



CHIQUITA CANYON

A Waste Connections Company

May 12, 2026

Via E-Mail

Tyler Holybee, Project Coordinator
United States Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105
Holybee.Tyler@epa.gov

Re: Chiquita Canyon, LLC Response to Notice of Deficiency for Leachate Aeration Work Plan

Dear Mr. Holybee:

Chiquita Canyon, LLC (“CCL”) writes in response to the United States Environmental Protection Agency’s (“EPA”) April 24, 2026 Notice of Deficiency to Leachate Aeration Work Plan (the “NOD”) issued pursuant to Paragraph 31 of the February 21, 2024 Unilateral Administrative Order (the “UAO”), Docket No. RCRA 7003-09-2024-0001 and CERCLA 106-09-2024-05.

In addition to the enclosed updated Aeration Work Plan, Version 2.0 (the “Plan”), CCL provides the following responses to EPA’s comments and the Plan’s alleged deficiencies.

I. “Cleaning and Emptying Tanks” Section

- a. *The ETLF Operations Health and Safety Plan (Version 2.3) (October 3, 2025) (“HASP”) should be updated to provide a Job Hazard Analysis (“JHA”) for applicable cleanout of tanks at Tank Farm 13. We note the HASP currently provides a JHA for “WWT system media and filter cleanout” but the JHA still lists “Hydrogen Peroxide, Talon (non-CL break cleaner), defoaming agent” as chemical hazards.*

The ETLF Operations Health and Safety Plan (Version 2.3) (October 3, 2025) (“HASP”) has been updated to include a Job Hazard Analysis (“JHA”) for applicable cleanout of tanks at Tank Farm 13 and to remove hydrogen peroxide, Talon (non-CL break cleaner), and defoaming agent as chemical hazards. A copy of the updated JHA is enclosed in **Appendix A**. CCL is prepared to provide the updated ETLF Operations HASP in full upon request.

II. “Scale Up Process and Operation” Section

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 2 of 17

- a. *The Plan should confirm how many aeration tanks are anticipated to be included in the final, scaled-up design.*

The enclosed Plan has been updated on page 7 to confirm that six aeration tanks are included in the final, scaled-up design.

- b. *CCL should describe how the proposed thermal oxidizer (TOx) configuration and operation would be able to adequately control gases from this number of aeration tanks, in accordance with the deficiencies listed in Section iv. of this Notice, below.*

The enclosed Plan has been updated on page 7 to clarify that the thermal oxidizer (TOx) is deliberately and appropriately sized to adequately control the gases and air flow from the six aeration tanks. The TOx can handle up to 1,200 scfm, which is more than sufficient capacity to control the gases and air flow from the six aeration tanks and the assist gas (propane) because it was sized and rated as such by the manufacturer during the control device selection and procurement processes.

III. “Potential New Disposal Facilities” Section

- a. *Although we recognize more analytical data and sampling results are required to identify new potential disposal outlets, please provide a table that identifies current disposal facilities with LDR requirements (e.g., an updated version of the “Current Approved Disposal Facilities” table). Now that treated, non-hazardous leachate may be disposed of at East Valley Remediation Facility, please specify whether disposal of treated, non-hazardous leachate to EVRF is subject to LDRs (as reflected in the email from Sarah Phillips to EPA on April 8, 2026). In the table, please also identify the type of disposal (or additional treatment, if applicable) that occurs at each receiving facility listed. Additionally, please confirm whether CCL is revisiting potential disposal at the facilities listed in the table in 2.3.2.1 of the draft Leachate Contingency Plan (Revision 0, August 2024), such as US Ecology Beatty, US Ecology Grandview, and Clean Harbors Subtitle C landfills.*

Current Disposal Facilities					
Facility Name	Hazardous / Non- Hazardous	Contracted Capacity	Maximum Available Capacity	Type of Disposal / Additional Treatment	Leachate Subject to LDR Requirements?
Avalon*	Treated, Non-Hazardous	150,000 gal/day during week (50,000	150,000 gal/day during week	Pretreatment facility discharging to the LA County sanitary sewer system	No

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 3 of 17

Current Disposal Facilities					
Facility Name	Hazardous / Non- Hazardous	Contracted Capacity	Maximum Available Capacity	Type of Disposal / Additional Treatment	Leachate Subject to LDR Requirements?
		gal/day Saturday)	(50,000 gal/day Saturday)*		
East Valley Remediation	Non-Hazardous	13 trucks/day (approx. 65,000 gal/day); 6 days/week	13 trucks/day (approx. 65,000 gal/day); 6 days/week	Evaporation	No
	Treated, Non-Hazardous	TBD; under discussion with tribal council	TBD; under discussion with tribal council	Evaporation	TBD; under discussion with tribal council
Clean Harbors – UT	Hazardous	2 trucks/day (approx. 10,000 gal/day); 5 days/week	2 trucks/day (approx. 10,000 gal/day); 5 days/week	Incineration	No
Clean Harbors – NE**	Hazardous	4 trucks/day (approx. 20,000 gal/day); 5 days/week	4 trucks/day (approx. 20,000 gal/day); 5 days/week	Incineration	No
Clean Harbors – TX	Hazardous	3 rail cars/week (approx. 60,000 gal/week)	3 rail cars/week (approx. 60,000 gal/week)	Incineration	No
Clean Harbors – ISO***	Treated, Non-Hazardous	4 trucks/day (approx. 20,000 gal/day); 5 days/week	4 trucks/day (approx. 20,000 gal/day); 5 days/week	Discharges to LA City sanitary sewer system	No

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 4 of 17

Current Disposal Facilities					
Facility Name	Hazardous / Non- Hazardous	Contracted Capacity	Maximum Available Capacity	Type of Disposal / Additional Treatment	Leachate Subject to LDR Requirements?
US Ecology – Nevada	Treated, Non-Hazardous	TBD; under renegotiation	TBD; under renegotiation	Solidification	TBD; under renegotiation
Durham – Arizona	Treated, Non-Hazardous	Approx. 80,000 gal/day	Approx. 80,000 gal/day	Solidification	Yes
Crystal Clean Wyoming (MI)	Treated, Non-Hazardous	Approx. 150,000 gal/week	Approx. 150,000 gal/week	Industrial pretreatment	No
Crystal Clean Bakersfield	Treated, Non-Hazardous	Approx. 100,000 gal/day	Approx. 100,000 gal/day	Industrial pretreatment	No
ReWorld Advanced Processing, Inc.	Treated, Non-Hazardous	2 railcars/day (approx. 50,000 gal/day); 5 days/week	2 railcars/day (approx. 50,000 gal/day); 5 days/week	Industrial pretreatment	No
Industrial Recycling, Baja, Mexico****	Treated, Non-Hazardous	10 trucks/day (approx. 50,000 gal/day); 5 days/week	10 trucks/day (approx. 50,000 gal/day); 5 days/week	Evaporation	No

* Avalon Environmental Services (Avalon) remains under contract but because of contradictions in agency allowances between the LA County Sanitation Districts, Public Works, and Regional Planning, Avalon is not currently able to accept shipments of treated, non-hazardous leachate from CCL consistently. Avalon’s total daily acceptance has therefore been significantly reduced.

** As previously noted, CCL recently learned from Clean Harbors that Clean Harbors – Nebraska may receive and transfer liquid to Clean Harbors – Arkansas without CCL’s knowledge or approval.

*** As a result of issues with the permit issued by DTSC, Crystal Clean ISO has been unable to accept liquids.

**** CCL entered into a contract with Industrial Recycling, Baja, which is located in Mexico, in February 2026. CCL continues to send loads to the Mexican facility and the facility is continuing to work with CCL to increase its ability to transport liquids from CCL to the treatment facility.

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 5 of 17

Additionally, CCL revisited potential disposal at the facilities listed in Table 2.3.2.1 of the draft Leachate Contingency Plan. The results are reflected in the table below.

Facility Name	Potential Disposal?
Clean Harbors ISO***	Although Clean Harbors ISO is currently under contract, it is not able to accept CCL's leachate at this time; see above chart
Waste Connections RAD (Durham – Arizona)	Yes, see above chart
US Ecology Beatty	TBD, under renegotiation; see above chart
US Ecology Grandview	No, cannot accept
Clean Harbors Subtitle C Landfills: Buttonwillow, CA Deer Trail, TX Lone Mountain, OK	No, cannot accept; attempting to renegotiate with Buttonwillow facility

In lieu of the list of facilities contacted for disposal and the status of those discussions, CCL directs EPA to the weekly Leachate Disposal Unit calls, during which CCL identifies and addresses questions regarding potential disposal outlets and the status of discussions with those outlets.

- b. Please confirm if the reference to “LA Sanitation & Environment (‘LASAN’)” was intended to be a reference to LA County Sanitation District (‘LACSD’).*

The enclosed Plan has been updated on page 8 to clarify that the reference to “LA Sanitation & Environment (‘LASAN’)” was intended to reference the LA County Sanitation Districts (‘LACSD’).

IV. “Collection of Off-Gasses” Section

- a. The Plan should detail the proposed operation of the TOx unit(s) and associated supplemental fuel, including how sufficient destruction efficiency of off-gas will be ensured, and how propane flow will be set and adjusted, (e.g. stack temperature monitoring, automatic propane feedback loop based on stack temperature, propane flow meters and remote operator adjustment, etc.). Sufficient destruction should adhere to the control requirements in 40 C.F.R. § 63.1959(b)(2)(iii) for all collected gasses and vapors.*

CCL has implemented the use of a dedicated TOx for collection of vapors from leachate aeration. This TOx is separate from the other existing TOxs at the Landfill, which process landfill gas. The dedicated TOx is connected only to the aeration tanks. As such, 40 C.F.R. § 63.1959(b)(2)(iii) does not apply. The enclosed Plan has been updated on pages 7 to 8 to detail the proposed operation of the dedicated TOx and use of associated supplemental fuel, including how propane

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 6 of 17

flow is set and adjusted. Like most typical destruction devices, the TOx has an exit temperature that it maintains by opening and closing the fuel valve as needed.

- b. The Plan should describe how and when CCL will conduct the initial performance testing required in 40 C.F.R. § 63.1959(b)(2)(iii)(B) according to the procedure in § 63.1959(d).*

CCL maintains that 40 C.F.R. § 63.1959(b)(2)(iii)(B) does not apply because the TOx does not destroy gas from the landfill.

- c. CCL should confirm whether it will conduct monitoring for equipment leaks and on what frequency. If CCL does not plan to conduct monitoring for equipment leaks, CCL should explain how it intends to comply with air emissions standards for equipment leaks. If CCL intends to comply with air emissions standards for equipment leaks by demonstrating compliance with the relevant regulations (e.g., 22 C.C.R. § 66265.1064(m)), it should prepare and submit such demonstration.*

CCL notes that 22 C.C.R. § 66265.1064(m) is the California state equivalent of 40 C.F.R. § 265.1064(m), which is contained in 40 C.F.R. Part 265, Subpart BB (RCRA Subpart BB). CCL previously submitted the enclosed report (**Appendix B**) as part of its May 2, 2025 response to EPA's March 31, 2025 RCRA information request demonstrating that RCRA BB does not apply to any units at the Landfill. Nevertheless, to comply with air emission standards for equipment leaks, CCL continues to comply with Conditions 86(d), 86(e) and 98 of South Coast Air Quality Management District's (South Coast AQMD) Stipulated Order for Abatement (Stipulated Order), which require CCL to monitor onsite equipment for air emissions and leaks. The enclosed Plan has been updated on page 9 accordingly.

- d. CCL should describe how the tanks at Tank Farm #13 will vent to a closed-vent system that meets the requirements of the conditions of 22 C.C.R. § 66265.1085(g).*

CCL previously conducted testing to confirm that it is complying with the requirements of 22 C.C.R. § 66265.1085(g) (the California state equivalent of 40 C.F.R. § 265.1085(g), which is contained in 40 C.F.R. Part 265, Subpart CC (RCRA CC)) by demonstrating compliance with RCRA CC's no detectable emissions (NDE) standard. The tanks at Tank Farm 13 vent to destruction devices (flares) via a closed-vent system.

- e. The Plan should provide details of the configuration of the aeration tanks, emission/off-gas control measures, and fugitive emission mitigation measures, addressing the following:*
 - i. The Plan should describe the necessary seals on the aeration tanks and necessary vacuum to ensure sufficient vapor capture and venting to the TOx for destruction.*

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 7 of 17

The enclosed Plan has been updated on page 9 to describe the seals that are located on the tank doors and necessary vacuum, which ensure sufficient vapor capture and venting to the TOx for destruction. The aeration tanks are sealed through doors and gaskets, which is typical of all of the other Tank Farm 13 tanks. If CCL finds that one gasket is insufficient to contain vapors, CCL will further modify the door to ensure sufficient vapor capture.

- ii. *CCL should employ pressure monitoring in the headspace of the aeration tanks, from the farthest point from the vapor vent connection, to demonstrate the headspace is under negative pressure, ensuring the vapors are conveyed to the TOx and not released as fugitive emissions from the tanks. CCL should comply with the South Coast Air Quality Management District (“South Coast AQMD”) Modified Order for Abatement Condition 68 (“Condition 68”), for all aeration tanks (whether or not such tanks were previously subject to Condition 68), including complying with the monitoring and reporting obligations to South Coast AQMD under Condition 68.*

The enclosed Plan has been updated on page 9 to describe the implementation of pressure monitoring in the headspace of the aeration tanks to demonstrate the headspace is under negative pressure, ensure the vapors are conveyed to the TOx and not released as fugitive emissions from the tanks, and to reference compliance with Condition 68 of South Coast AQMD’s Stipulated Order.

- iii. *The Plan should describe how often aeration tanks will be monitored, how CCL will ensure tanks are not overfilled and adequate headspace is maintained, how CCL will be notified of operations issues, the types of corrective actions or operational changes that will be made, and the timeline for corrective actions.*

The aeration tanks are monitored daily to check their pressure and weekly for fugitive emissions consistent with Conditions 68, 86(d), 86(e) and 98 of the South Coast AQMD’s Stipulated Order. Tanks are not overfilled, consistent with Condition 27(g). The aeration tanks are fitted with seals and gaskets that prevent vapor leaks and other emissions. CCL is notified of operations issues from its contractors and personnel who conduct visual inspections. If tanks are overfilled or inadequate headspace occurs, CCL will follow the protocol in its Standard Operating Procedures as well as its Leachate Management Plan and the ETLF Operations HASP. All spills are immediately reported to CCL staff. The enclosed Plan has been updated on page 9 accordingly.

- iv. *The Plan should describe how the aeration tanks will be modified to fit aeration piping and close or seal openings, fittings, and other potential pathways for fugitive emissions to ensure a closed vent system. Attachment E indicates that aeration piping enters through a large hatch in the roof of the tank, allowing for open venting of vapors.*

Aeration piping does not enter through a large hatch in the roof of the tank, nor does it allow for open venting of vapors. The enclosed Plan has been updated on page 9 to state that the aeration tanks' vent system is closed. Attachment B to the enclosed Plan also illustrates the closed venting system.

- v. *The Plan should describe the routing of the aeration treatment off-gases to the proposed TOx, and what mix, if any, will be co-collected from the leachate storage tanks, the leachate collection system, other leachate equipment, or landfill gas collection and conveyance systems, and what impact the mix may have on ensuring adequate destruction of the gasses.*

As explained above in Section IV.a, the TOx does not take in emissions from the leachate storage tanks, the leachate collection system, other leachate equipment, or landfill gas collection and conveyance systems. Therefore, there is no mixing of aeration treatment off-gases with off-gases from the other systems. The enclosed Plan has been updated on page 9 accordingly.

- vi. *The Plan should describe how the system will automatically shut down the blower, aeration system, and other relevant components to prevent venting of emissions to the atmosphere or bypass of the control system when the TOx is shut down or malfunctioning in the event of a process upset.*

The enclosed Plan has been updated on page 9 to state that an automatic shutdown valve has been added to the system, which shuts down the blower, aeration system, and other components in the case of a TOx shut down or malfunction.

V. “Alternative Treatment Plan” and “Evaluation” Sections

- a. *CCL has indicated that its goal is to “effect a reduction in total organic carbon (‘TOC’) content to trigger a ‘change in treatability’ status under applicable hazardous waste regulations.” CCL further explains its “change in treatability” concept in the draft Leachate Management Plan, Revision 3, January 2015: “Under the RCRA regulations, if the (non-hazardous) post-treatment leachate was a wastewater, it would not be subject to any LDR treatment standards (either for wastewaters or for non-wastewaters). The reason is that the change from ‘non-wastewater’ (prior to treatment) to ‘wastewater’ (after treatment) is considered a ‘change in treatability group’ and thus a new point of generation for LDR purposes.” EPA disagrees that if the leachate is rendered not characteristically hazardous by treatment and meets the definition of a “non-wastewater” prior to treatment and meets the definition of a “wastewater” post-treatment, that treatment would represent a new point of generation for land disposal restrictions such that no land disposal restrictions would attach to the post-treatment leachate. While EPA has recognized a change in treatability group principle with respect to non-wastewater sludges generated from the treatment of wastewaters*

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 9 of 17

(see, e.g., RCRA Online #14718), EPA does not recognize a new point of generation for the parent waste (here, the leachate) undergoing treatment.

CCL disagrees with EPA's position that any change in treatability group achieved through aeration will not represent a new point of waste generation and requests that this alleged deficiency be withdrawn as contrary to applicable law. EPA's allegation relates to CCL's statement on page 9 of the Leachate Aeration Work Plan that one of the goals¹ of the proposed aeration process is to "effect a reduction in total organic carbon ('TOC') content to trigger a 'change in treatability [group]'" status ... [that] will greatly improve disposal capacity." As CCL has previously elaborated, and as further described in Section VII.e below, the leachate, as generated, qualifies as a non-wastewater under the RCRA land disposal restrictions ("LDR") program because it contains more than 1% TOC. *See* 40 C.F.R. §§ 268.2(d) and (f). To the extent that aeration might reduce the TOC content below 1%, there would be a "change in treatability group" (from non-wastewater to wastewater), which would be a new point of generation for LDR purposes. And if, as expected, the (new) wastewater treatability group is non-hazardous at that new point of generation, no further LDR requirements would apply.

EPA acknowledges in the NOD that it has long "recognized a change in treatability group principle," but it attempts to limit the scope of the principle and deny its applicability in the present case.² EPA does not articulate the supposed boundaries of the principle and does not cite authority for the claimed limitation.

EPA established the change in treatability group principle in the 1990 "Third Third LDR Rule," which included the first LDR treatment standards for characteristic hazardous wastes. The Agency stated there that "each new treatability group is a new point of generation for a characteristic waste." *See* 55 Fed. Reg. 22,520, 22,544 (June 1, 1990). And, as a result, if the "new treatability group...is not hazardous at [the new] point of generation," it is not subject to LDR requirements. *Id.* at 22,661-62. EPA has underscored this principle repeatedly over the years, stating for example that "for characteristic wastes, each change of treatability group in a treatment train mark[s] a new point of generation for determining if a characteristic waste [i]s prohibited from land disposal." *See* 58 Fed. Reg. 29,860, 29,871 (May 24, 1993). According to the Agency, "[the] principle states that LDR prohibitions remain attached to the initial waste [only] as long as the waste remains within the same treatability group (normally wastewater or nonwastewater)." *See* 64 Fed. Reg. 25,408, 25,411 (May 11, 1999).

¹ EPA incorrectly suggests that this is CCL's *sole* goal in proposing the aeration treatment. *See* NOD at 3 ("CCL has indicated that its goal is to 'effect ... a "change in treatability [group]"...."). However, CCL's Leachate Aeration Work Plan clearly stated that "[t]he aeration treatment step has *two* goals" (emphasis added), only one of which related to a change in treatability group. *See* Leachate Aeration Work Plan at 9.

² EPA describes this principle as CCL's own "concept." *See* NOD at 3 ("CCL further explains *its* 'change in treatability [group]' concept..." (emphasis added)). However, as discussed further below, the principle has been a centerpiece of EPA's LDR program since its earliest days.

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 10 of 17

In the NOD, EPA acknowledges only that it has “recognized a change in treatability group principle with respect to non-wastewater sludges generated from treatment of wastewaters,” suggesting that the principle does not apply outside that narrow context. However, the principle is not limited in such a way; rather, it is a bedrock foundation of the LDR rules for all characteristic wastes. As noted above, the principle was announced together with the first LDR treatment standards for characteristic wastes. EPA made clear from the start that “[a] change in treatability group during the waste management process can affect whether the waste...is subject to...LDR requirements.” *See* 55 Fed. Reg. at 22,661. The Agency highlighted the central importance of the principle, stating that “[t]his interpretation provides a clear line of demarcation...and avoids having an initial waste’s status as prohibited [under the LDR program] determined in all cases by some later management of a residue derived from the initial waste.” *Id.*

Moreover, EPA has applied the change in treatability group principle in a wide variety of contexts other than the generation of non-wastewater sludges from treatment of wastewaters. Indeed, in the Third Third LDR Rule, where the principle was first announced, EPA cited at least three other examples:

- ***Scrubber water from incineration of non-wastewaters.*** One of the first examples EPA gave when it introduced the issue of changing treatability groups in the Third Third LDR Rule was the change that occurs when a non-wastewater is incinerated, resulting in generation of a scrubber wastewater. *See* 55 Fed. Reg. at 22,661 (“*Changes in Treatability Groups.* The question of whether a given waste is going to prohibited land disposal is complicated by the fact that wastes may change form or treatability groups after undergoing treatment. For example,...incineration of a nonwastewater can generate...a wastewater (scrubber water)”).
- ***Wastewater from treatment of non-wastewater chromium wastes.*** EPA also discussed a hypothetical “Treater A [that] receives a D007 [chromium] nonwastewater that it treats...generat[ing] a wastewater...that does not exhibit a characteristic.” *Id.* at 22,664. The Agency concluded that “[t]he wastewater generated during treatment is not a prohibited waste because it is a new treatability group whose status as a non-prohibited waste is determined when it (*i.e.*, the new treatability group) is generated. Therefore, part 268 [*i.e.*, the LDR regulations] does not apply to the wastewater.” *Id.*
- ***Slag and matte from the recovery of lead from lead-acid batteries.*** Lead-acid batteries constitute their own treatability group. *See* 40 C.F.R. § 268.40 (D008 Lead Acid Batteries Subcategory). When such batteries are processed to recover lead, two residues are generated, known as slag and matte. EPA stated in the Third Third LDR Rule that “[t]he residuals from the recovery process are a new treatability group (*i.e.*, the residues are not lead acid batteries) and therefore their status as prohibited or nonprohibited is determined at the point the residues are generated. Such residues

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 11 of 17

would thus only be prohibited and therefore require further treatment if they exhibit a characteristic.” *See* 55 Fed. Reg. at 22,568.

The suggestion that the change in treatability group principle is limited to one specific scenario, or otherwise narrowly circumscribed is without foundation.

EPA nevertheless states in the NOD that it “does not recognize a new point of generation for the parent waste (here, the leachate) undergoing treatment.” However, this statement – which EPA provides no support for – is no more valid than the suggestion that the principle applies only to wastewater treatment sludges.

As an initial matter, EPA seems to be proposing a false distinction between outputs from a hazardous waste treatment process that somehow still qualify as “the parent waste” (which, according to the NOD, *would not* qualify as a new point of generation, even if they belonged to a new treatability group) and other outputs (which *would* qualify as a new point of generation, if they belonged to a new treatability group). However, it strains the English language to call the output of a waste treatment process “the parent waste,” especially when the output belongs to a different treatability group (*e.g.*, it is a wastewater when the original waste was a non-wastewater) and when the output exhibits none of the characteristics exhibited by the original waste. Moreover, this distinction is belied by two of the examples of changing treatability groups provided in the seminal Third Third LDR Rule:

- In Example 1, EPA considered a hypothetical “[l]isted wastewater A [that] is treated in a tank that yields two residue streams: nonwastewater residue B and wastewater residue C. The nonwastewater residue is land disposed and the wastewater residue is discharged pursuant to an NPDES permit without being land disposed.” *See* 55 Fed. Reg. at 22,661. Of particular relevance here, the Agency viewed the treated wastewater (“residue C”) a separate and distinct material from the original wastewater prior to treatment (“wastewater A”). Even though residue C belonged to the same treatability group as wastewater A (and was still a hazardous waste, due to the “derived from rule” for listed hazardous wastes), it was not viewed or evaluated as the parent waste A.
- In Example 5, EPA considered a different hypothetical, “[characteristically] toxic wastewater sludge [*sic*] P [that] is dewatered to yield a nonwastewater sludge Q which is [also] toxic...[and] a wastewater R...which exhibits a hazardous characteristic.” *Id.* at 22,662. Similar to the first example, EPA viewed the original sludge (P) and the treated sludge (Q) as separate and distinct wastes, even though they both belonged to the same treatability group and exhibited the same hazardous waste characteristic.

For these reasons, the NOD’s attempt to carve out a heretofore never mentioned exception to the change in treatability group principle for “parent waste[s]...undergoing treatment” cannot be sustained.

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 12 of 17

Indeed, EPA has previously concluded that “the change of treatability group principle applies to situations where liquids which are technically nonwastewaters are placed in...treatment systems [and] thereupon become wastewaters.”³ That is essentially the factual scenario here. The leachate, as generated, is a “liquid[] which [is] technically nonwastewater,” and the expectation and hope is that the material will be converted through treatment into a wastewater. If that transformation, in fact, occurs, the change in treatability group principle should apply, such that the resulting wastewater – if no longer hazardous at the new point of generation – should not be subject to further LDR requirements.

Finally, even if the treated leachate could be viewed as merely “the parent waste,” the NOD is mistaken when it says that “EPA does not recognize a new point of generation for the parent waste...undergoing treatment.” As noted above, the Agency has specified that the change in treatability group principle “states that LDR prohibitions remain attached to the *initial waste* [only] as long as *the waste* remains within the same treatability group (normally wastewater or nonwastewater).” See 64 Fed. Reg. at 25,411 (emphasis added). Thus, if (as suggested in the NOD), the treated leachate still qualifies as “the parent waste” (*i.e.*, the initial waste), once it “no longer remains within the same treatability group” (*i.e.*, once there has been a change in treatability group), the LDR prohibitions will no longer “remain attached.”

In light of the above, there is no basis for this alleged deficiency. Accordingly, CCL has not made any changes to the Plan to reflect this allegation. CCL instead requests that the Agency formally withdraw this allegation.

VI. Attachment B, Block Flow Diagram

- a. *For vapors being vented from the frac tanks to the flare/TOx, the process flow diagram shows arrows pointing from the flare/TOx to the frac tank. Please confirm if this is accurate.*

³ See Letter from James R. Berlow, Director, Hazardous Waste Minimization and Management Division, EPA, to Barton Day, Bryan Cave, LLP (March 21, 1996) (RCRA Online #14207); see also Letter from James R. Berlow, Director, Hazardous Waste Minimization and Management Division, EPA, to Barton Day, Bryan Cave, LLP (March 25, 1997) (RCRA Online #14214) (same); 62 Fed. Reg. 25,998, 26,007 (May 12, 1997) (same). In these cases, EPA was focused on the application of LDR requirements to nonwastewater sludges generated by treatment of the intermediate wastewaters, since the intermediate wastewaters themselves were not land disposed. However, in each case, the Agency reiterated its 1993 statement that “for characteristic wastes, *each change* of treatability group in a treatment train mark[s] a new point of generation.” See 58 Fed. Reg. at 29,871 (emphasis added). Moreover, it is clear that EPA viewed the initial change of the liquid from non-wastewater to wastewater as a change in treatability group, and therefore a new point of generation. The Agency concluded that the (non-wastewater) sludges were a different treatability group than the intermediate wastewaters, and that could only be the case if the original (non-wastewater) liquids had already changed treatability groups from non-wastewater to wastewater. The initial change in treatability group of the liquids is analogous to the change in treatability group of the leachate under the proposed aeration process.

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 13 of 17

Attachment B of the enclosed Plan has been updated to provide a new block flow diagram that clarifies the venting pathway—i.e., materials from the TOx do not flow to the frac tanks.

VII. Attachment C, March 23, 2026 Letter regarding Aeration Testing and Treatment, Additional Work Letter for Leachate Treatment Improvements

- a. *In the Additional Work Letter, EPA requested “a list of typical Underlying Hazardous Constituents (‘UHCs’) of the leachate and the supporting data for identification of UHCs.” In response, CCL stated in its March 23, 2026, letter: “Based on CCL’s review of treated, nonhazardous leachate and spent carbon samples taken from January 1, 2026 to present, the UHCs detected were MEK (2-butanone) and, to a lesser extent, 3-,4-methylphenol.” (emphasis added). To clarify, by requesting data to support the “identification” of UHCs, EPA intended to request the data that shows how CCL initially identifies or assigns UHC to the waste to determine which UHCs must be treated to their Universal Treatment Standards. Please confirm whether CCL’s practice is to identify or assign UHCs based on pre-treatment data or post-treatment data. If CCL does not evaluate pre-treatment data to initially identify or assign UHCs, we’d appreciate the opportunity to discuss.*

Chiquita confirms that it identifies and assigns underlying hazardous constituents (“UHCs”) based on the untreated hazardous leachate at the point of generation, not based on post-treatment data. That approach is consistent with 40 C.F.R. § 268.2(i), which defines UHCs by reference to constituents listed at 40 C.F.R. § 268.48 that can reasonably be expected to be present at the point of generation above the applicable constituent-specific UTS, and with 40 C.F.R. §§ 268.7(a) and 268.9(a), which govern the generator’s LDR determination for characteristic wastes.

Chiquita’s determination is based on analytical data for untreated leachate, including the pre-treatment data summarized in response to Section VII.b below, and on knowledge of the landfill-derived leachate stream and treatment process. Based on that information, Chiquita identifies 2-butanone and 3-,4-methylphenol as UHCs for the characteristically hazardous leachate.

Chiquita uses post-treatment data (treated leachate and spent carbon) to evaluate treatment performance and confirm constituents of concern, not to determine which UHCs are present in the untreated waste at the point of generation.

- b. *Further to the above, to demonstrate which UHCs are present in the waste at the point of generation, please provide pre-treatment data, and a comparison of constituent levels for UHCs at the point of generation compared to the constituent-specific UTS concentrations.*

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 14 of 17

Chiquita reviewed pre-treatment analytical data for characteristically hazardous leachate before aeration and filtration to identify any constituents listed in 40 C.F.R. § 268.48 that are reasonably expected to be present at the point of generation at concentrations above the applicable nonwastewater Universal Treatment Standards. See 40 C.F.R. § 268.2(i). The data set consists of: (1) monthly leachate samples collected pursuant to Condition 38 of the South Coast AQMD Stipulated Order for Abatement (SOFA) (**Appendix C**); and (2) routine samples of leachate influent to Tank Farm 13, where characteristically hazardous leachate is staged before aeration and/or filtration.

Based on that pre-treatment data, Chiquita has identified two UHCs in the hazardous leachate: 2-butanone (also known as methyl ethyl ketone or MEK) and 3-,4-methylphenol (reported as the combined m-/p-cresol result). Those constituents are present in untreated leachate at concentrations above their respective nonwastewater UTS. No other constituent listed in 40 C.F.R. § 268.48 and analyzed as part of these sampling programs was detected above its applicable UTS in the pre-treatment data set.

Constituent	Applicable NWW UTS	Pre-treatment Detection Range	Samples Analyzed	Detections	Detections Above UTS	Most Recent Exceedance
2-Butanone (MEK)	36 mg/kg	15–45 mg/L	74	73	25	4/29/26
3-,4-Methylphenol (m-/p-Cresol)	5.6 mg/kg	11–22 mg/L	57	57	57	4/29/26

The laboratory reports express leachate concentrations in mg/L, while the applicable nonwastewater UTS for these constituents are expressed in mg/kg. For purposes of comparing the pre-treatment leachate data to the nonwastewater UTS, Chiquita has treated the reported mg/L concentrations as approximately equivalent to mg/kg because the leachate density is very nearly 1 kg/L. Accordingly, the pre-treatment data show that 2-butanone and 3-,4-methylphenol are reasonably expected to be present above the applicable UTS at the point of generation and are therefore identified as UHCs for this waste stream.

The laboratory analytical reports supporting this determination are enclosed (**Appendix D**).

- c. Please confirm whether CCL samples for all of the contaminants listed in the Universal Treatment Standards table at 40 C.F.R. § 268.48 or for a narrower list of contaminants. If CCL samples for a narrower list of contaminants, please explain how the sampling is sufficient to detect all contaminants “which can reasonably be expected to be present at the point of generation of the hazardous waste at a concentration above the constituent-specific UTS treatment standards,” in accordance with the definition of UHCs at 22 C.C.R. § 66260.10.*

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 15 of 17

Chiquita tests untreated leachate monthly for a broad suite of 75 volatile organic compounds (VOCs) pursuant to SOFA Condition 38. CCL further tests samples of untreated leachate influent to Tank Farm 13 at least weekly for 13 VOCs and 11 semi-volatile organic compounds (SVOCs). While this testing does not cover the complete range of constituents identified in the UTS table at 40 C.F.R. § 268.48, CCL believes, based on its knowledge of the composition of the municipal solid waste stream that was originally disposed in the landfill from which the leachate was extracted, that the testing performed would capture any and all constituents that could reasonably be expected to be present at concentrations above applicable UTS levels, consistent with the definitions of UHCs under 40 C.F.R. § 268.2(i) and 22 C.C.R. § 66260.10. Indeed, most of the constituents tested have been non-detectable, and in virtually all instances where a constituent has been detected, the concentrations have consistently been below the relevant UTS levels. Based on these results, it cannot be reasonably expected that chemically similar constituents that are on the UTS list but have not been specifically tested would exceed their respective UTS levels.

- d. *In the Additional Work Letter, EPA requested “(v) an analysis of whether the treated, non-hazardous leachate subject to aeration would be subject to, and meet, land disposal restrictions (‘LDRs’) under the Resource Conservation and Recovery Act (RCRA), including whether the leachate meets Universal Treatment Standards.” In response, CCL stated that “aeration alone is not enough to enable the leachate to meet LDRs or UTS. More testing is required, including conducting further GAC treatment of the aerated leachate, to determine whether the treated, non-hazardous leachate would meet LDRs and UTS.” When CCL conducts additional testing, and no later than April 28, 2026, please submit the following to EPA:*
- i. *The pre-treatment data;*
 - ii. *The post-aeration treatment data;*
 - iii. *A summary table which directly compares, for each batch of leachate sampled, the sample results for the batch pre-treatment and the sample results for the same batch post-treatment;*
 - iv. *In the summary table, clearly identify, for each batch of leachate sampled, any UHCs and any constituents for which the waste is RCRA hazardous or non-RCRA hazardous present in the pre-treatment leachate; and*
 - v. *In the summary table, clearly identify any UHCs remaining in excess of applicable UTS and any constituents for which the waste is still RCRA hazardous or non-RCRA hazardous present in the post-treatment leachate.*

CCL connected the TOx to the aeration tanks on May 12, 2026. As such, CCL does not yet have the requested data and information. CCL will provide the requested data and information on May 22, 2026.

- e. *Please clarify how CCL determined that leachate meets the definition of “nonwastewater” for LDR purposes, specifically whether CCL relied on recent*

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 16 of 17

sampling data for this determination or whether CCL is relying on prior analysis (e.g., the analysis documented in the draft Leachate Management Plan).

CCL relied on the assessment contained in the “Leachate Management Plan,” Revision 3, January 2025 to determine that the leachate meets the definition of “nonwastewater” for LDR purposes. Specifically, in Section 5.6.1 of this “Leachate Management Plan,” CCL stated the following:

Only leachate generated at Group A, Group B, East Perimeter, and North Perimeter has been identified as potentially hazardous. CCL has made the determination that leachate – from Group A, Group B, East Perimeter, and North Perimeter generation points, both before and after treatment – is “nonwastewater” using numerous representative grab samples, consistent with EPA’s “*Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*” (EPA Publication SW-846), rather than by testing each and every tank of leachate.

For the leachate prior to treatment, CCL obtained one grab sample from each of the relevant tank groups on 7 days, for a total of 21 samples, and had these samples tested for total organic carbon (TOC). The TOC results from these samples ranged from 19,000 mg/L to 44,000 mg/L (not counting 2 samples for which the laboratory apparently made an error in reporting), which translates to a range of 1.9% to 4.4%. Because all these results are above 1% TOC, they clearly demonstrate that the pre-treatment leachate from these tank groups are nonwastewaters. See 40 CFR 268.2(f) (defining wastewaters as “wastes that contain less than 1% by weight TOC *and* less than 1% by weight total suspended solids (TSS)”); 40 CFR 268.2(d) (defining nonwastewater as “wastes that do not meet the criteria for wastewaters”); see also 22 CCR 66260.10.

For leachate after treatment, CCL obtained a total of 46 grab samples of the effluent of the GAC treatment units over 6 sampling days, and again had them tested for TOC. All of the 46 TOC results except one were above 10,000 mg/L (1%) TOC, with values up to 31,000 mg/L (3.1%) TOC. These results clearly demonstrate that the post-treatment leachate is generally nonwastewater.

The assessment in the “Leachate Management Plan,” Revision 3, is corroborated by the routine sampling results of leachate influent to Tank Farm 13, prior to aeration and/or filtration (see Section VII.b, above). Across 57 samples collected from September 2025 through April 2026, 56 samples were analyzed for TOC, and 55 detections ranged from 27,000 mg/L to 35,000 mg/L. There is one sample outlier with a result of only 62 mg/L TOC, which we attribute to laboratory error. Collectively, these results further support the conclusion that pretreatment leachate is nonwastewater.

Chiquita Canyon, LLC Response to EPA NOD

May 12, 2026

Page 17 of 17

If you have any questions, please do not hesitate to reach out to me at kevin.green@wasteconnections.com.

Sincerely,



Kevin Green
District Manager

cc: John Perkey, Chiquita Canyon
Dylan Smith, Chiquita Canyon
Sarah Phillips, Chiquita Canyon
Matt Breuer, Chiquita Canyon
Jim Little, Chiquita Canyon
Kurt Shaner, Chiquita Canyon
Amy Miller-Bowen, EPA
Michael Montgomery, EPA
Alana Mathews, CalEPA
Todd Sax, CalEPA
Sophia Carrillo, CalEPA
Karen Gork, LEA
Thanne Berg, DTSC
Dylan Clark, DTSC
Gregory Shaffer, DTSC
Natasha DiPietro, DTSC
Gregory Gentile, DTSC
Zanalee Zmily, DTSC
Megan Morgan, Beveridge & Diamond
Allyn Stern, Beveridge & Diamond
Nicole Weinstein, Beveridge & Diamond