



CHIQUITA CANYON
A Waste Connections Company

December 18, 2025

Via E-Mail

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Re: Chiquita Canyon, LLC Response to November 18, 2025 Summary of Violations

Dear Ms. Neal and Ms. Zmily:

Chiquita Canyon, LLC (“Chiquita”) is in receipt of the Summary of Violations (“SOV”) for the Chiquita Canyon Landfill (“Landfill”) issued by the Department of Toxic Substances Control (“DTSC”) on November 18, 2025.¹ Based on the allegations set forth in the SOV, DTSC requested that Chiquita take certain actions and provide certain information within thirty (30) days of the SOV. Other actions and requests for information did not include an explicit deadline.

As discussed below, Chiquita disputes the allegations set forth in the SOV and the requested actions. Chiquita has provided voluminous and timely information about the Landfill to its regulators and continues to do so. Chiquita will continue to cooperate with reasonable requests for information that are within the scope of DTSC’s authority and applicable to the Landfill.

¹ Chiquita Canyon, LLC is the sole owner, operator, and permit holder at Chiquita Canyon Landfill. Chiquita Canyon, Inc. and Waste Connections US, Inc. are not part of the facility name, nor do they manage, direct, or conduct operations at the facility as alleged in the SOV.

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Chiquita provides the following information in the interest of continued cooperation with its regulators. The information, documents, and attachments provided herein should not be construed as an admission of any factual allegation or legal conclusion in the SOV or an admission of any liability for any matter described in the SOV.

Chiquita notes that this response addresses only Allegations #2 and #3 as well as the “Other Issues/Concerns” raised in the SOV. On December 10, 2025, Chiquita requested an extension of time to respond to the SOV because of the voluminous nature of the requested actions therein and the timing of the requests over the holiday season. On December 15, 2025, DTSC granted the extension request with respect to Allegation #1 to January 15, 2026, so Allegation #1 is therefore not addressed herein. DTSC denied the extension request with respect to the remaining allegations, so Chiquita responds to those allegations to the extent feasible herein.

Allegation #2

Summary of DTSC Allegation:

DTSC alleges that, beginning “on and/or before” October 27, 2025, Chiquita failed to properly complete hazardous waste manifests for hazardous waste condensate. DTSC alleges that such actions violate 22 CCR § 66262.23(a) (requirement to complete and certify hazardous waste manifests) and potentially HSC § 25189.2(a) (false statement or representation in, *inter alia*, a manifest).

Chiquita Response to Allegation:

To the extent that DTSC is alleging improper completion of manifests based on conservative (i.e., over-inclusive) coding of condensate, Chiquita notes that “over-managing” a waste as hazardous is a long-recognized and permissible approach under the hazardous waste regulations where it is intended to ensure protective management of the waste. EPA confirmed in the Generator Improvements Rule that:

Even if the waste may not be hazardous, “over managing” the waste is acceptable and meets the requirements in [40 C.F.R.] § 262.11 [the federal counterpart to 22 CCR § 66262.11] because the generator has made a determination intended to ensure, beyond a doubt, proper and protective management of the waste within the RCRA regulatory program. The practice of over-managing non-hazardous waste as hazardous waste has been in existence for years and EPA’s final language in § 262.11 continues to allow this practice.

See 81 Fed. Reg. 85732, 85750 (Nov. 28, 2016). Chiquita’s use of conservative waste codes was intended to ensure protective management, not to misrepresent the waste or evade regulatory controls. Accordingly, the inclusion of additional waste codes on a manifest, by itself, does not establish a violation of the hazardous waste regulations, let alone a false statement under the Health & Safety Code.

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To the extent that DTSC is alleging improper completion of manifests based on discrepancies between the waste codes on a manifest and on a Waste Stream Documentation Form or a waste profile, Chiquita notes that those documents are not the regulatory benchmark for manifest compliance. The Waste Stream Documentation Form prepared by Chiquita's hazardous waste management consultant, Montrose, reflects Chiquita's waste determination for the condensate and identifies the applicable waste codes pursuant to 22 CCR § 66262.40(c) and 40 C.F.R. § 262.11(f). As explained below, Chiquita has aligned its manifest corrections with that determination. By contrast, the waste profiles are administrative documents generated by Clean Harbors (which coordinates Chiquita's hazardous waste shipments to its own permitted incineration facilities) to support manifest assembly upon waste pick-up and to inform appropriate transportation procedures, but are not themselves required under federal or state law.

To the extent that DTSC is alleging improper completion of manifests based on tank- and shipment-specific analytical results, Chiquita notes that waste determinations and toxicity characteristic designations are based on a "representative sample" of a waste, not on isolated results that may not be representative. *See, e.g.*, 22 CCR § 66261.24(a) (requiring a "representative sample" to characterize a waste as toxic); 40 C.F.R. § 261.24(a) (same). The hazardous waste regulations generally indicate that in order to obtain the requisite "representative sample," there should be "in no case less than four samples, taken over a period of time sufficient to represent the variability or the uniformity of the waste." *See* 40 C.F.R. § 260.22(h), incorporated by reference in 22 CCR § 66261.3(a)(2)(B) (discussing delisting of hazardous wastes). For instance, EPA guidance provides an example where—in the context of a representative sample of analytical data—"it is definitively concluded that [a certain constituent] is not present in [a waste] at a hazardous level" even though two samples were above the regulatory threshold. EPA, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication SW-846), Chapter 9 at 14–17; *see* 22 CCR § 66260.11 (incorporating SW-846 by reference); 22 CCR § 66261.20(c) (stating that the sampling methods described in EPA's SW-846 guidance shall be considered representative). Therefore, an isolated exceedance in an individual grab sample does not, by itself, necessarily support recharacterizing the waste stream or concluding that a new waste determination is required.

Accordingly, the fact that a single sample in June 2025 reflected pyridine slightly above the regulatory threshold (6.4 mg/L versus 5.0 mg/L) did not, standing alone and based on the dataset then available for the condensate waste stream, warrant adding D038 to the manifests for the condensate shipments at issue.

However, on review of the Waste Stream Documentation Form prepared by Montrose, the waste profiles prepared for the condensate waste stream by Clean Harbors, and the associated manifests, Chiquita identified an administrative discrepancy that resulted in omission of the arsenic waste code (D004) from the hazardous condensate manifests. In conducting the waste determination and preparing the Waste Stream Documentation Form, Montrose analyzed nine condensate samples collected over a ten-day period in February 2024. Those analytical results show consistent exceedances of the toxicity characteristic threshold for arsenic (detections ranging from 35 to 50 mg/L, versus a 5.0 mg/L threshold), and Montrose therefore appropriately included D004 on the Waste Stream Documentation Form.

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Chiquita has advised Clean Harbors on multiple occasions that its condensate may contain arsenic above applicable regulatory thresholds, including by providing laboratory reports. That information, however, was not reflected in Clean Harbors' waste profiles for Chiquita's condensate stream (CH2712208², CH2712208EL-1³, and CH2909598⁴). Because Clean Harbors generates manifests from the applicable profile, D004 was likewise not listed on the associated manifests. Chiquita is working with Clean Harbors to correct the hazardous waste manifests for condensate shipments to add D004, consistent with Montrose's waste determination.

With respect to other waste codes, Montrose did not include D035 (MEK) on the Waste Stream Documentation Form because the February 2024 results did not, in Montrose's judgment, support designating the condensate waste stream as hazardous for MEK. Chiquita and Montrose did include D018 (benzene) as a conservative over-characterization. For purposes of this SOV response, and as a further conservative measure, Chiquita is also including D035 on the revised manifests.

In 2024 through January 2025, all hazardous condensate shipped offsite bore the D001 waste code. However, no condensate analytical data from May 2024 to present shows a flash point below 203 °F, let alone 140 °F (the ignitability/D001 threshold). In March 2025, Clean Harbors generated a new profile that removed the D001 waste code, with the intent that it would conservatively ship any future condensate load under the former, D001-bearing profile if a sample of the tank load to be shipped tested ignitable. No D001 waste code was improperly included on or omitted from a hazardous condensate manifest.

Summary of DTSC Prescribed Actions:

DTSC directs Chiquita to, within 30 days of the SOV:

- (i) Determine which hazardous waste manifests for hazardous waste condensate require corrections and submit manifest corrections via US EPA's e-Manifest system for all hazardous waste condensate shipments that contained arsenic and/or pyridine (with documentation of the completed corrections sent to DTSC).
- (ii) Provide an updated waste characterization for hazardous waste condensate.
- (iii) Provide complete analytical laboratory reports for all condensate samples, including but not limited to, samples collected in 2025 from Tanks 68, 69, 190, T1, and T2.

² This profile for disposal at Clean Harbors' Aragonite incineration facility in Utah is based on analytical reports of condensate samples collected on January 19 and 23, 2024. Approximately one week after this profile was signed, Chiquita received—and promptly provided to Clean Harbors—the report for a full TCLP analysis of another January 23 sample, which included detections of arsenic and pyridine above their respective toxicity characteristic thresholds. Clean Harbors did not amend the profile.

³ This profile is substantively the same as CH2712208 but was intended for use at Clean Harbors' El Dorado incineration facility in Arkansas in June 2024 while Aragonite was temporarily full.

⁴ This new profile was created to remove the D001 waste code because no condensate sample taken since May 2024 had tested with a flash point below 140 °F.

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(iv) Provide a map of the condensate tank area including T1/T2 and its associated piping as requested in DTSC's information request on October 13, 2025.

Chiquita Response to DTSC Prescribed Actions:

(i) Chiquita (working with Clean Harbors, which prepares the manifests for condensate shipments) has identified the hazardous waste condensate manifests that require revision. Chiquita understands that Clean Harbors is in the process of updating the manifests and expects to submit the revisions via US EPA's e-Manifest system tomorrow, if at all possible. The revised manifests will align with Montrose's formal waste determination by adding the D004 (arsenic) waste code. As a conservative over-characterization, Chiquita will also include the D035 waste code for MEK on the revised manifests. Based on the data available for the condensate shipments at issue, and for the reasons described above, the revised manifests will not include the D038 waste code. Documentation of completion for these corrections will be provided next week if possible, but no later than in conjunction with our response to Allegation #1 in January.

Chiquita is not altering the manifests with regard to any existing ignitability (D001) waste codes or lack thereof. The manifests for loads of condensate that were transported, treated, and disposed of as ignitable waste under Clean Harbors Profiles CH2712208 and CH2712208EL-1 will continue to bear the D001 waste code, and manifests for loads that were transported, treated, and disposed of as non-ignitable waste under Profile CH2909598 will continue not to bear the D001 waste code.

The revised manifests will include all hazardous condensate manifests generated and submitted from January 1, 2024, to present. Chiquita's condensate waste stream was not hazardous prior to 2024. Chiquita's first shipments of hazardous condensate for off-site treatment and disposal occurred on February 26, 2024 (Manifests 018767996FLE and 018767997FLE).

(ii) Chiquita has performed an updated waste determination for hazardous waste condensate. Specifically, Chiquita (through Montrose) has determined that the condensate is hazardous for arsenic (D004). This updated waste determination is based on eight samples taken at three-day intervals between November 19 and December 10, 2025. Copies of the analytical laboratory reports for these samples are provided in **Attachment 1**. The new Waste Stream Documentation Form is provided in **Attachment 2**. The waste continues to be permissible for combustion under the regulatory exemptions in 40 C.F.R. § 268.3(c)(1) and (6) and 22 CCR § 66268.3(b)(1) and (6), as described above.

(iii) Copies of all complete analytical laboratory reports for all condensate samples taken over the same time period covered by (i) are provided in **Attachment 3**. Chiquita's condensate waste stream was not hazardous prior to 2024.

(iv) A map of the condensate tank area including T1/T2 has previously been provided, a copy of which was attached to our May 1, 2025 response to DTSC's April 1, 2025 Summary of

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Violations. Chiquita is working with its consultants to produce an updated map as expeditiously as possible.

Allegation #3

Summary of DTSC Allegation:

DTSC alleges that “on and/or before” August 19, 2025 Chiquita failed to properly label tanks containing hazardous waste leachate, which it alleges violates 22 CCR § 66262.17(a)(5).⁵ DTSC states it observed 20,000-gallon tanks storing hazardous waste leachate and/or condensate that it alleges were not properly labeled with the words “Hazardous Waste,” a description of its contents, and the accumulation start date.

DTSC also alleges that Chiquita provided tank inspection logs from June 2025 to September 2025 that showed containers with alleged “unsatisfactory” labeling.

Chiquita Response to Allegation:

Chiquita denies that it violated 22 CCR § 66262.17(a)(5), as alleged by DTSC, for several reasons. First, that provision does not currently apply to Chiquita (and did not apply during the relevant times cited by DTSC). Compliance with the labeling and marking requirements under the referenced section is a “condition for exemption” from permitting requirements under Section 66262.17. Chiquita is not (and has not been) required to meet the conditions for the Large Quantity Generator (“LQG”) accumulation exemption from permitting set forth at Section 66262.17 because it is already covered by a different permitting exemption, namely the Immediate Response Exemption. Chiquita cannot have “violated” the conditions of an exemption that it did not need.

Second, to the extent that DTSC is alleging that Chiquita failed to properly label certain tanks as Non-Hazardous or Pending Analysis, Chiquita notes that potentially inadequate labeling of tanks not holding hazardous wastes is not a violation of the hazardous waste regulations.

To the extent that labeling and marking requirements apply to Chiquita, any inadequate labeling or marking of tanks holding hazardous waste was a harmless error. It is Chiquita’s policy to treat any waste stream that is characteristically hazardous as hazardous until it is determined to be non-hazardous. This includes waste streams that are pending analysis. This existing approach is already protective against any concerns of inadequate labeling and marking or improper accumulation time and further ensures that all waste streams are managed appropriately. Further, each tank, container, or bin, regardless of their contents, has other indications such as location,

⁵ DTSC also vaguely cites to HSC § 25153.6, which requires a generator of non-RCRA hazardous waste to “comply with any notification requirements for non-RCRA hazardous waste which the department adopts by regulation.” HSC § 25153.6(b). DTSC does not appear to allege any such notification requirements that it believes to have been violated. To the extent there is a suggestion that notification requirements have been violated, Chiquita also denies that allegation.

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knowledge of waste streams flowing into and out of the tanks, logs, standard operating procedures, and other tracked information that ensure that all Chiquita personnel working with or around the tanks, containers, and bins know of their contents and whether they contain hazardous waste. Because of this knowledge and Chiquita's hazardous waste management practices, Chiquita personnel are aware of tank contents, and all waste streams are managed appropriately.

Summary of DTSC Prescribed Actions:

- (i) DTSC directs Chiquita to immediately label all containers and tanks accumulating hazardous waste, and to provide documentation of compliance to DTSC within 30 days of the SOV.
- (ii) DTSC also directs Chiquita to label blue and green containers used to accumulate leachate from drip pans and to accumulate soiled absorbent.

Chiquita Response to DTSC Prescribed Actions:

Although Chiquita believes that it is not currently subject to the cited labeling and marking requirements due to the Immediate Response Exemption, Chiquita is nevertheless in the process of labeling and marking the containers (including bins) and tanks accumulating hazardous waste consistent with 22 CCR § 66262.17(a)(5).⁶ Ordering labels and properly marking numerous containers is a time-consuming process. Chiquita had already begun taking steps to obtain the proper labels for the new Tank Farm 13, but proper labels require planning and cannot be implemented on the aggressive schedule that DTSC has directed. Because DTSC was not willing to grant an extension, Chiquita has implemented a temporary measure to comply with DTSC's directive. Photos of the interim labels are included as **Attachment 4**.

Other DTSC Issues/Concerns

In Section II of the SOV, DTSC lists two additional areas of concern identified during its investigation. Each area is discussed separately below.

Issue/Concern 1

Chiquita Response:

It does not appear that DTSC is alleging a violation with respect to "Issue/Concern 1" at this time, but it states that "[f]urther research may identify additional violations." Chiquita maintains that there has been no violation with respect to this identified "issue/concern." As will be explained in more detail when Chiquita submits its response to Allegation #1, and as previously explained in Chiquita's May 1, 2025 response to DTSC's April 1, 2025 SOV, the occurrence of leachate and/or condensate releases does not constitute a violation of 22 CCR § 66262.251, both

⁶ Chiquita interprets both of DTSC's directives as relating to hazardous waste labeling, given the underlying authority cited.

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because that provision does not currently apply at the facility and because the facility has implemented numerous procedures designed to minimize releases, as would be required under that provision. In addition, Chiquita has been and will continue documenting and reporting to DTSC all releases required to be documented and reported under applicable laws and regulations.

Issue/Concern 2

Chiquita Response:

It does not appear that DTSC is alleging a violation with respect to “Issue/Concern 2” at this time, but it requests additional information about the handling of solids at the facility and states that “[f]urther research may identify additional violations.” As discussed below, Chiquita maintains that its handling of leachate- and/or condensate-contaminated solids (such as soil or rock, absorbent, spent carbon media, and sludge) is consistent with applicable regulatory requirements.

Chiquita does not commingle hazardous and non-hazardous waste streams. Chiquita utilizes separate rolloff bins to ensure that hazardous waste streams are managed separately from non-hazardous waste streams. The designated rolloff bin for hazardous waste streams receives only solids used for cleanup of spills of characteristically hazardous leachate or leachate that is managed as hazardous due to cross contamination or other concerns. Once the designated rolloff bin for hazardous waste streams is full, it is sampled to confirm whether it is hazardous and then disposed accordingly.

Each rolloff bin therefore contains a single waste stream that can and should be characterized as one. Some variability in a single waste stream is to be expected, but determining which rolloff bin a waste should go into based on knowledge is appropriate under these circumstances.

Chiquita is in the process of labeling and marking the designated rolloff bin for hazardous waste streams consistent with 22 CCR § 66262.17(a)(5), as set forth in response to Allegation #3 above. Regardless, each rolloff bin has other indications such as location, logs, standard operating procedures, and other tracked information that ensure that all Chiquita personnel working with or around the rolloff bins know of their contents and whether they contain hazardous waste. This information has also been communicated to all Chiquita personnel working with or around the rolloff bins. Because of this knowledge and Chiquita’s hazardous waste management practices, Chiquita personnel are aware of the contents, and all waste streams are managed appropriately.

As noted above, Chiquita is providing this information in the interest of continued cooperation with its regulators. The information, documents, and attachments provided herein should not be construed as an admission of any factual allegation or legal conclusion in the SOV or an

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admission of any liability for any matter described in the SOV. Chiquita remains available to discuss these issues as needed. Please contact me if you have any questions.

Regards,

Kate Logan

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Chiquita Canyon, Landfill

Enclosures

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