



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6

**1445 Ross Avenue, Suite 1200
Dallas, Texas 75202 - 2733**

1 AUG 2016

CERTIFIED MAIL- RETURN RECEIPT REQUESTED: 7009 2820 0004 2109 1724

Ray Bonilla
Texas A&M University
(multiple addresses below)

Texas A&M University-Commerce
2600 West Neal Street
Commerce, TX 75428

Texas A&M University-Kingsville Citrus Center
312 North International Boulevard
Weslaco, TX 78596

Texas A&M Veterinary Medical Diagnostic Laboratory
Amarillo Laboratory
6610 Amarillo Boulevard West
Amarillo, TX 79106

Texas A&M University-Geochemical and Environmental Research Group
833 Graham Road
College Station, TX 77845

Re: Texas A&M University-Commerce: RCRA 3008 Consent Agreement and Final Order U.S. EPA Docket No. RCRA-06-2016-0925

Texas A&M University-Kingsville Citrus Center: RCRA 3008 Consent Agreement and Final Order U.S. EPA Docket No. RCRA-06-2016-0926

Texas A&M Veterinary Medical Diagnostic Laboratory: RCRA 3008 Consent Agreement and Final Order U.S. EPA Docket No. RCRA-06-2016-0927

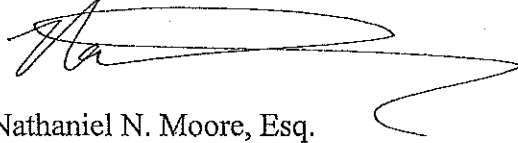
Texas A&M University-Geochemical and Environmental Research Group: RCRA 3008 Consent Agreement and Final Order U.S. EPA Docket No. RCRA-06-2016-0928

Dear Mr. Bonilla:

Enclosed are the fully executed Administrative Consent Agreement and Final Orders (CAFOs) approved in the settlement for each of the above referenced facilities. As you are aware, each of the CAFOs include an assessment of a civil penalty and compliance order pursuant to Section 3008 of the Resource Conservation and Recovery Act.

The U.S. Environmental Protection Agency, Region 6, appreciates your cooperation throughout this process. If you have questions, please do not hesitate to contact me at (214) 665-8151 or by email: moore.nathaniel@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Moore', with a long, sweeping horizontal line extending to the right.

Nathaniel N. Moore, Esq.
Assistant Regional Counsel

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
2016 AUG 11 PM 2:48
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

TEXAS A&M UNIVERSITY-KINGSVILLE
CITRUS CENTER
WESLACO, TEXAS

RESPONDENT

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§

CONSENT AGREEMENT
AND FINAL ORDER

Docket No. RCRA-06-2016-0926

CONSENT AGREEMENT AND FINAL ORDER

The Director of Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency Region 6 (EPA or Complainant) and Texas A&M University-Kingsville Citrus Center (Respondent), hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order (CAFO).

I. PRELIMINARY STATEMENT

1. This CAFO is issued by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984, and is simultaneously commenced and concluded through the issuance of this CAFO under 40 C.F.R. §§ 22.13(b); 22.18(b)(2), 22.18(b)(3); and 22.37.

2. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO. Furthermore, Respondent agrees not to contest the validity of this CAFO, or its terms or conditions.

3. Notice of this action has been given to the State of Texas, under Section 3008(a)(2) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a)(2).

4. For the purposes of this proceeding, Respondent admits the jurisdictional allegations herein. However, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.

5. Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses that have been raised or could have been raised to the claims set forth in the CAFO.

6. Compliance with all the terms and conditions of this CAFO shall resolve only the Respondent's liability for civil penalties for those violations which are set forth herein.

7. Respondent consents to the following: issuance of the CAFO hereinafter recited; the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO; and to the specific stated compliance order.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

8. Respondent is a Texas public research institution located at 312 North International Boulevard in Weslaco, Texas.

9. Respondent is a "person" within the meaning of 42 U.S.C. § 6903(15) and 30 TEX. ADMIN. CODE § 3.2(25) (40 C.F.R. § 260.10).

10. Respondent is an "owner" or "operator" of the Texas A&M University-Kingsville Citrus Center (Citrus Center) within the meaning of 30 TEX. ADMIN. CODE §§ 335.1(109) and (110) (40 C.F.R. §260.10).

11. Respondent is a “generator” of hazardous waste at the facility, as the term is defined in 30 TEX. ADMIN. CODE § 335.1(65) (40 C.F.R. § 260.10).

12. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at 30 TEX. ADMIN. CODE § 335, Subchapter (C) and/or (F) (40 C.F.R. Parts 262 and/or 270).

13. Between September 2015 and May 2016, EPA conducted an investigation and record review (Investigation) of Respondent’s performance as a hazardous waste generator.

14. During the Investigation, EPA determined that Respondent in 2012, generated and offered for transport the following acute hazardous waste:

- A. 284g of P039,
- B. 250g of P050, and
- C. 18,967g of P044.

15. The wastes identified in Paragraph 14 are hazardous wastes as defined in 30 TEX. ADMIN. CODE § 335.1(69) (40 C.F.R. § 261.3).

16. The hazardous wastes listed in Paragraph 14 are identified as acute hazardous wastes per 40 C.F.R. 261.33(e).

17. From the Investigation, EPA determined that Respondent generated, at a minimum, the acute hazardous wastes identified in Paragraph 14 in quantities that exceeded the threshold amount of 1 kilogram of acute hazardous waste per month, which qualified Respondent for the large quantity generator (LQG) status under 30 TEX. ADMIN. CODE § 335, Subchapter C (40 C.F.R. Part 262).

18. From the Investigation, EPA determined that Citrus Center was registered as a non-generator of hazardous waste for its respective years in violation.

19. From the Investigation, EPA determined that Respondent violated the requirements of RCRA § 3010(a), 42 U.S.C. § 6930(a), and 30 TEX. ADMIN. CODE § 335.6(c) by failing to comply with the RCRA notification requirements.

20. From the Investigation, EPA determined that Respondent failed to operate within its designated generator category at Citrus Center in violation of 30 TEX. ADMIN. CODE § 335, Subchapters (C) and/or (F) (40 C.F.R. Parts 262 and/or 270).

III. KINGSVILLE CITRUS CENTER

Claim 1: Notification Requirements

21. Complainant hereby restates and incorporates by reference Paragraphs 1 through 20.

22. Pursuant to RCRA § 3010(a), 42 U.S.C. § 6930(a), any person generating a characteristic or listed waste shall file with the Administrator or authorized State, a notification stating the location and general description of such activity and the identified or listed hazardous wastes handled by such person. This includes requiring a subsequent notification for a change in the status of a generator. *See also* 30 TEX. ADMIN. CODE § 335.6(c).

23. In 2012, Citrus Center was identified as a non-generator of hazardous waste in RCRAinfo.

24. From the Investigation, EPA determined that in February 2012, Respondent generated hazardous waste at quantities of an LQG.

25. At the time of the Investigation, Respondent had not filed with the Administrator or with the authorized State, a subsequent notification of hazardous waste to change its generator status.

26. Respondent failed to file the required subsequent notification of hazardous waste activities for Citrus Center in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), and 30 TEX. ADMIN. CODE § 335.6(c).

Claim 2. Failure to Operate Within Proper Generator Status

27. Complainant hereby restates and incorporates by reference Paragraphs 1 through 26.

28. A generator of hazardous waste is subject to multiple requirements, including the applicable parts of 30 TEX. ADMIN. CODE § 335, Subchapters (C)-(H), (O) (40 C.F.R. Parts 124, 262-68, 270).

29. Pursuant to 30 TEX. ADMIN. CODE §§ 335.78(a) and (b) (40 C.F.R. §§ 261.5(a) and (b)), a generator is a Conditionally Exempt Small Quantity Generator in a calendar month if it generates no more than 100 kilograms of hazardous waste and complies with 30 TEX. ADMIN. CODE § 335.78 (40 C.F.R. § 261.5).

30. From the Investigation, EPA determined that Respondent, in February 2012, operated as an LQG at Citrus Center.

31. While operating as an LQG, Respondent failed to comply with various sections of the applicable LQG requirements under 30 TEX. ADMIN. CODE § 335, Subchapters (C)-(H), (O) (40 C.F.R. Parts 124, 262-68, 270).

32. Respondent failed to operate within its designated status at Citrus Center, for the stated month, in violation of 30 TEX. ADMIN. CODE § 335, Subchapters (C) and/or (F) (40 C.F.R. Parts 262 and/or 270).

IV. COMPLIANCE ORDER

33. Pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within ninety (90) calendar days of the effective date of this CAFO, Respondent shall provide in writing the following:

- A. Respondent shall certify that it has filed a subsequent "Notification of Regulated Waste Activity: EPA Form 8700-12," if required, to reflect waste generation for the facility covered by this CAFO.
- B. Respondent shall certify that it has complied with all the requirements of its designated generated status.

34. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of Texas A&M University-Kingsville Citrus Center, and shall include the following certification:

I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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 am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Copies of all documents required by the CAFO shall be sent to the following:

William Mansfield
U.S. Environmental Protection Agency
Compliance Assurance and Enforcement Division
Hazardous Waste Enforcement Branch
Waste Compliance III Section (6EN-H3)
1445 Ross Avenue
Dallas, Texas 75202-2733

V. TERMS OF SETTLEMENT

A. Penalty Provisions

35. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of

the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of \$20,394.00.

36. The penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO and made payable to Treasurer, United States of America.

37. The following are Respondent's options for transmitting the penalties:

Checks sent via U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Checks sent via Overnight Mail (non-U.S. Postal Service) should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

Wire Transfers should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

The case name and docket number (**In the Matter of Texas A&M University-Kingsville Citrus Center, Docket No. RCRA-06-2016-0926**) shall be documented on or within your chosen method of payment to ensure proper credit.

38. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Mark Potts, Chief
Waste Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: William Mansfield

Your adherence to this request will ensure proper credit is given when penalties are received by EPA.

39. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt that remains delinquent more than ninety (90) days

pursuant to 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent pursuant to 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. Costs

40. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

C. Termination and Satisfaction

41. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 34. Unless EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

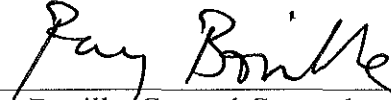
D. Effective Date of Settlement

42. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT
AGREEMENT AND FINAL ORDER:**

FOR THE RESPONDENT:

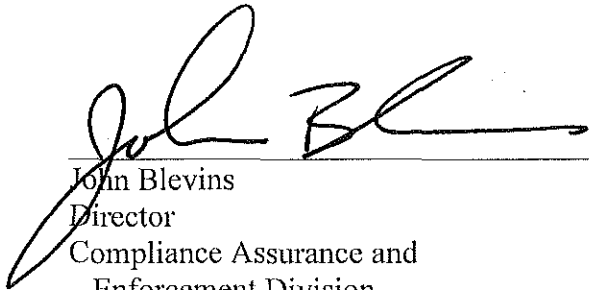
Date: 8-4-16



Ray Bonilla, General Counsel
The Texas A&M University System
For:
Texas A&M University-Kingsville Citrus Center

FOR THE COMPLAINANT:

Date: 8.8.16



John Blevins
Director
Compliance Assurance and
Enforcement Division

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 8/11/14



Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of August, 2016, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method below:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED 7614015000002453 0909

Texas A&M University-Kingsville Citrus Center
312 North International Boulevard
Weslaco, Texas 78596

for Sandra Hardy

Ms. Lori Jackson
Paralegal