plan Audit. Defendant shall provide the Auditor the closure plans required by Paragraph 25 at the same time they are provided to EPA.

101. The Auditor shall review the closure plans for each HWMU within each Hazardous Waste Management Facility and evaluate the completeness of the submittal and its compliance with the requirements of this Consent Decree, Appendix C (Closure Plan), and 40 C.F.R. Part 265, Subpart G.

102. Because this Consent Decree contemplates multiple closure plans, the Auditor shall review the closure plans on a rolling basis and shall prioritize review of the closure plans based on the schedule provided in each, as required by Section 3.6 (Schedule for Closure) of Appendix C (Closure Plan).

103. The Auditor shall submit to both Defendant and EPA simultaneously the results of the closure plan audits (“Closure Plan Audit Reports”) as soon as is practicable but not later

than 365 days from receipt, or such other date agreed to by the Parties and the Auditor in writing. Because this Consent Decree contemplates multiple closure plans, multiple Closure Plan Audit Reports are expected. Subject to the terms of this Section, the Auditor shall have discretion to consolidate and sequence the exchange of the Closure Plan Audit Reports.

104. The Closure Plan Audit Reports shall include:

- a. each Audit Finding, identified and listed separately; and
- b. a recommendation to EPA as to the action it should take, as well as any documentation in support of such recommendation.

105. The Auditor shall not share any draft reports with Defendant prior to the submission of the Closure Plan Audit Reports.

106. The Closure Plan Audit Reports and any findings or recommendations contained therein, shall not be subject to any privilege or protection.

107. Within 60 Days of receiving each Closure Plan Audit Report, Defendant shall submit a response to EPA in accordance with Section XVI (Notices) that shall include:

- a. a description of Defendant's actions to address each Audit Finding, including schedules; and
- b. an explanation of any Audit Finding identified by the Closure Plan Audit Report with which the Defendant does not agree.

108. Deliverables Audit. Defendant shall provide the Auditor with the following proposed plans, reports, and other deliverables required under this Consent Decree at the same time they are provided to EPA:

- a. the Secondary Containment Plan required by Paragraph 38;
- b. the Secondary Containment Final Report required by Paragraph 42;

- c. the Baseline Inspection Plan required by Paragraph 43;
- d. the Formal Integrity Inspection Schedule required by Paragraph 48;
- e. the Routine Inspection Plan required by Paragraph 50; and
- f. the Revised SPCC Plan required by Paragraph 53.

109. The Auditor shall review Defendant's plans, reports, and other deliverables and evaluate the completeness of the submittal and its compliance with the requirements of this Consent Decree. The Auditor shall also assess whether Defendant's plans, reports, and other deliverables comply with 40 C.F.R. Part 112 and are supported by the facts, good engineering practice, and applicable industry standards.

110. The Auditor shall submit to both Defendant and EPA simultaneously the results of the audit for each deliverable ("Deliverables Audit Report") within 45 Days of Defendant's submission of each plan, report, or other deliverable listed in Paragraph 108.

111. The Deliverables Audit Reports shall include:

- a. a description of the information and records reviewed in evaluating each deliverable's compliance with the terms of this Consent Decree; and
- b. each Audit Finding, identified and listed separately.

112. The Auditor shall not share any draft reports with Defendant prior to the submission of a Deliverables Audit Report.

113. The Deliverables Audit Reports and any findings or recommendations of the Auditor shall not be subject to any privilege or protection.

114. Within 15 Days of receiving each Deliverables Audit Report, Defendant shall submit to EPA a response in accordance with Section XVI (Notices) that shall include:

- a. a description of Defendant's actions to address each Audit Finding,



including schedules; and

b. an explanation of any Audit Finding identified by the Deliverables Audit Report with which the Defendant does not agree.

## VII. APPROVAL OF DELIVERABLES

115. After review of deliverables submitted pursuant to Paragraphs 13, 15, 26, and 27, EPA shall, in writing:

- a. approve the submission;
- b. approve the submission upon specified conditions;
- c. approve part of the submission and disapprove the remainder; or
- d. disapprove the submission.

116. If the submission is approved pursuant to Subparagraph 115.a, Defendant shall take all actions required by the plan, report, or other document, in accordance with the schedules and requirements set forth therein. If the submission is conditionally approved or approved only in part pursuant to Subparagraph 115.b or c, Defendant shall, upon written direction from EPA, take all actions required by the approved plan, report, or other item that EPA determines are technically severable from any disapproved portions, subject to Defendant's right to dispute only the specified conditions or the disapproved portions, under Section XII (Dispute Resolution).

117. If the submission is disapproved in whole or in part pursuant to Subparagraph 115.c or d, Defendant shall, within 60 Days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the plan, report, or other item, or disapproved portion thereof, for approval, in accordance with the preceding Paragraphs. If the resubmission is approved in whole or in part, Defendant shall proceed in accordance with the preceding Paragraph.

118. If a resubmitted plan, report, or other item, or portion thereof, is disapproved in whole or in part, EPA may again require Defendant to correct any deficiencies, in accordance with the preceding Paragraphs, subject to Defendant's right to invoke Dispute Resolution and the EPA's right to seek stipulated penalties as provided in the preceding Paragraphs.

119. If Defendant elects to invoke Dispute Resolution as set forth in Paragraphs 116 or 118, Defendant shall do so by sending a Notice of Dispute in accordance with Paragraph 153 within 30 Days (or such other time as the Parties agree to in writing) after receipt of the applicable decision.

120. Any stipulated penalties applicable to the original submission, as provided in Section X (Stipulated Penalties), shall accrue during the 60 Day period or other agreed upon period, but shall not be payable unless the resubmission is untimely or is disapproved in whole or in part; provided that, if the original submission was so deficient as to constitute a material breach of Defendant's obligations under this Decree, the stipulated penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.

121. Permits. Where any compliance obligation under this Decree requires Defendant to obtain a federal, state, or local permit or approval, Defendant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Defendant may seek relief under the provisions of Section XI (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Defendant has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

### VIII. REVIEW OF SPCC DELIVERABLES

122. This Section applies to the SPCC deliverables submitted to EPA pursuant to Paragraphs 38, 42, 43, 48, 50, and 53.

123. As provided in Paragraph 108, Defendant shall submit deliverables to the Auditor at the same time they are submitted to EPA. As provided in Paragraph 110, within 45 Days of Defendant's submission of each deliverable, the Auditor shall simultaneously submit a Deliverables Audit Report to Defendant (by electronic transmission to the Environmental Official) and to EPA. As provided in Paragraph 114, within 15 Days of the Auditor's submission of each Deliverables Audit Report, Defendant shall submit a response to each Deliverables Audit Report to EPA by electronic transmission.

124. Within 15 Days of receiving a Defendant's response to a Deliverables Audit Report, EPA will provide to Defendant a Notice of Completion of Review of the deliverable by electronic submission to the Environmental Official. EPA may provide written comments as part of the Notice of Completion of Review. The absence of comments shall not be construed as approval by EPA.

### IX. REPORTING REQUIREMENTS

125. Annual Report. By no later than March 31 of each calendar year beginning in 2022, until termination of the Decree pursuant to Section XX (Termination), Defendant shall submit a report to EPA that includes:

- a. copies of all records generated and maintained pursuant to 40 C.F.R. § 262.11(f) for each generation site during the previous calendar year, unless Defendant has provided such records pursuant to Paragraph 20;
- b. copies of all notifications required by 40 C.F.R. § 262.18 regarding EPA

identification numbers submitted in the previous calendar year;

c. a list of the names and titles of all employees, contractors, or Co-generators under Defendant's authority performing obligations under this Consent Decree, including a designation of which employees were trained in accordance with the requirements of Section V.M during the preceding calendar year, the name of the trainer(s) and the dates of the training(s);

d. access to, or copies of, the training materials other than the Comprehensive Plan used to address the requirements of Paragraphs 61 and 62 (Training) during the preceding calendar year; and

e. a current copy of the Comprehensive Plan, reflecting in redline any changes to the Comprehensive Plan during the preceding calendar year pursuant to Paragraph 14. If more than one revision was made, submit each version and indicate its effective date(s).

126. If Defendant violates, or has reason to believe that it may violate, any requirement of this Consent Decree, Defendant shall notify the United States of such violation and its likely duration, in writing, within ten business days of the Day Defendant first becomes aware of the violation, with an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report required under this Paragraph is due, Defendant shall so state in the report. Defendant shall investigate the cause of the violation and then submit an amendment to the report, including a full explanation of the cause of the violation, within 30 Days of the date Defendant became aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves Defendant of its obligation to provide the notice required by Section XI (Force Majeure).

127. Whenever any violation of this Consent Decree or any other event affecting Defendant's performance under the Decree, or the Defendant's accumulation, storage, and management of Solid Waste, Hazardous Waste, or oil, may pose an immediate threat to the public health or welfare or the environment, Defendant shall notify EPA orally or by electronic transmission as soon as possible, and no later than 24 hours after Defendant first knew of the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraph.

128. All reports shall be submitted according to Section XVI (Notices).

129. Each report submitted by Defendant under this Section shall be signed by the Environmental Official and include the following certification:

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 the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than 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.

130. This certification requirement does not apply to emergency or similar notifications where compliance would be impractical.

131. The reporting requirements of this Consent Decree do not relieve Defendant of any reporting obligations required by the Acts or their implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

132. Any information provided pursuant to this Consent Decree may be used by the United States in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

X. STIPULATED PENALTIES

133. Defendant shall be liable for stipulated penalties to the United States for violations of this Consent Decree as specified below, unless excused under Section XI (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

134. Late Payment of Civil Penalty. If Defendant fails to pay the civil penalty required to be paid under Section IV (Civil Penalty) when due, Defendant shall pay a stipulated penalty of \$1,000 per Day for each Day that the payment is late.

135. The following stipulated penalties shall accrue for each violation of the requirements identified in Section V (Compliance Requirements) and Section VI (Third Party Verification) of this Consent Decree:

RCRA Compliance Requirements

a. Comprehensive Plan

Violation	Stipulated Penalty	
For failure to timely submit the Comprehensive Plan and the Revised Comprehensive Plans as required by Paragraphs 13 and 15:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and beyond	\$ 2,000
For failure to include all required categories of information in the	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Requirement</u>

Comprehensive Plan as set forth in Appendix A:	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000
For failure to comply with the requirements of the approved Comprehensive Plan and the approved Revised Comprehensive Plans as required by Paragraphs 13-16 and Appendix A:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000

b. Waste Inventory and Hazardous Waste Determinations

Violation	Stipulated Penalty	
For failure to identify all Solid Waste located, accumulated or stored at any RCRA Facility as required by Paragraph 18:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to make a Hazardous Waste determination as required by Paragraph 19:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to timely submit any solid waste inventory to EPA as required by Paragraph 20:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and beyond	\$ 2,000
For failure to include each of the required categories of information in the Solid Waste inventories as required by Paragraph 20:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000

c. Waste Transport and Manifests

Violation	Stipulated Penalty	
For failure to timely provide EPA notice of the anticipated transport of Solid or Hazardous Waste as required by Paragraph 22:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500

	Days 31 and beyond	\$ 2,000
For failure to include each of the required categories of information in the notice or copies of the Manifest/Shipping Papers as required by Paragraph 22:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000
For failure to timely submit to EPA a spreadsheet listing the Manifests that accompanied each transport of Solid Waste or Hazardous Waste from the preceding calendar month as required by Paragraph 23:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and beyond	\$ 2,000
For failure to include each of the required categories of information in the spreadsheet as required by Paragraph 23:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000
For failure to provide the Generator Copy of any manifest, the Designated Facility to Generator copy of any manifest, and each Shipping Paper as required by Paragraph 23:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000

d. Hazardous Waste Unit Closure

Violation	Stipulated Penalty	
For failure to close each HWMU within each Hazardous Waste Management Facility in accordance with Paragraphs 24-28:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to timely submit the Hazardous Waste Management Unit Closure Report as required by Paragraph 25:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and beyond	\$ 2,000
For failure to include each of the required categories of information in the Hazardous Waste Management Unit Closure Report as required Paragraph 25:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500



	Days 31 and beyond	\$ 1,000
For failure to timely submit closure plans or a consolidated closure plan as required by Paragraph 25:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and beyond	\$ 2,000
For failure to ensure the closure plans, or a consolidated closure plan, comply with the requirements of Appendix C and 40 C.F.R. Part 265 as required by Paragraph 25:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000
For failure to provide timely notice of the commencement of closure operations for the first HWMU within each Hazardous Waste Management Facility as required by Paragraph 25:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and beyond	\$ 2,000
For failure to provide the required certifications within 60 days of closure or final closure as by Paragraph 25:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and beyond	\$ 2,000
For failure to timely provide the notices and survey plats as required by Paragraph 25:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and beyond	\$ 2,000
For failure to timely submit post-closure plans as required by Paragraph 25:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and beyond	\$ 2,000

e. RCRA Storage Permit

Violation	Stipulated Penalty	
For failure to timely submit the Engineering Evaluation Report as required by Paragraph 29:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and beyond	\$ 2,000

	Days 31 and beyond	\$ 2,000
For failure to include each of the required categories of information in the Engineering Evaluation Report as required by Paragraph 29:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000
For failure to timely apply for a RCRA storage permit that complies with 40 C.F.R. Part 270 as required by Paragraphs 31 and 32:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to timely commence construction of the hazardous waste storage facility after issuance of the RCRA permit as required by Paragraph 33:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and beyond	\$ 2,000

CWA Compliance Requirements

f. SPCC Inventories

Violation	Stipulated Penalty	
For failure to timely submit the deliverable containing the SPCC Inventories to EPA as required by Paragraph 34:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to ensure the SPCC Inventories are certified by a Professional Engineer as required by Paragraph 34:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to include all required elements of the SPCC Inventories as required by Paragraph 35:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000

g. Installation of Secondary Containment

Violation	Stipulated Penalty	
For failure to timely submit the Secondary Containment Plan to the Auditor and EPA as required by Paragraph 38:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to ensure the Secondary Containment Plan is certified by a Professional Engineer as required by Paragraph 38:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to include all required elements of the Secondary Containment Plan in accordance with Paragraphs 39 and 40:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000
For failure to timely submit a response to the Auditor's Deliverables Audit Report for the Secondary Containment Plan as required by Paragraph 114:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000
For failure to implement the Secondary Containment Plan by the dates set forth therein as required by Paragraph 41:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to timely submit a Secondary Containment Final Report as required by Paragraph 42:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to timely submit a response to the Auditor's Deliverables Audit Report for the Secondary Containment Final Report as required by Paragraph 114:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000

h. Formal Integrity Inspection Schedule

Violation	Stipulated Penalty	
For failure to timely submit the Baseline Inspection Plan to the Auditor and EPA as required by Paragraph 43:	<u>Period of Noncompliance</u>  Days 1-15 Days 16-30 Days 31 and later	<u>Penalty Per Day Per Violation</u>  \$ 1,000 \$ 1,500 \$ 2,000
For failure to include all required elements of the Baseline Inspection Plan as required by Paragraphs 44 and 45:	<u>Period of Noncompliance</u>  Days 1-15 Days 16-30 Days 31 and beyond	<u>Penalty Per Day Per Violation</u>  \$ 200 \$ 500 \$ 1,000
For failure to timely submit a response to the Auditor's Deliverables Audit Report for the Baseline Inspection Plan as required by Paragraph 114:	<u>Period of Noncompliance</u>  Days 1-15 Days 16-30 Days 31 and beyond	<u>Penalty Per Day Per Violation</u>  \$ 200 \$ 500 \$ 1,000
For failure to implement the Baseline Inspection Plan by the dates set forth therein as required by Paragraph 46:	<u>Period of Noncompliance</u>  Days 1-15 Days 16-30 Days 31 and later	<u>Penalty Per Day Per Violation</u>  \$ 1,000 \$ 1,500 \$ 2,000
For failure to timely submit a Formal Integrity Inspection Schedule as required by Paragraph 48:	<u>Period of Noncompliance</u>  Days 1-15 Days 16-30 Days 31 and later	<u>Penalty Per Day Per Violation</u>  \$ 1,000 \$ 1,500 \$ 2,000
For failure to ensure the Formal Integrity Inspection Schedule is certified by a Professional Engineer as required by Paragraph 48:	<u>Period of Noncompliance</u>  Days 1-15 Days 16-30 Days 31 and later	<u>Penalty Per Day Per Violation</u>  \$ 1,000 \$ 1,500 \$ 2,000
For failure to include all required elements of the Formal Integrity Inspection Schedule as required by Paragraph 48:	<u>Period of Noncompliance</u>  Days 1-15 Days 16-30 Days 31 and beyond	<u>Penalty Per Day Per Violation</u>  \$ 200 \$ 500 \$ 1,000
For failure to timely submit a response to	<u>Period of</u>	<u>Penalty Per Day</u>

the Auditor's Deliverables Audit Report for the Formal Integrity Inspection Schedule as required by Paragraph 114:	<u>Noncompliance</u>	<u>Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000
For failure to implement the Formal Integrity Inspection Schedule by the dates set forth therein as required by Paragraph 49:	<u>Period of</u>	<u>Penalty Per Day</u>
	<u>Noncompliance</u>	<u>Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000

i. Routine Inspection Plan

Violation	Stipulated Penalty	
For failure to timely submit the Routine Inspection Plan to the Auditor and EPA as required by Paragraph 50:	<u>Period of</u>	<u>Penalty Per Day</u>
	<u>Noncompliance</u>	<u>Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to include all required elements of the Routine Inspection Plan as required by Paragraph 51:	<u>Period of</u>	<u>Penalty Per Day</u>
	<u>Noncompliance</u>	<u>Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000
For failure to timely submit a response to the Auditor's Deliverables Audit Report for the Routine Inspection Plan as required by Paragraph 114:	<u>Period of</u>	<u>Penalty Per Day</u>
	<u>Noncompliance</u>	<u>Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000
For failure to implement the Routine Inspection Plan by the dates set forth therein as required by Paragraph 52:	<u>Period of</u>	<u>Penalty Per Day</u>
	<u>Noncompliance</u>	<u>Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000

j. Revised SPCC Plan

Violation	Stipulated Penalty	
For failure to timely submit the Revised SPCC Plan as required by Paragraph 53:	<u>Period of</u>	<u>Penalty Per Day</u>
	<u>Noncompliance</u>	<u>Per Violation</u>

	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to include all required elements of the Revised SPCC Plan in accordance with Paragraphs 54 and 55:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to timely submit a response to the Auditor's Deliverables Audit Report for the Revised SPCC Plan as required by Paragraph 114:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000

k. SPCC Tracking System

Violation	Stipulated Penalty	
For failure to timely develop the SPCC Tracking System as required by Paragraph 56:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to include all required elements of the SPCC Tracking System in accordance with Paragraph 56:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 200
	Days 16-30	\$ 500
	Days 31 and beyond	\$ 1,000
For failure to update the SPCC Tracking System as required by Paragraphs 37, 47, and 58:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000

l. Other Compliance Requirements

Violation	Stipulated Penalty	
For failure to train employees, contractors, or Co-generators over which Defendant has authority as required by Paragraphs 61 and 62:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500

	Days 31 and later	\$ 2,000
For failure to timely designate a qualified Environmental Official as required by Paragraphs 63 and 64:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-14	\$ 1,000
	Days 15-30	\$ 1,500
	Days 31 and beyond	\$ 2,000
For failure to ensure that the Environmental Official carries out his or her obligations as required by Paragraphs 64 and 66:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-14	\$ 1,000
	Days 15-30	\$ 1,500
	Days 31 and beyond	\$ 2,000

m. Third Party Verification Requirements

Violation	Stipulated Penalty	
For failure to hire an Auditor as required by Paragraphs 72 through 79:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to timely submit replacement Auditors as required by Paragraph 80:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure of the Auditor to meet with EPA as required by Paragraph 82:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure of the Auditor to conduct the site visits as required by Paragraphs 86 through 92:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to timely respond to a Site Visit Audit Report as required by Paragraph 93:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500

	Days 31 and later	\$ 2,000
For failure to timely provide the Auditor with the records as required by Paragraph 94:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure of the Auditor to conduct the records audit as required by Paragraphs 95 and 96:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to timely respond to a Records Audit Report as required by Paragraph 97:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to timely provide the auditor with the closure plans as required by Paragraph 100:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure of the Auditor to conduct the closure plan audit as required by Paragraphs 101 through 106:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to timely respond to a Closure Plan Audit Report as required by Paragraph 107:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to timely submit the deliverables as required by Paragraph 108:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure of the Auditor to conduct the deliverables audits as required by Paragraphs 109 through 113:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>



	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000
For failure to timely respond to a Deliverables Audit Report as required by Paragraph 114:	<u>Period of Noncompliance</u>	<u>Penalty Per Day Per Violation</u>
	Days 1-15	\$ 1,000
	Days 16-30	\$ 1,500
	Days 31 and later	\$ 2,000

136. Reporting Requirements. The following stipulated penalties shall accrue per violation per Day for each violation of the reporting requirements of Section IX (Reporting Requirements) of this Consent Decree:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,000	1 <sup>st</sup> through 15 <sup>th</sup> Day
\$1,500	16 <sup>th</sup> through 30 <sup>th</sup> Day
\$2,000	31 <sup>st</sup> Day and beyond

137. Any Other Non-Compliance with the Consent Decree. The following stipulated penalties shall accrue per violation per Day for each violation of any requirement of this Consent Decree not otherwise enumerated above:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,000	1 <sup>st</sup> through 15 <sup>th</sup> Day
\$1,500	16 <sup>th</sup> through 30 <sup>th</sup> Day
\$2,000	31 <sup>st</sup> Day and beyond

138. Stipulated penalties under this Section shall begin to accrue on the Day after performance is due or on the Day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree.

139. Defendant shall pay any stipulated penalty within 30 Days of receiving the United States' written demand.

140. The United States may in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

141. Stipulated penalties shall continue to accrue as provided in Paragraph 138, during any Dispute Resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement of the Parties or by a decision of EPA that is not appealed to the Court, Defendant shall pay accrued penalties determined to be owing, together with interest, to the United States within 30 Days of the effective date of the agreement or the receipt of EPA's decision or order.

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Defendant shall pay all accrued penalties determined by the Court to be owing, together with interest, within 60 Days of receiving the Court's decision or order, except as provided in subparagraph c, below.

c. If any Party appeals the District Court's decision, Defendant shall pay all accrued penalties determined to be owing, together with interest, within 15 Days of receiving the final appellate court decision.

142. Obligations Prior to the Effective Date. Upon the Effective Date, the stipulated penalty provisions of this Decree shall be retroactively enforceable with regard to any and all violations of Sections V (Compliance Requirements) and VI (Third Party Verification) that have occurred prior to the Effective Date, provided that stipulated penalties that may have accrued prior to the Effective Date may not be collected unless and until this Consent Decree is entered by the Court.

143. Defendant shall pay stipulated penalties owing to the United States in the manner set forth in Paragraph 9 and with the confirmation notices required by Paragraph 10, except that

the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.

144. If Defendant fails to pay stipulated penalties according to the terms of this Consent Decree, Defendant shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States from seeking any remedy otherwise provided by law for Defendant's failure to pay any stipulated penalties.

145. The payment of penalties and interest, if any, shall not alter in any way Defendant's obligation to complete the performance of the requirements of this Consent Decree.

146. Non-Exclusivity of Remedy. Stipulated penalties are not the United States' exclusive remedy for violations of this Consent Decree. Subject to the provisions of Section XIV (Effect of Settlement/Reservation of Rights), the United States expressly reserves the right to seek any other relief it deems appropriate for Defendant's violation of this Decree or applicable law, including but not limited to an action against Defendant for statutory penalties, additional injunctive relief, mitigation or offset measures, and/or contempt. However, the amount of any statutory penalty assessed for a violation of this Consent Decree shall be reduced by an amount equal to the amount of any stipulated penalty assessed and paid pursuant to this Consent Decree.

#### XI. FORCE MAJEURE

147. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Defendant, of any entity controlled by Defendant, or of Defendant's contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Defendant's best efforts to fulfill the obligation. The requirement that Defendant exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate

any potential force majeure event and best efforts to address the effects of any potential force majeure event (a) as it is occurring and (b) following the potential force majeure, such that the delay and any adverse effects of the delay are minimized. “Force Majeure” does not include Defendant’s financial inability to perform any obligation under this Consent Decree.

148. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, Defendant shall provide notice by telephone to EPA, within 72 hours of when Defendant first knew that the event might cause a delay. Within seven Days thereafter, Defendant shall provide in writing to EPA an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Defendant’s rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Defendant, such event may cause or contribute to an endangerment to public health, welfare or the environment. Defendant shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Defendant from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Defendant shall be deemed to know of any circumstance of which Defendant, any entity controlled by Defendant, or Defendant’s contractors knew or should have known.

149. If EPA agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA for such time as is necessary to complete those

obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. EPA will notify Defendant in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

150. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify Defendant in writing of its decision.

151. If Defendant elects to invoke the dispute resolution procedures set forth in Section XII (Dispute Resolution), it shall do so no later than 15 Days after receipt of EPA's notice. In any such proceeding, Defendant shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Defendant complied with the requirements of Paragraphs 147 and 148. If Defendant carries this burden, the delay at issue shall be deemed not to be a violation by Defendant of the affected obligation of this Consent Decree identified to EPA and the Court.

## XII. DISPUTE RESOLUTION

152. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. Defendant's failure to seek resolution of a dispute under this Section shall preclude Defendant from raising any such issue as a defense to an action by the United States to enforce any obligation of Defendant arising under this Decree.

153. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be

considered to have arisen when Defendant sends DOJ and EPA a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 20 Days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within 30 Days after the conclusion of the informal negotiation period, Defendant invokes formal dispute resolution procedures as set forth below.

154. Formal Dispute Resolution. Defendant shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by sending DOJ and EPA a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Defendant's position and any supporting documentation relied upon by Defendant.

155. The United States shall send Defendant its Statement of Position within 45 Days of receipt of Defendant's Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. The United States' Statement of Position shall be binding on Defendant, unless Defendant files a motion for judicial review of the dispute in accordance with the following Paragraph.

156. Defendant may seek judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XVI (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within ten Days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Defendant's position on the matter in dispute, including any

supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

157. The United States shall respond to Defendant's motion within the time period allowed by the Local Rules of this Court. Defendant may file a reply memorandum, to the extent permitted by the Local Rules.

158. Standard of Review

a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Consent Decree, in any dispute brought under Paragraph 154 pertaining to the adequacy or appropriateness of plans, procedures to implement plans, schedules or any other items requiring approval by EPA under this Consent Decree; the adequacy of the performance of work undertaken pursuant to this Consent Decree; and all other disputes that are accorded review on the administrative record under applicable principles of administrative law, Defendant shall have the burden of demonstrating, based on the administrative record, that the position of the United States is arbitrary and capricious or otherwise not in accordance with law.

b. Other Disputes. Except as otherwise provided in this Consent Decree, in any other dispute brought under Paragraph 154, Defendant shall bear the burden of demonstrating that its position complies with this Consent Decree and better furthers the objectives of the Consent Decree.

159. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendant under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but

payment shall be stayed pending resolution of the dispute as provided in Paragraph 141. If Defendant does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section X (Stipulated Penalties).

### XIII. INFORMATION COLLECTION AND RETENTION

160. The United States and its representatives, including attorneys, contractors, and consultants, shall have the right of entry into any RCRA Facility or SPCC Facility covered by this Consent Decree, at all reasonable times, upon presentation of credentials, to:

- a. monitor the progress of activities required under this Consent Decree;
- b. verify any data or information submitted to the United States in accordance with the terms of this Consent Decree;
- c. obtain samples and, upon request, splits of any samples taken by Defendant or its representatives, contractors, or consultants;
- d. obtain documentary evidence, including photographs and similar data; and
- e. assess Defendant's compliance with this Consent Decree.

161. Upon request, Defendant shall provide EPA or its authorized representatives splits of any samples taken by Defendant. Upon request, EPA shall provide Defendant splits of any samples taken by EPA.

162. Until five years after the termination of this Consent Decree, Defendant shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendant's performance of its obligations under this Consent Decree. This information-retention



requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the United States, Defendant shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

163. At the conclusion of the information-retention period provided in the preceding Paragraph, Defendant shall notify the United States at least 90 Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States, Defendant shall deliver any such documents, records, or other information to EPA. Defendant may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Defendant asserts such a privilege, it shall provide the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of each author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by Defendant. However, no documents, records, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege.

164. Defendant may also assert that information required to be provided under this Section is protected as Confidential Business Information (“CBI”) under 40 C.F.R. Part 2. As to any information that Defendant seeks to protect as CBI, Defendant shall follow the procedures set forth in 40 C.F.R. Part 2.

165. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States pursuant to applicable federal laws,

regulations, or permits, nor does it limit or affect any duty or obligation of Defendant to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

XIV. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

166. This Consent Decree resolves the civil claims of the United States for the violations alleged in the Complaint filed in this action through the date of lodging.

167. The United States reserves all legal and equitable remedies available to enforce the provisions of this Consent Decree. This Consent Decree shall not be construed to limit the rights of the United States to obtain penalties or injunctive relief under the Acts or implementing regulations, or under other federal laws, regulations, or permit conditions, except as expressly specified in Paragraph 166. The United States further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Defendant's generation, accumulation, storage, or management of Hazardous Materials, Solid Waste, Hazardous Waste, or oil, whether related to the violations addressed in this Consent Decree or otherwise.

168. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, civil penalties, other appropriate relief relating to the RCRA Facilities and SPCC Facilities or Defendant's violations, Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 166.

169. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Defendant is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and Defendant's compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that Defendant's compliance with any aspect of this Consent Decree will result in compliance with provisions of the Acts, or with any other provisions of federal, State, or local laws, regulations, or permits.

170. This Consent Decree does not limit or affect the rights of Defendant or of the United States against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against Defendant, except as otherwise provided by law.

171. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

#### XV. COSTS

172. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Defendant.

#### XVI. NOTICES

173. Notifications, communications, and submissions (collectively, "Submissions") required by this Consent Decree shall be sent to the addressees listed below electronically.

Where this Consent Decree requires that Submissions be sent to the United States, they shall be sent to the United States Department of Justice and EPA offices designated below. Where this Consent Decree requires that Submissions be sent to EPA, they need only be sent to the EPA offices designated below:

As to DOJ:	eescdcopy.enrd@usdoj.gov Re: DJ # 90-5-1-1-12099
As to EPA:	R10enforcement@epa.gov Re: United States v. North Slope Borough Civil Action Number assigned to this case
As to Defendant:	Brian Stibitz Reeves Amodio LLC 500 L Street Anchorage, AK 99501 brian@reevesamodio.com

174. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

175. Defendant shall provide the Environmental Official's name, address, email address, and phone number to EPA within five business days of their designation. Each submission from the United States will be sent to the Environmental Official in addition to the designated person in Paragraph 173.

176. Notices submitted pursuant to this Section shall be deemed submitted upon transmission by email, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

#### XVII. EFFECTIVE DATE

177. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket.

### XVIII. RETENTION OF JURISDICTION

178. The Court shall retain jurisdiction over this case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, pursuant to Sections XII and XIX, or effectuating or enforcing compliance with the terms of this Decree.

### XIX. MODIFICATION

179. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Decree, it shall be effective only upon approval by the Court. Written agreements by Parties to changes in schedule, including any deadlines in Sections V and VI of less than one year are not material changes.

180. Any disputes concerning modification of this Decree shall be resolved pursuant to Section XII (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 158, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

### XX. TERMINATION

181. After Defendant has completed the requirements of Section V (Compliance Requirements) and VI (Third Party Verification) of this Decree, and has paid the civil penalty and any accrued stipulated penalties as required by this Consent Decree, Defendant may serve upon the United States a Request for Termination, stating that Defendant has satisfied those requirements, together with all necessary supporting documentation.

182. Following receipt by the United States of Defendant's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Defendant has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States agrees that the Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree.

183. If the United States does not agree that the Decree may be terminated, Defendant may invoke Dispute Resolution under Section XII. However, Defendant shall not seek Dispute Resolution of any dispute regarding termination until 60 Days after service of its Request for Termination.

#### XXI. PUBLIC PARTICIPATION

184. This Consent Decree shall be lodged with the Court for a period of not less than 45 Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Defendant consents to entry of this Consent Decree without further notice and agrees not to withdraw from or oppose entry of this Consent Decree by the Court or to challenge any provision of the Decree, unless the United States has notified Defendant in writing that it no longer supports entry of the Decree.

#### XXII. SIGNATORIES/SERVICE

185. Each undersigned representative of the Defendant and the United States certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

186. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. Defendant agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons. Defendant need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

#### XXIII. INTEGRATION

187. This Consent Decree, including deliverables that are subsequently approved pursuant to this Decree, constitutes the entire agreement among the Parties regarding the subject matter of the Decree and supersedes all prior representations, agreements and understandings, whether oral or written, concerning the subject matter of the subject matter of the Decree herein.

#### XXIV. FINAL JUDGMENT

188. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States and Defendant.

#### XXV. APPENDICES

189. Appendix A includes requirements for the Comprehensive Plan required by this Consent Decree, and is attached to and part of this Consent Decree.

190. Appendix B describes and depicts the minimum extent and boundaries of each Hazardous Waste Management Facility as of the date of lodging, and is attached to and part of this Consent Decree.

191. Appendix C includes requirements for Hazardous Waste Management Facility closure plans and is attached to and part of this Consent Decree.

192. Appendix D identifies existing SPCC Facilities and is attached to and part of this Consent Decree.

193. Appendix E includes the auditor certification form and is attached to and part of this Consent Decree.

Dated and entered this     day of \_\_\_\_\_, 20

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UNITED STATES DISTRICT JUDGE



FOR PLAINTIFF THE UNITED STATES OF  
AMERICA:


TODD KIM  
Assistant Attorney General  
Environment and Natural Resources Division

Date: 03/15/22



ZACHARY N. MOOR  
Trial Attorney  
Environmental Enforcement Section  
Environment and Natural Resources Division  
United States Department of Justice  
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Date: 3.15.22



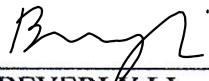
HELEN Y. LI  
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United States v. North Slope Borough  
Case No. 3:22-cv-00059-JWS


WE HEREBY CONSENT to the entry of the Consent Decree in *United States v. North Slope Borough*, subject to the public notice requirements of 28 C.F.R. § 50.7.

FOR THE U.S. ENVIRONMENTAL PROTECTION  
AGENCY:


Date: 1/14/2022

  
\_\_\_\_\_  
BEVERLY LI  
Regional Counsel  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, M/S ORC-113  
Seattle, Washington 98101

Date: JANUARY 4, 2022

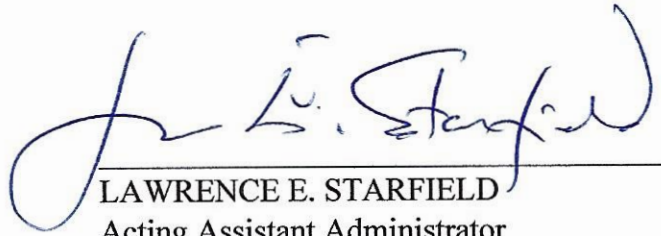
  
\_\_\_\_\_  
JOHN MATTHEW MOORE  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, M/S ORC-113  
Seattle, Washington 98101

Date: JANUARY 3, 2022

  
\_\_\_\_\_  
BRETT S. DUGAN  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, M/S ORC-113  
Seattle, Washington 98101

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY:

Date: January 18, 2022



LAWRENCE E. STARFIELD  
Acting Assistant Administrator  
Office of Enforcement and Compliance Assurance  
United States Environmental Protection Agency  
Washington, D.C. 20460

FOR DEFENDANT THE NORTH SLOPE  
BOROUGH:

Date: 12-22-21



✓ HARRY K. BROWER, Jr

Mayor

North Slope Borough

P.O. Box 69

Utqiagvik, AK 99723

United States v. North Slope Borough

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Case No. 3:22-cv-00059-JWS

# Appendix A

United States v. North Slope Borough  
Case No. 3:22-cv-00059-JWS

## **Appendix A: Comprehensive Plan**

The Comprehensive Plan required by Section V.B of the Consent Decree shall meet the following requirements.

### **1.0 Scope of the Comprehensive Plan**

The Comprehensive Plan shall apply to all RCRA Facilities and SPCC Facilities in each of the Communities in North Slope Borough.

### **2.0 Roles and Responsibilities**

The Comprehensive Plan shall identify the roles and define the responsibilities for all Defendant's personnel that have or could reasonably be expected to have responsibility for, or otherwise impact, the management of Hazardous Materials, Solid Waste, Hazardous Waste, Universal Waste, Used Oil, and Household Waste.

### **3.0 Waste Minimization**

The Comprehensive Plan shall include the following systems and procedures for minimizing the generation of Hazardous Waste:

- a) Implementation of a system for tracking Hazardous Materials stored in containers with a volumetric capacity of one (1) gallon or more that:
  1. Tracks the type, amount, and location of Hazardous Material from the date of receipt until the Hazardous Material is completely used, discarded, or shipped off-site for disposal;
  2. Tracks the expiration date of the Hazardous Material, if applicable; and
  3. Identifies an individual or individuals with organizational responsibility for the management of the Hazardous Material;
- b) Procedures to ensure that Hazardous Materials are stored separately from Solid Waste;
- c) Procedures to prevent abandonment of Hazardous Materials in outdoor areas;
- d) Procedures to ensure Hazardous Materials are stored in a manner that protects the materials and their containers from deterioration, including storage in structurally-sound buildings;
- e) Procedures to ensure access to Hazardous Materials is limited to authorized and trained individuals; and
- f) Procedures to ensure periodic evaluation of the system for tracking and storing Hazardous Materials to ensure the generation of Hazardous Waste is minimized.

### **4.0 Solid Waste, Hazardous Waste, and Used Oil Management**

The Comprehensive Plan shall include procedures for managing Solid Waste, Hazardous Waste, and Used Oil that incorporate each of the following elements:

#### 4.1 Requirements for the Identification, Review, and Documentation of Solid Waste, Hazardous Waste, and Used Oil Generating Processes

The Comprehensive Plan shall contain procedures to ensure:

- a) Processes that have the potential to generate Solid Waste, Hazardous Waste (including Universal Waste) or Used Oil are identified and periodically reviewed;
- b) Documentation of the Solid Waste, Hazardous Waste (including Universal Waste), or Used Oil generated by each process is produced, kept current, and maintained (as applicable); and
- c) Documentation of the Solid Waste, Hazardous Waste (including Universal Waste), or Used Oil generated by each process is disseminated to persons who have, or could reasonably be expected to have, a role or responsibility related to the process or waste generated.

#### 4.2 Requirements for the Accumulation of Hazardous Waste

The Comprehensive Plan shall contain procedures to ensure:

- a) The generator category for each Hazardous Waste generation site is determined and documented in accordance with 40 C.F.R. § 262.13;
- b) Hazardous Waste determinations are made at the point of waste generation, recorded in accordance with 40 C.F.R. § 262.11, and entered into the tracking system discussed in 3.0 (Waste Minimization) above;
- c) Hazardous Waste is accumulated, stored, and treated in compliance with either:
  1. a permit issued pursuant to 40 C.F.R. part 270, or
  2. conditions for exemption in 40 C.F.R. part 262 based on the generator category determined in accordance with 40 C.F.R. § 262.13; and
- d) Site notifications and re-notifications are timely submitted to EPA and kept current using EPA Form 8700-12 in accordance with 40 C.F.R. § 262.18.

#### 4.3 Requirements for Manifests

The Comprehensive Plan shall contain procedures to ensure:

- a) Hazardous Waste manifests are accurately prepared in accordance with 40 C.F.R. Part 262, Subpart B, each time Defendant transports Hazardous Waste or offers Hazardous Waste for transport;
- b) Exception reports are timely submitted in accordance with the requirements of 40 C.F.R. § 262.42; and
- c) No hazardous waste is transported unless such transport complies with 40 C.F.R. Parts 262 and 263.

#### 4.4 Requirements for Universal Waste, Used Oil, and Household Waste

The Comprehensive Plan shall contain procedures to ensure:

- a) Universal Waste is managed in accordance with 40 C.F.R. Part 273;
- b) Used Oil is stored in compliance with 40 C.F.R. Parts 112 and 279; and
- c) Household Wastes are segregated from other Solid Wastes and Hazardous Wastes that are not generated from households.

## **5.0 Training**

The Comprehensive Plan shall include training procedures that ensure employees, contractors, and Co-generators over which Defendant has authority who can reasonably be expected to generate, handle, inspect, or manage Hazardous Materials, Solid Waste, Hazardous Waste, Universal Waste, or Used Oil or complete records related to the same are trained at least annually in accordance with Section of V.M. of the Consent Decree.



# Appendix B

## **Appendix B: Hazardous Waste Management Facilities**

### Hazardous Waste Management Facilities in Atkasuk, Alaska

1. Tract J-1, including all areas inside and outside Buildings 2406a, the heavy equipment maintenance facility, and Building 2406b, the Operations & Maintenance (“O&M”) shop/Warm Storage Building, and the bulk tank farm.
2. The Public Works/Unified School District Warehouse (“USDW”) facility located at 801 Tikigluk Street.
3. Tract L, including all hazardous waste accumulation and storage areas at the landfill.
4. Tract I-1, including all areas in and around the Power Plant (Building 106), and the utility tank farm.

### Hazardous Waste Management Facilities in Kaktovik, Alaska

1. Tract F, including all areas inside and outside Building 4042, the NSB O&M Shop/USDW/Heavy Equipment Maintenance Facility, and the USDW Chemical Shack.
2. Tract B-1, including all areas inside and outside the Fire Station (Building 527).
3. Tract 2-A, including all areas around the tank farm and fuel station.
4. Tract J, including all areas inside and outside the Kaktovik Power Plant (Building 439).

### Hazardous Waste Management Facilities in Wainwright, Alaska

1. Tract J, including all areas inside and outside the Department of Public Works O&M shop/Vehicle Maintenance shop (Building 121).
2. Tract K, including all areas inside and outside the Power Plant (Building 117).
3. All areas inside and outside the Sewage Treatment facility (Building 109) west of Tract K.
4. Tract 3-A, including all areas inside and outside the water treatment plant (Building 1236).

### Hazardous Waste Management Facilities in Anaktuvuk Pass, Alaska

1. Tracts D, G, H, and Block 15, Lots 2 and 2a, and Block 1, Lot 6a, including all areas inside and outside the Public Works O&M shop (Building 1042), Power Plant (Building 1024), Wastewater Treatment Plant (Building 1020), Warm Storage Facility (Building 1018) and the airstrip apron.
2. Area northeast of the river where drums were identified as Site 1 on the map that accompanied the RCRA Subtitle C Site Identification form (EPA Form 8700-12) submitted by NSB on September 1, 2016, for the USDW Shared Factory. Site 1 is north of the airport runway and east of Tract 10A, in or near the vegetated area north of Contact Creek.

#### Hazardous Waste Management Facilities in Utqiagvik, Alaska

1. Tract C, including all areas inside and outside Barrow Shops 1 and 2 (Buildings 3431 and 3427, respectively).
2. Tract J-1-B, including all appurtenances and improvements around Barrow Shop 3 (Building 3490).
3. Building 1797, including all areas inside and outside the Search and Rescue Building.
4. Building 1685, including all areas inside and outside the Facility Maintenance/Transit Facility.
5. Barrow Gas Field(s)
6. Tank Farm within Tract Z.

#### Hazardous Waste Management Facilities in Nuiqsut, Alaska

1. Airport Tract 6, including all areas inside and outside, the NSB Public Works site, including the USDW (Building 1105), O&M Shop, and Hazardous Waste Collection Center.
2. Wastewater Treatment Facility Tract, including all areas around the wastewater treatment plant.

#### Hazardous Waste Management Facilities in Point Hope, Alaska

1. Block 25, Lots 1 and 2, Block 7, Lot 4, and USS11977, Lot 3, along Ippiq Street, commonly referred to as the Connex Storage Yard or the Point Hope Drum Storage Area. This site includes the Warm Storage Building (Building 903), USDW Combined Facility (Building 901), and Shop 1/Heavy Equipment Shop (Building 801).

#### Hazardous Waste Management Facilities in Point Lay, Alaska

1. Public Works O&M shop, including Building 105 in Lot 3A, on the north side of Tuttunniagvik Street

#### Hazardous Waste Management Facilities in Prudhoe Bay, Alaska

1. All tracts and buildings that meet the definition of “Hazardous Waste Management Facility.”

#### Hazardous Waste Management Facilities in Deadhorse, Alaska

1. All tracts and buildings that meet the definition of “Hazardous Waste Management Facility.”

# Appendix C

## Appendix C: Closure Plan Requirements

Each closure plan required by Paragraph 25 of the Consent Decree shall contain the sections described below and include within each section the specified content as well as the content required by the associated regulations. The closure plan for each Hazardous Waste Management Facility must comply with the requirements set forth in 40 C.F.R. Part 265, Subpart G.

### 1.0 Introduction

Provide a brief overview of the purpose of the plan with specific reference to the applicable Hazardous Waste Management Facility.

### 2.0 Facility Description

Provide a description of the Hazardous Waste Management Facility, which includes:

- a) the street address (as applicable) and latitude and longitude of the Hazardous Waste Management Facility and the specific locations of all HWMUs and SWMUs within the Hazardous Waste Management Facility (e.g., building name/number, street address, if different from main facility address, location relative to the main facility, etc.);
- b) figures, maps, and photographs of the Hazardous Waste Management Facility, HWMUs, and SWMUs, including a map or aerial image marked with the boundary of the Hazardous Waste Management Facility and the locations of all HWMUs and SWMUs. In accordance with 40 C.F.R. § 270.14(b)(19), include a topographic map showing a distance of 1,000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet);
- c) the dimensions and layout of each HWMU and SWMU;
- d) historical background of Hazardous Waste and Solid Waste generation and management at the Hazardous Waste Management Facility and each HWMU and SWMU within the Hazardous Waste Management Facility, the full length of time Hazardous Waste and Solid Waste was generated and/or received and managed at each HWMU and SWMU, information regarding any releases, including spills of Hazardous Waste and Solid Waste, the last or most recent date when Hazardous Waste was generated or received at the site, and, if applicable, the date when all stored Hazardous Waste was removed from the facility,
- e) all hazardous waste codes for the Hazardous Wastes managed (past and present) at each HWMU;
- f) for each HWMU, provide:
  - i. a description of how Hazardous Wastes assigned to each waste code were accumulated or stored (i.e., the waste was in metal or plastic containers, tanks, waste piles, underground in a landfill, etc.); and
  - ii. a description of the materials that comprise the HWMU, including information about any coatings, liners, or other materials that were applied to the unit beneath or around the Hazardous Waste that could limit or enhance

infiltration of or releases to the environment of Hazardous Waste or hazardous constituents.

### **3.0 Description of Closure Activities**

#### *3.1 Closure Performance Standard*

Describe how each HWMU in the Hazardous Waste Management Facility will meet the closure performance standard in 40 C.F.R. § 265.111, including closure in a manner that controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of Hazardous Waste, hazardous constituents, leachate, contaminated run-off, or Hazardous Waste decomposition products to the ground or surface waters or to the atmosphere.

Describe how each HWMU in the Hazardous Waste Management Facility will meet the closure requirements in 40 C.F.R. part 265, including, as applicable, 40 C.F.R. §§ 265.197 (Tank Systems), 265.228 (Surface Impoundments), 265.258 (Waste Piles), 265.280 (Land Treatment), 265.310 (Landfills), 265.351 (Incinerators), 265.381 (Thermal Treatment), 265.404 (Chemical, Physical, and Biological Treatment), and 265.1102 (Containment Buildings).

#### *3.2 Phased Closure*

The plan must be designed to achieve final closure of each HWMU within the Hazardous Waste Management Facility. The plan may include provisions to maintain one or more open and active HWMUs during closure activities, if necessary. However, all HWMUs must be closed prior to the completion of closure of the Hazardous Waste Management Facility.

For each HWMU that will be in use for generation, accumulation, storage, or other management of Hazardous Waste during the closure activities, provide a description of the HWMU, including: (a) the purpose of use during the Hazardous Waste Management Facility closure activities; (b) an estimate of the amount of Hazardous Waste that will be generated, accumulated, stored, or otherwise managed in the HWMU during closure activities; and (c) certification by Defendant and a professional engineer that the HWMU meets all current standards for accumulation or storage of Hazardous Waste.

#### *3.3 Maximum Waste Inventory*

In accordance with 40 C.F.R. § 265.112(b)(3), provide an estimate of the maximum inventory of Hazardous Wastes ever on-site over the active life of each HWMU within the Hazardous Waste Management Facility.

### *3.4 Inventory Removal and Disposal*

In accordance with 40 C.F.R. § 265.112(b)(3), provide a detailed description of the methods to be used during phased closure and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all Hazardous Wastes, and identification of the type(s) of the off-site hazardous waste management units to be used, if applicable. Provide a description of how all transportation of the Hazardous Waste, including use of any transfer facilities, will comply with 40 C.F.R. Part 263.

### *3.5 Waste Residue Removal and Decontamination*

In accordance with 40 C.F.R. § 265.112(b)(4), provide a detailed description of the steps needed to remove or decontaminate all Hazardous Waste residues and contaminated containment system components, equipment, structures, and soils during phased and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard.

In accordance with 40 C.F.R. § 265.112(b)(5), provide a detailed description of other activities necessary during the final closure periods to ensure that final closure satisfies the closure performance standards, including, but not limited to, ground-water monitoring, leachate collection, and run-on and run-off control.

### *3.6 Schedule for Closure*

In accordance with 40 C.F.R. § 265.112(b)(6), provide a schedule for closure of the Hazardous Waste Management Facility. The schedule must include, at a minimum, the total time required to close each HWMU and the time required for intervening closure activities which will allow tracking of the progress of phased and final closure.

### *3.7 Certification of Closure*

Include a commitment to provide EPA with the certifications of closure required by Paragraph 25 of the Consent Decree.

## **4.0 Post-Closure Plan**

In accordance with 40 C.F.R. §§ 265.111 and 270.14(b)(13), determine whether each HWMU within the Hazardous Waste Management Facility will be closed in a manner that will meet the “clean closure” standards and minimize or eliminate endangerment of human health and the environment. If any HWMU within the Hazardous Waste Management Facility will not be closed in such a manner, provide an explanation for how compliance with Paragraph 25 of the CD regarding post-closure care will be achieved. Include a commitment to update these explanations and determinations once Defendant completes the requirements of Section 3 of the approved closure plan.

## **5.0 Closure Cost Estimate**

In accordance with 40 C.F.R. §§ 265.142 and 270.14(b)(15), provide the most recent closure cost estimate.

## **6.0 Financial Assurance Mechanism for Closure**

In accordance with 40 C.F.R. §§ 265.140, 265.143, and 270.14(b)(15), provide documentation that demonstrates financial assurance for closure has been established for each HWMU within the Hazardous Waste Management Facility.

## **7.0 Liability Requirements**

In accordance with 40 C.F.R. §§ 265.147 and 270.14(b)(17), provide a copy of the insurance policy or other documentation documenting compliance with the liability requirements.



# Appendix D

## **Appendix D: SPCC Facilities**

### SPCC Facilities in Atqasuk, Alaska

1. Bulk Tank Farm and Dispensing Station, located on the southern edge of the community, adjacent to the heavy equipment maintenance facility.
2. Fire Station, located in between the Community Center and the Public Safety Office Building.
3. Health Clinic, located across the street from the Water Treatment Plant and the Vacuum Building.
4. Operation and Maintenance (O&M) Shops and Heavy Equipment Maintenance Facility (HEMF) Buildings, located on southern edge of Atqasuk next to the Bulk Tank Farm. The two buildings are separate structures connected by an enclosed and heated corridor.
5. School, centrally located in the community across the street from both the USDW building and Fire Station.
6. Sewage Treatment Plant, located 1/4 mile north of the community of Atqasuk.
7. Utility/School District Warehouse (USDW) building, located adjacent to the School.
8. Vacuum Building, located on the northwest side of the community next to Imakrak Lake.
9. Water and Power Utility Buildings, located on the northwest side of the community and next to Imakrak Lake.

### SPCC Facilities in Kaktovik, Alaska

1. Bulk Tank Farm, located immediately north of the community.
2. Dispensing Station, located on the northwestern edge of the community.
3. Fire and Health Clinic, centrally located within the community and immediately east of the Water Plant.
4. Power Plant, located on the west edge of the community between the Water Treatment Plant and the USDW and HEMF Buildings.
5. Temporary educational facilities located in the community and north of the Post Office, and east of the Public Works building Sewage Treatment Plant, located approximately 1000 feet south of the community and 200 feet from Kaktovik Lagoon.
6. USDW and HEMF, located on the western edge of the community adjacent to the Power Plant. The two buildings are separate structures connected by an enclosed and heated corridor.
7. Vacuum Building, located on the east edge of the community and is adjacent to Kaktovik Lagoon.
8. Water Treatment Plant, located on the west edge of the community and approximately 1,700 feet from the water source lake and 1,500 feet from Kaktovik Lagoon.

### SPCC Facilities in Wainwright, Alaska

1. Bulk Tank Farm and Dispensing Station, located on Ahloaksageak Road east of the community.

2. Fire Station, located west of the intersection of Airport Road and Main Street adjacent to the Olgoonik Hotel.
3. Health Clinic, located east of the intersection of Airport Road and Main Street across from the Water and Sewer Treatment Plant.
4. Power Plant and Vehicle Maintenance Shop (VMS), located northeast of the intersection of Summer Road and Main Street. The Department of Public Works (DPW) temporary building.
5. School, located on Tununiq Road between Airport Road and Sikutagiak Road.
6. Sewage Treatment Plant, located on the northeast end of Wainwright off Summer Road.
7. Water Treatment Plant, located south of the intersection of Airport Road and Main Street and just east of the School.

#### SPCC Facilities in Anaktuvuk Pass, Alaska

1. Bulk Tank Farm and Dispensing Station, located at the west end of the community adjacent to the sewage lagoon and north of the runway.
2. Health Clinic, located on the north side of the community next to the John River.
3. HEMF, centrally located in the community between the school and the runway.
4. Power Plant, located adjacent to the sewage treatment plant and USDW buildings north of the runway.
5. School, centrally located in the community between the washeteria and the heavy equipment maintenance facility.
6. Sewage Treatment Plant, located next to the Power Plant and north of the runway apron.
7. Fire Station, located north of the airport apron and across the street from the Power Plant building.
8. Warm Storage, located adjacent to the sewage treatment plant and bulk tank farm north of the runway.
9. Water Treatment Plant, located across the street from the Health Clinic building and next to the John River.

#### SPCC Facilities in Utqiagvik, Alaska

1. Bulk Tank Farm, located approximately 1/2 mile southwest of the airport.
2. High School, located approximately 1,100 feet northwest of the airport on Okpik Street.
3. Public Works Transit Shop and School Bus Barn, located approximately 930 feet north of the airport between Okpik and Ogrook Streets.
4. Search and Rescue, located adjacent to the airport.
5. Shop #1, Shop #2, and Warm Storage, located approximately 6,500 feet north of the airport at the intersection of C Avenue and Stevenson Street.
6. South and East Gas Fields, the South Field is located five miles from Utqiagvik south on Cakeater Road. The East Gas Field pad is located at the end of Cakeater Road, approximately 10 miles south of Utqiagvik and 7 miles east of South Gas Field.

7. Thermal Oxidation System (TOS) Shop #3, located approximately two miles northeast of the Utqiagvik airport. It consists of a solid waste incinerator, transfer station, and shop for maintaining transfer station equipment. The TOS shop is referred to as Shop #3.

#### SPCC Facilities in Nuiqsut, Alaska

1. Bulk Tank Farm and Dispensing Station, located between the community and the airport apron.
2. Fire Station, located centrally in the community across the street from the city hall.
3. Health Clinic, located near the south end of the community on Nigliq Avenue.
4. Power Plant and School, located on the east side of the community overlooking the Nechelik Channel.
5. Sewage Treatment Plant, located at the north end of the village on Nigliq Avenue.
6. USDW and HEMF, located at the southeast corner of the community. The two buildings are separate structures connected by an enclosed and heated corridor.
7. Vacuum Building, centrally located in the community across the street from the city hall.
8. Water Treatment Plant, located on the east side of the community overlooking the Nechelik Channel.

#### SPCC Facilities in Point Hope, Alaska

1. Bulk Tank Farm, located at the southwest corner west of the community.
2. Dispensing Station, located in the southern part of the community across the street from the HEMF facility.
3. Fire Station, located in the eastern portion of the community.
4. HEMF, located in the southwest corner of the community.
5. Power Plant, centrally located in the community immediately west of the Health Clinic.
6. School, centrally located in the community.
7. Sewage Treatment Plant, located 500 feet southeast of the community.
8. USDW and Warm Storage Buildings, located in the southwest corner of the community on the same property. The two buildings are on the same property although they are not connected.
9. Water Treatment Plant, located on the eastern edge of the community.

#### SPCC Facilities in Point Lay, Alaska

1. Bulk Tank Farm and Dispensing Station, located on the southeastern side of the community.
2. Department of Public Works (DPW) and Warm Storage building, located in the southeast corner of the community across the street from the Water Treatment Plant.
3. Fire Station, centrally located in the community.
4. Health Clinic, located across the street from the HEMF building.
5. HEMF, located in the southern portion of the community just west of the old power plant and the Water Treatment Plant.

6. Power Plant, located on the southern side of the community next to the water treatment plant.
7. School, centrally located within the community.
8. Sewage Treatment Plant, located on the southeast side of the community.
9. Water Treatment Plant, located on the southern edge of the community.

SPCC Facilities in Prudhoe Bay, Alaska

1. Oxbow Landfill, located south of Prudhoe Bay, off the Spine Road on Oxbow Road.

SPCC Facilities in Deadhorse, Alaska

1. Service Area 10, located on the Former Dalton Highway, approximately 600 feet west of the water source lagoon.

# Appendix E

United States v. North Slope Borough  
Case No. 3:22-cv-00059-JWS

### **Appendix E: Auditor Certification**

[AUDITOR] makes the following certifications and representations in connection with its proposed appointment as the Third Party Auditor to oversee compliance aspects of the consent decree entered in *United States v. North Slope Borough*.

“Auditor” means [AUDITOR], and the employees or contractors who would provide the oversight described above.

“The Defendant” means the North Slope Borough.

1. Financial interests.
  - a. [AUDITOR] has no financial interest in the Defendant or any of its subsidiaries or affiliates.
  - b. If, between the date of this certification and when [AUDITOR]’s term as the Third Party Auditor expires, [AUDITOR]’s financial interests with respect to the Defendant change, [AUDITOR] agrees to notify the U.S. Department of Justice in writing as soon as reasonably possible after becoming aware of the change. [AUDITOR] is aware that acquiring a financial interest in the Defendant could disqualify it from continuing the oversight work described above.
2. Employment, professional relationships, and affiliations.
  - a. [AUDITOR] is not a party to any employment, consulting, agency, attorney-client, auditing or other professional relationship or affiliation with the

Defendant, or any of its subsidiaries or affiliates.

- b. [AUDITOR] has not been a party to such a professional relationship or affiliation with the Defendant within the past three years.
- c. [AUDITOR] agrees not to engage in such a professional relationship or affiliation with the Defendant during its term as the Third Party Auditor and for a period of at least three years after the termination of its term as the Third Party Auditor.
- d. After the date of this certification, to the extent that the services of additional personnel will be utilized in the proper discharge of the Third Party Auditor's duties, prior to engaging any such personnel, [AUDITOR] agrees to review the backgrounds of all such personnel to determine whether said personnel or any other entity with which said personnel is affiliated, is or has been a party to any employment, consulting, agency, attorney-client, auditing or other professional relationship or affiliation with the Defendant or any of its subsidiaries or affiliates. To the extent any such relationship or affiliation exists, [AUDITOR] will notify the U.S. Department of Justice to seek a determination whether it is appropriate to engage said personnel to assist in the monitorship of the Defendant

Date: \_\_\_\_\_

\_\_\_\_\_  
Name:  
On behalf of AUDITOR