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BEFORE THE  
NAPA COUNTY DEPARTMENT OF PLANNING, BUILDING,  
AND ENVIRONMENTAL SERVICES AS ENFORCEMENT AGENCY FOR NAPA COUNTY

In the Matter of:

Clover Flat Resource Recovery Park  
SITE NO. 28-AA-0002

STIPULATED SECOND AMENDED NOTICE  
AND ORDER  
NO. EA-2019-01-A2

Public Resources Code §§ 45000 and 45011;  
California Code of Regulations, Title 14, §§  
18304 and 18304.1

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**TO:** Clover Flat Landfill, Inc., 1285 Whitehall Ln., St. Helena, CA 94574, as operator of the Clover Flat Resource Recovery Park; Vista Corporation, 1285 Whitehall Ln., St. Helena, CA 94574, as owner of the Clover Flat Resource Recovery Park;

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**PLEASE TAKE NOTICE THAT:**

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WHEREAS, the Clover Flat Resource Recovery Park ("Site"), a solid waste disposal site and composting facility, is located at 4380 Silverado Trail, Calistoga, CA 94515 (APN 020-120-020); and

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WHEREAS, the Napa County Department of Planning, Building, and Environmental Services ("LEA") has authority in the capacity as an enforcement agency (EA) and issue Notices and Orders for this Site pursuant to Public Resources Code § 43200, *et seq.*, and the California Code of Regulations, Title 14, Section 18304, and is so acting; and

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WHEREAS, on July 30, 2014, the operator of the Site obtained a permit from the LEA to operate as a solid waste disposal site and a composting facility, attached hereto as Exhibit "A"; and

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WHEREAS, the Site is authorized to operate consistent with its duly issued permit as long as the Site is meeting the requirements specified in the Public Resources Code and CalRecycle regulations; and

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WHEREAS, the LEA has conducted inspections and determined that, at the time of said inspections, the Site was in violation of numerous provisions of the Public Resources Code as follows:

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1. On August 8, 2018, the LEA issued and delivered via certified and regular mail a Notice of Violation (NOV) to the owner of the Site, attached hereto as Exhibit "B". The NOV

1 memorialized observations made by the LEA during at least one prior inspection that  
2 occurred following fire(s) at the Site. The NOV identified the following violations:

- 3 a. **Permit Terms and Conditions – “The permit shall contain all terms and**  
4 **conditions which the enforcement agency determines to be appropriate for**  
5 **the operation of the solid waste facility. The operator shall comply with all**  
6 **terms and conditions of the permit.” (Public Resources Code § 44014.)**

7 The Site’s permit terms and conditions require the Site personnel to consist of at  
8 least one facility manager. (See Joint Technical Document and Subsequent  
9 Amendments, page 31, section 5.2, attached and incorporated into the Site’s  
10 permit.) According to information obtained from the owner and/or operator, the  
11 LEA is aware that the facility manager position for the Site had been vacant as of  
12 the date of the NOV for approximately six months. The LEA informed the owner  
13 that the facility manager position must be filled immediately, as required by the  
14 Site’s permit terms and conditions.

- 15 b. **Fire Prevention – “The operator shall provide fire prevention, protection and**  
16 **control measures, including, but not limited to, temperature monitoring of**  
17 **windrows and piles, adequate water supply for fire suppression, and the**  
18 **isolation of potential ignition sources from combustible materials. Firelanes**  
19 **shall be provided to allow fire control equipment access to all operation**  
20 **areas.” (14 Cal. Code of Regulations 17867(a)(9).)**

21 The LEA determined that during a fire at the Site on August 6, 2018, the Site  
22 failed to provide adequate resources available for local fire responders to fight the  
23 fire, including inadequate water onsite and inaccessible onsite water supply due to  
24 non-usable water supply pipes and adapters. As a result of the Site’s inadequate  
25 fire prevention measures and resources, the August 6, 2018, fire was largely  
26 fought using CalFire engines, operator’s rented water trucks using water from an  
27 offsite location, and excavation equipment and operators from an onsite  
28 excavation company employed by the operator. Additionally, piles of

1 unprocessed and processed green material were stored in close proximity to one  
2 another and the active landfill face. Processed green waste was being used as  
3 alternative daily cover and intermediate cover on the active landfill face and side  
4 slopes which further contributed to the rapid expansion of the fire.

- 5 c. **Nuisance Control – “All handling activities shall be conducted in a manner  
6 that minimizes vectors, litter, hazards, nuisances, and noise impacts; and  
7 minimizes human contact with, inhalation, ingestion, and transportation of  
8 dust, particulates, and pathogenic organisms.” (14 Cal. Code of Regulations  
9 17867(a)(3).)**

10 The LEA determined that the Site’s handling of green waste contributed to the  
11 rapid expansion of fires and increased hazards for responding firefighters. Chip  
12 and grind activities conducted by the Site near green waste storage piles and use  
13 of processed green waste materials as intermediate and alternative daily cover on  
14 the active face of the landfill slopes during hot summer months likely contributed  
15 to the August 6, 2018, fire and its rapid expansion. Additionally, the proximity of  
16 the green waste fire to the refuse disposal area resulted in increased hazards for  
17 responding firefighters.

- 18 d. **Additional violations of the California Fire Code and Napa County Code.**

19 Enclosed with the LEA’s NOV (and included with Exhibit B, attached) was an  
20 additional Notice of Violation issued by the County Fire Marshal detailing  
21 additional violations of the California Fire Code and Napa County Code.

- 22 2. On January 29, 2019, the LEA conducted a routine inspection of the Site along with Site  
23 representative Kaye Woodworth, compliance/safety coordinator for Upper Valley  
24 Disposal Service (“UVDS”), and informed the Site representative of the following area of  
25 concern:

- 26 a. **Drainage and Erosion Control – “The drainage system shall be designed and  
27 maintained to: (1) ensure integrity of roads, structures, and gas monitoring  
28**

1                   **and control systems; (2) prevent safety hazards; and (3) prevent exposure of**  
2                   **waste.” (27 Cal. Code of Regulations 20820.)**

3                   The LEA inspector observed drainage and erosion control issues near the active  
4                   face of the Site landfill.

- 5                   3. On February 13, 2019, the LEA conducted a follow-up inspection of the Site along with  
6                   Site representative Kaye Woodworth, compliance/safety coordinator for UVDS, and  
7                   informed the Site representative of the following violations:

- 8                   a. **Drainage and Erosion Control – “The drainage system shall be designed and**  
9                   **maintained to: (1) ensure integrity of roads, structures, and gas monitoring**  
10                   **and control systems; (2) prevent safety hazards; and (3) prevent exposure of**  
11                   **waste.” (27 Cal. Code of Regulations 20820.)**

12                   The LEA inspector observed that little or no progress had been made to stabilize  
13                   the drainage and erosion control issues near the active face of the Site landfill that  
14                   were identified during the LEA’s January 29, 2019, inspection. The slope near  
15                   the active face had continued to erode and significant amounts of storm water was  
16                   running through exposed landfill areas above and into storm water drainage  
17                   channels or the public access area below. The LEA issued a violation and  
18                   directed the operator to address drainage and erosion issues immediately.

- 19                   b. **Alternative Daily Cover – “Alternative daily cover alone, or in combination**  
20                   **with compacted earthen material, shall be placed over the entire working**  
21                   **face at the end of each operating day or at more frequent intervals to control**  
22                   **vectors, fires, odors, blowing litter, and scavenging without presenting a**  
23                   **threat to human health and the environment.” (27 Cal. Code of Regulations**  
24                   **20690.)**

25                   The LEA observed large areas of exposed trash near the active face of the landfill  
26                   at the Site. When questioned, the operator was unsure how to address the issue  
27                   due to recent rains and saturated conditions. The operator did not have sufficient  
28                   approved tarps to cover the areas at the time of inspection. In order to temporarily

1 mitigate the issue, the operator utilized plastic tarps from the operator's Napa  
2 County compost facility to cover the exposed trash.

- 3 4. The LEA and the San Francisco Bay Regional Water Quality Control Board ("RWQCB")  
4 conducted a joint inspection of the Site on March 26, 2019. Also present at the  
5 inspection, as representatives of the Site, were Bryce Howard of UVDS, J.C. Isham of  
6 Aptim Environmental (consultant to UVDS), and Jake Lethin of Blue Ridge Services  
7 (consultant to UVDS). During this inspection, the LEA identified and informed the  
8 representatives of the Site of the following violations:

- 9 a. **Leachate Control** – **"The operator shall ensure that leachate is controlled to**  
10 **prevent contact with the public." (14 Cal. Code of Regulations 17867(a)(13);**  
11 **27 Cal. Code of Regulations 20790.)**

12 LEA inspectors observed significant leachate seepage issues from the active  
13 landfill areas and eroded drainage channels along the eastern slopes of the older  
14 landfill areas, which were actively draining into an unnamed blue line creek along  
15 the eastern boundary of the landfill. Additionally, storm water that was  
16 determined to be contaminated with leachate by the RWQCB was being directly  
17 diverted and discharged into the unnamed blue line creek. This creek ultimately  
18 drains into the Napa River, which flows through residential and commercial  
19 neighborhoods, thereby presenting public exposure. The LEA directed the  
20 operator to immediately divert all contaminated storm water and leachate into  
21 collection tanks so that it could be properly disposed of at an approved facility.

- 22 b. **Drainage and Erosion Control** – **"The drainage system shall be designed and**  
23 **maintained to: (1) ensure integrity of roads, structures, and gas monitoring**  
24 **and control systems; (2) prevent safety hazards; and (3) prevent exposure of**  
25 **waste." (27 Cal. Code of Regulations 20820.)**

26 The LEA observed significant erosion issues on the eastern slopes below the  
27 active landfill area similar to those described in Paragraphs 2.a. and 3.a.,  
28 immediately above. Several drainage channels had eroded down the hillside and

1 appeared to be the source of active leachate seepage which is ultimately entering  
2 the creek below.

- 3 **c. Permit Terms and Conditions – “The permit shall contain all terms and**  
4 **conditions which the enforcement agency determines to be appropriate for**  
5 **the operation of the solid waste facility. The operator shall comply with all**  
6 **terms and conditions of the permit.” (Public Resources Code § 44014.)**

7 The Site’s permit terms and conditions require the Site personnel to consist of at  
8 least one facility manager. (See Joint Technical Document and Subsequent  
9 Amendments, page 31, section 5.2, attached and incorporated into the Site’s  
10 permit.) According to information obtained from the owner and/or operator, the  
11 LEA is aware that the facility manager position for the Site has been vacant for  
12 approximately nine months. Additionally, based upon LEA inspections over the  
13 past three months and information provided by Blue Ridge Services, operator’s  
14 contracted solid waste consultant, it is apparent to the LEA that the violations  
15 described in this Notice and Order and deficiencies observed at the Site –  
16 including, but not limited to, facility operations, equipment maintenance, best  
17 management practices, operator training, and general facility knowledge – are a  
18 direct result of the Site lacking a full-time on-site facility manager as required.

- 19 **d. Intermediate Cover – “(a) Compacted earthen material of at least twelve (12)**  
20 **inches shall be placed on all surfaces of the fill where no additional solid**  
21 **waste will be deposited within 180 days to control vectors, fires, odors,**  
22 **blowing litter, and scavenging. (b) Alternative materials of alternative**  
23 **thickness (other than at least twelve inches of earthen material) for**  
24 **intermediate cover may be approved by the EA with concurrence by the**  
25 **CIWMB, if the owner or operator demonstrates that the alternative material**  
26 **and thickness control vectors, fires, odors, blowing litter, and scavenging**  
27 **without presenting a threat to human health and the environment.” (27 Cal.**  
28 **Code of Regulations 20700.)**



1 The LEA observed that a large area adjacent to the active landfill area was  
2 observed as having extensive trash throughout. Due to the degree of saturation  
3 and amount of trash observed it was difficult to determine if the source was  
4 windblown litter or daylighting material or both. Insufficient tarps were available  
5 at the time of the inspection to cover the trash. Additionally, the LEA observed  
6 that the Site was continuing to use processed green waste as intermediate cover,  
7 which had been previously found to be a violation as described in Paragraph 1.c.,  
8 immediately above. Thus, because the operator continued to use prohibited green  
9 waste as intermediate cover at the time of the March 26, 2019, inspection, this  
10 was noted as a continued violation at that time.

- 11 e. **Equipment – “Equipment shall be adequate in type, capacity and number,  
12 and sufficiently maintained to permit the site operation to meet requirements  
13 of these standards.” (27 Cal. Code of Regulations 20740.)**

14 The LEA observed that the trash compactor (826 compactor) was out of service.  
15 The compactor is a crucial piece of equipment not only for landfill operations, but  
16 also for fire response. Site staff informed the LEA at the time that the compactor  
17 was out of service due to deferred maintenance.

- 18 f. **Fire Prevention – “The operator shall provide fire prevention, protection and  
19 control measures, including, but not limited to, temperature monitoring of  
20 windrows and piles, adequate water supply for fire suppression, and the  
21 isolation of potential ignition sources from combustible materials. Firelanes  
22 shall be provided to allow fire control equipment access to all operation  
23 areas.” (14 Cal. Code of Regulations 17867(a)(9).)**

24 The LEA determined that the owner and/or operator has failed to address the  
25 violations described in Paragraph 1.b., immediately above. As of the time of the  
26 March 26, 2019, inspection, the owner and/or operator had failed to install all fire  
27 protection infrastructure and prevention measures as required by the Napa County  
28 Fire Marshal. Thus, because the owner and/or operator had failed to address this

1 violation as of the March 26, 2019, inspection, this violation was noted as a  
2 continued violation.

3 **g. Additional violations of the California Fire Code and Napa County Code.**

4 The LEA determined that, as of the time of the March 26, 2019, inspection, the  
5 owner and/or operator had failed to address the violations identified in the Napa  
6 County Fire Marshal's Notice of Violation, as described in Paragraph 1.c.,  
7 immediately above. Thus, because the owner and/or operator has failed to  
8 address this violation, this violation was noted as a continued violation as of the  
9 time of the March 26, 2019, inspection.

10 **h. Site Maintenance – “The operator shall implement a preventative**  
11 **maintenance program to monitor and promptly repair or correct**  
12 **deteriorated or defective conditions with respect to requirements of the**  
13 **CIWMB standards, and conditions established by the EA. All other aspects**  
14 **of the disposal site shall be kept in a state of reasonable repair.” (27 Cal.**  
15 **Code of Regulations 20750.)**

16 The LEA observed severe deterioration of the leachate collection and pumping  
17 systems, and storage infrastructure, which is actively contributing to the ongoing  
18 storm water contamination and leachate issues negatively impacting the creek  
19 below. At the time of the March 26, 2019, inspection, the owner and/or operator  
20 of the Site had failed to promptly repair or correct these conditions.

21 **i. Supervision – “The site operator shall provide adequate supervision of a**  
22 **sufficient number of qualified personnel to ensure proper operation of the**  
23 **site in compliance with all applicable laws, regulations, permit conditions**  
24 **and other requirements.” (27 Cal. Code of Regulations 20615.)**

25 The LEA, while observing the violations described in this Notice and Order, also  
26 observed that the Site operator did not have sufficient staff to properly prevent  
27 and/or address these violations as many have been re-occurring for several  
28 months.



1 5. During a joint inspection conducted on March 28, 2019, by the LEA and the California  
2 Department of Fish & Wildlife. Also present at the inspection, as representative of the  
3 Site, was Bryce Howard of UVDS. The LEA identified and informed the Site  
4 representative of the following violations, substantially similar to those identified on  
5 March 26, 2019:

- 6 a. **Leachate Control** – “The operator shall ensure that leachate is controlled to  
7 **prevent contact with the public.” (14 Cal. Code of Regulations 17867(a)(13);**  
8 **27 Cal. Code of Regulations 20790.)**

9 LEA inspectors observed continued leachate and contaminated storm water  
10 running into a blue line creek, which ultimately drains into the Napa River, which  
11 flows through residential and commercial neighborhoods, thereby presenting  
12 public exposure. The LEA also observed the operator dumping collected trash on  
13 a cement pad during a rainy day, with a storm water collection inlet downslope,  
14 further adding contaminated storm water to the Napa River waterway system and  
15 increasing the likelihood of public exposure. Thus, because the owner and/or  
16 operator had failed to address this violation and had failed to immediately divert  
17 the leachate and storm water as previously directed, this violation was noted  
18 during the March 28, 2019, inspection as a continued violation and was  
19 exacerbated as a result of the operator’s inaction.

- 20 b. **Drainage and Erosion Control** – “The drainage system shall be designed and  
21 **maintained to: (1) ensure integrity of roads, structures, and gas monitoring**  
22 **and control systems; (2) prevent safety hazards; and (3) prevent exposure of**  
23 **waste.” (27 Cal. Code of Regulations 20820.)**

24 The LEA observed significant erosion issues on the eastern slopes below the  
25 active landfill area similar to those described in Paragraphs 2.a., 3.a., and 4.b.,  
26 immediately above. Several drainage channels had eroded down the hillside and  
27 appeared to be the source of active leachate seepage which is ultimately entering  
28 the creek below. Thus, because the owner and/or operator had failed to address

1 this violation as of the time of the March 28, 2019, inspection, this violation was  
2 noted as a continued violation and was exacerbated as a result of the operator's  
3 inaction.

- 4 c. **Permit Terms and Conditions – “The permit shall contain all terms and**  
5 **conditions which the enforcement agency determines to be appropriate for**  
6 **the operation of the solid waste facility. The operator shall comply with all**  
7 **terms and conditions of the permit.” (Public Resources Code § 44014.)**

8 The Site's permit terms and conditions require the Site personnel to consist of at  
9 least one facility manager. (See Joint Technical Document and Subsequent  
10 Amendments, page 31, section 5.2, attached and incorporated into the Site's  
11 permit.) As described in Paragraphs 1.a. and 4.c., immediately above, the LEA is  
12 aware that the facility manager position for the Site has been vacant for  
13 approximately nine months. Additionally, Blue Ridge Services, operator's  
14 contracted solid waste consultant that had been temporarily acting as interim  
15 facility manager, is no longer acting in any capacity on behalf of the Site. It is  
16 apparent to the LEA that the violations described in this Notice and Order and  
17 deficiencies observed at the Site – including, but not limited to, facility  
18 operations, equipment maintenance, best management practices, operator training,  
19 and general facility knowledge – are a direct result of the Site lacking a full-time  
20 on-site facility manager as required. Thus, because the owner and/or operator had  
21 failed to address this violation as of the time of the March 28, 2019, inspection,  
22 this violation was noted as a continued violation and was exacerbated as a result  
23 of the operator's inaction.

- 24 d. **Intermediate Cover – “(a) Compacted earthen material of at least twelve (12)**  
25 **inches shall be placed on all surfaces of the fill where no additional solid**  
26 **waste will be deposited within 180 days to control vectors, fires, odors,**  
27 **blowing litter, and scavenging. (b) Alternative materials of alternative**  
28 **thickness (other than at least twelve inches of earthen material) for**

1 intermediate cover may be approved by the EA with concurrence by the  
2 CIWMB, if the owner or operator demonstrates that the alternative material  
3 and thickness control vectors, fires, odors, blowing litter, and scavenging  
4 without presenting a threat to human health and the environment.” (27 Cal.  
5 Code of Regulations 20700.)

6 The LEA observed that the operator had not addressed the insufficient tarps and  
7 continued use of processed green waste as intermediate cover, as described in  
8 Paragraphs 1.c. and 4.d., immediately above. Thus, because the owner and/or  
9 operator had failed to address this violation as of the time of the March 28, 2019,  
10 inspection, this violation was noted as a continued violation and was exacerbated  
11 as a result of the operator’s inaction.

- 12 e. **Equipment – “Equipment shall be adequate in type, capacity and number,  
13 and sufficiently maintained to permit the site operation to meet requirements  
14 of these standards.” (27 Cal. Code of Regulations 20740.)**

15 The LEA observed that the trash compactor (826 compactor) continued to be out  
16 of service as described in Paragraph 4.e., immediately above. Thus, because the  
17 owner and/or operator had failed to address this violation as of the time of the  
18 March 28, 2019, inspection, this violation was noted as a continued violation and  
19 was exacerbated as a result of the operator’s inaction. Additionally, the LEA  
20 observed that the Site’s two water transport and spray trucks were actively  
21 involved in collecting and transporting leachate storage water and contaminated  
22 storm water to other storage tanks onsite.

- 23 f. **Fire Prevention – “The operator shall provide fire prevention, protection and  
24 control measures, including, but not limited to, temperature monitoring of  
25 windrows and piles, adequate water supply for fire suppression, and the  
26 isolation of potential ignition sources from combustible materials. Firelanes  
27 shall be provided to allow fire control equipment access to all operation  
28 areas.” (14 Cal. Code of Regulations 17867(a)(9).)**

1 The LEA determined that the owner and/or operator has failed to address the  
2 violations described in Paragraphs 1.b. and 4.f., immediately above. Thus,  
3 because the owner and/or operator had failed to address this violation as of the  
4 time of the March 28, 2019, inspection, this violation was noted as a continued  
5 violation and was exacerbated as a result of the operator's inaction.

6 g. **Additional violations of the California Fire Code and Napa County Code.**

7 The LEA determined that the owner and/or operator has failed to address the  
8 violations identified in the Napa County Fire Marshal's Notice of Violation, as  
9 described in Paragraphs 1.c. and 4.g., immediately above. Thus, because the  
10 owner and/or operator had failed to address this violation as of the time of the  
11 March 28, 2019, inspection, this violation was noted as a continued violation and  
12 was exacerbated as a result of the operator's inaction.

13 h. **Site Maintenance – “The operator shall implement a preventative**  
14 **maintenance program to monitor and promptly repair or correct**  
15 **deteriorated or defective conditions with respect to requirements of the**  
16 **CIWMB standards, and conditions established by the EA. All other aspects**  
17 **of the disposal site shall be kept in a state of reasonable repair.” (27 Cal.**  
18 **Code of Regulations 20750.)**

19 The LEA observed continued severe deterioration of the leachate collection and  
20 pumping systems, and storage infrastructure, which continues to actively  
21 contribute to the ongoing storm water contamination and leachate issues  
22 negatively impacting the creek below. Thus, because the owner and/or operator  
23 had failed to address this violation as of the time of the March 28, 2019,  
24 inspection, this violation was noted as a continued violation and was exacerbated  
25 as a result of the operator's inaction.

26 i. **Supervision – “The site operator shall provide adequate supervision of a**  
27 **sufficient number of qualified personnel to ensure proper operation of the**  
28

1 **site in compliance with all applicable laws, regulations, permit conditions**  
2 **and other requirements.” (27 Cal. Code of Regulations 20615.)**

3 The LEA, while observing the violations described in this Notice and Order, also  
4 observed that the Site operator did not have sufficient staff to properly prevent  
5 and/or address these violations as many have been re-occurring for several  
6 months. The Site operator has failed to make any meaningful progress in  
7 addressing the violations at issue since prior inspections, further indicating the  
8 operator’s insufficient number of qualified personnel on hand or readily available  
9 to address the serious violations that have been and continue to occur. Thus,  
10 because the owner and/or operator had failed to address this violation as of the  
11 time of the March 28, 2019, inspection, this violation was noted as a continued  
12 violation and was exacerbated as a result of the operator’s inaction.

13 6. During subsequent inspections conducted by the LEA between March 29, 2019, and June  
14 10, 2019, The LEA identified and informed the Site representative of the following  
15 violation:

16 a. **Permit Terms and Conditions – “The permit shall contain all terms and**  
17 **conditions which the enforcement agency determines to be appropriate for**  
18 **the operation of the solid waste facility. The operator shall comply with all**  
19 **terms and conditions of the permit.” (Public Resources Code § 44014.)**

20 The Site’s permit terms and conditions require the Site to utilize special handling  
21 for certain wastes. Per the Site’s permit, demolition debris shall be handled as  
22 follows: “Trucks delivering crushed asphalt or concrete suitable for road surfacing  
23 are directed to a separate dumping area where this material is stored for later use.  
24 The landfill supervisor designates locations for storage of these waste materials.  
25 Bulkier pieces of concrete, lumber, and other debris are placed at the toe of the  
26 working face and spread out evenly along the face.” (See Joint Technical  
27 Document and Subsequent Amendments, page 34, section 5.5.2, attached and  
28 incorporated into the Site’s permit.) Following the 2017 Napa Complex Fires, the

1 Site accepted large volumes of ash and debris wastes from cleanup operations.  
2 Loads containing primarily concrete from removed foundations were stored onsite  
3 for later reuse as road surfacing. Over the past winter, some of this stockpiled  
4 material was pushed over a steep embankment at the edge of the lined landfill in  
5 two separate locations upslope and downslope of the existing drainage basin  
6 outfall. The debris material upslope has since been removed by the Operator.  
7 The debris material downslope has not. This material contains large chunks of  
8 concrete with rebar, bricks, asphalt, PVC piping, small amounts of burned wood,  
9 and interspersed litter.

10 WHEREAS, since March 26, 2019, the LEA has conducted regular inspections at the Site, and  
11 has observed the following corrective actions taken by the owner and/or operator to address the  
12 violations described above:

- 13 1. In response to violations 1.a., 4.c., and 5.c., the owner and/or operator has hired a  
14 permanent facility manager, who has assumed responsibility for the Site's compliance as  
15 of May 20, 2019.
- 16 2. In response to violations 4.d. and 5.d., the owner and/or operator ceased using processed  
17 green waste as intermediate cover as of March 28, 2019.
- 18 3. In response to violation 4.e., the owner and/or operator has attested that the Site's trash  
19 compactor was repaired on April 19, 2019, and was placed back in service on April 22,  
20 2019.
- 21 4. In response to violations 1.c., 4.f., 4.g., 5.f., and 5.g., the owner and/or operator has  
22 installed temporary fire protection infrastructure, which was approved by the Napa  
23 County Fire Marshal on May 24, 2019. The operator has agreed to complete installation  
24 of permanent fire protection infrastructure on or before November 20, 2019.
- 25 5. In response to violations 4.h. and 5.h., the operator has repaired the pumping and related  
26 infrastructure for leachate collection, as well as rented or purchased tanks in which to  
27 collect leachate. The operator has also arranged for proper disposal of collected leachate.



1           6. In response to violations 4.i. and 5.i., the operator has increased staffing levels to  
2           sufficient levels.

3           7. In response to violation 6.a., the operator has removed and properly disposed of the  
4           demolition debris material.

5           8. The Site submitted a revised leachate control plan on June 1, 2019.

6           WHEREAS, consistent with Public Resources Code § 45010.2, the LEA previously met with or  
7           communicated with representatives of the Site on August 8, 2018, January 29, 2019, February 13, 2019,  
8           March 26, 2019, and March 28, 2019, to identify violations, review the applicable requirements, and  
9           determine what actions, if any, that the owner and/or operator may voluntarily take to bring the Site into  
10          compliance by the earliest feasible date; and

11          WHEREAS, the RWQCB issued a Notice of Violation on March 29, 2019, attached hereto as  
12          Exhibit “C”, describing observations and violations at the Site substantially similar to those described  
13          above. Specifically, the RWQCB’s Notice of Violation additionally cites the violations described in  
14          Paragraphs 4.h., 4.i., 5.h., and 5.i., immediately above; and

15          WHEREAS, Public Resources Code § 40194 states that a solid waste facility includes a solid  
16          waste transfer or processing station, a composting facility, a gasification facility, a transformation  
17          facility, an EMSW conversion facility and a disposal facility, and pursuant to Public Resources Code §  
18          45000, *et seq.*, the LEA may issue an order requiring that the owner and/or operator of the Site take  
19          corrective action as necessary to abate a nuisance or to protect human health and safety or the  
20          environment; and

21          WHEREAS, on March 29, 2019, the LEA issued Notice and Order No. EA-2019-01 (“Notice 1”)  
22          ordering corrective action to address the above-mentioned violations; and

23          WHEREAS, Notice 1 was served by personal service on the owner and operator of the Site on  
24          March 30, 2019; and

25          WHEREAS, on April 2, 2019, the Site submitted to the LEA a plan for controlling erosion and  
26          disposing of collected leachate as required by Corrective Actions 2.a. and 2.f. of Notice 1. However,  
27          such plan was determined to be unfeasible and unachievable, in part because the leachate disposal site  
28          had refused to accept the collected leachate without prior treatment. Additionally, the measures

1 employed to prevent leachate control were not effective. The Site did not submit a substitute plan  
2 acceptable to the LEA until June 1, 2019; and

3 WHEREAS, on April 10, 2019, the RWQCB issued Cleanup and Abatement Order No. R2-  
4 2019-0014 for the Site that included similar compliance steps outlined in Notice 1;

5 WHEREAS, in response to a request from the Site to allow reopening to the public, the LEA on  
6 April 26, 2019, issued Notice and Order No. EA-2019-02 (“Notice 2”) allowing public disposal until  
7 May 9, 2019. On May 8, 2019, the LEA issued First Amended Notice and Order No. EA-2019-02-A1  
8 (“Notice 2A1”) extending the permission for public disposal to May 31, 2019. On May 29, 2019, the  
9 LEA issued Second Amended Notice and Order No. EA-2019-02-A2 (“Notice 2A2”) allowing public  
10 disposal indefinitely, consistent with the terms and conditions imposed therein; and

11 WHEREAS, on May 9, 2019, the LEA issued First Amended Notice and Order No. EA-2019-  
12 01-A1 (“Notice 1A1”) to ensure consistency among orders, provide additional guidance to the Site to  
13 achieve compliance, and to address issues raised by the Site; and

14 WHEREAS, the Site and the LEA have continued to work toward compliance and completion of  
15 the corrective actions demanded in Notice 1 and Notice 1A1 and have a desire to continue to do so; and

16 WHEREAS, the Site and the LEA, with the advice and consent of their respective counsels, have  
17 negotiated this Stipulated Second Amended Notice and Order in order to resolve current outstanding  
18 issues raised in Notice 1 and Notice 1A1; and

19 WHEREAS, the Site and the LEA, with the advice and consent of their respective counsels, wish  
20 to stipulate to the corrective actions, terms, and conditions below.

21  
22 **NOW THEREFORE, PURSUANT TO PUBLIC RESOURCES CODE §§ 45000 AND**  
23 **45011 AND CALIFORNIA CODE OF REGULATIONS, TITLE 14, §§ 18304 AND 18304.1,**  
24 **CLOVER FLAT LANDFILL, INC., AND THE LEA HEREBY STIPULATE TO AND AGREE**  
25 **TO BE BOUND BY THIS STIPULATED SECOND AMENDED NOTICE AND ORDER AS**  
26 **FOLLOWS:**

- 27 1. The operator shall continue to comply with all of the following:  
28

- 1 a. Conduct all disposal by members of the public in a manner consistent with the  
2 orders and conditions specified in Notice 2, as amended.
- 3 b. Any and all solid waste received from commercial haulers shall be offloaded  
4 directly into the active landfill cell and shall not be offloaded onto the cement pad  
5 or any other surface with storm water drainage that flows directly into any  
6 waterway.
- 7 c. The operator shall not spread green waste or wood chips anywhere on the Site for  
8 any purpose.
- 9 d. As previously directed verbally by RWQCB and LEA inspectors on March 26,  
10 2019, all contaminated storm water runoff, black oily water, and leachate shall be  
11 captured, collected and either transported (by a permitted wastewater hauler)  
12 offsite to an approved wastewater disposal facility or used for dust control on the  
13 active landfill area if permitted by the RWQCB . The operator shall employ  
14 measures to prevent contaminated storm water, black oily water, and leachate  
15 from entering the creek as identified and cited in the Notice of Violation issued by  
16 the RWQCB (Exhibit C). Any additional or continued discharges shall be  
17 documented and reported to all local and state Authorities as required by law,  
18 regulations, or other applicable terms and conditions.
- 19 e. All previously identified locations of the active landfilling area shall remain  
20 covered with approved soil.
- 21 f. As needed, the operator shall update the submitted to-scale site plan identifying  
22 and marking all sources of suspected leachate contaminated runoff.
- 23 g. The operator shall continue to implement and maintain daily logs to track all of  
24 the following information:
- 25 i. Daily inspection of all leachate/condensate collection tanks, pumps, and  
26 temporary and permanent storm water and leachate collection  
27 infrastructure.
- 28 ii. Amounts of leachate pumped, collected, stored and transported offsite.

1 h. The operator shall continue to employ a permanent facility manager, or designate  
2 an existing employee or contractor as a permanent or interim facility manager, to  
3 serve as the LEA's point of contact for all inspections and for compliance with  
4 this Notice and Order. If the permanent facility manager is unable to perform  
5 their duties for any reason, including due to medical or other leave, the operator  
6 shall immediately designate or hire an interim facility manager who is  
7 knowledgeable of the Site and all operating procedures and who has the authority  
8 to make administrative and financial decisions necessary to continue safe  
9 operations at the Site and immediately address any new violations discovered  
10 during any LEA or other enforcement agency inspection.

11 i. The Site shall continue to provide adequate supervision of a sufficient number of  
12 qualified personnel to ensure proper operation of the Site in compliance with all  
13 applicable laws, regulations, permit conditions, and other legal requirements.

14 2. The operator shall implement an erosion and leachate control plan as approved or  
15 directed by the RWQCB.

16 3. The operator shall install and maintain permanent fire prevention infrastructure as  
17 directed or approved by the Napa County Fire Marshal.

18 4. The operator shall continue to implement the corrective actions taken as described in the  
19 recitals above.

20 5. Penalties and staff costs.

21 a. By failing to provide an adequate, feasible, and achievable erosion and leachate  
22 control plan no later than 5:00 p.m. on April 2, 2019, pursuant to Corrective  
23 Actions 2.a. and 2.f. in Notice 1, the Site failed to comply with the time schedule  
24 imposed by Notice 1. On May 9, 2019, the LEA issued Notice 1A1, which  
25 allowed the Site until June 1, 2019, to submit an adequate substitute plan. The  
26 Site complied with the deadline imposed by Notice 1A1. However, because the  
27 Site's submittal on or before April 2, 2019, was inadequate, the Site failed to  
28 comply with the LEA's Notice 1 for a period of thirty-six (36) days, from April 3,

1 2019, through May 9, 2019. Thus, civil penalties in the amount of \$180,000.00 –  
2 calculated by \$5,000.00 per violation for 36 days – are warranted under Public  
3 Resources Code § 45011. Given the Site’s ongoing efforts to comply with the  
4 Notice, as amended, the Site and the LEA agree to the penalties provided herein, a  
5 portion of which is suspended, as described in the sub-paragraphs immediately  
6 below.

- 7 b. **No later than the dates provided in Paragraph 5.c. below**, the Site shall pay to  
8 the LEA a total sum of \$107,020.30, which includes the following:
- 9 i. \$17,020.30 in staff costs accrued by the LEA relating to this matter; and
  - 10 ii. \$90,000.00 in civil penalties pursuant to Public Resources Code § 45011.
- 11 c. The Site’s total payment of \$107,020.30 shall be made to the LEA according to  
12 the following schedule:
- 13 i. \$35,673.44 shall be paid within three (3) days from the date on which this  
14 Stipulated Second Amended Notice and Order is executed by all the  
15 parties;
  - 16 ii. \$35,673.43 shall be paid on or before January 1, 2020; and
  - 17 iii. \$35,673.43 shall be paid on or before April 1, 2020.
- 18 d. The Site may also be required to pay the remaining \$90,000.00 in imposed  
19 penalties, but *only if* the Site fails to comply with the obligations imposed on the  
20 Site by this Stipulated Second Amended Notice and Order. The obligation to  
21 make this payment shall be suspended as long as the Site continues to complete  
22 performance of all of the obligations of this Stipulated Second Amended Notice  
23 and Order in good faith. If the Site fails to cure a default as provided for in  
24 Paragraph 6 immediately below or if the Site fails to continue compliance in good  
25 faith, then the LEA shall have the right pursuant to Public Resources Code §  
26 45011 to impose these penalties. Imposition of these civil penalties shall not  
27 waive or satisfy any other remedy that the LEA would be allowed to seek under  
28 this Stipulated Second Amended Notice and Order or at law.

1 6. The Site shall be given no more than two rights to cure a default any obligation described  
2 in this Stipulated Second Amended Notice and Order. The LEA will provide ten (10)  
3 days' notice to the Site of any default under this Stipulated Second Amended Notice and  
4 Order. For the purposes of this provision, it will be sufficient to constitute 10 days'  
5 written notice if the LEA's counsel provides notice by mail with proof of service and  
6 allows 15 days from the date of service to cure the default. The notice specified in this  
7 section shall be mailed to the breaching party's representative as follows:

8 Site

9 Clover Flat Landfill, Inc.  
10 Attn: Christy Pestoni  
11 1285 Whitehall Lane  
12 St. Helena, CA 94574

13 LEA

14 Napa County Solid Waste Local Enforcement Agency  
15 Attn: Peter Ex  
16 1195 Third Street, 2<sup>nd</sup> Floor  
17 Napa, CA 94559

18 If the Site fails to cure any default within the ten (10) days allotted, or if the Site is  
19 determined to be in default in a third or subsequent instance, then the Site shall be  
20 deemed to have failed to comply with an obligation imposed by this Stipulated Second  
21 Amended Notice and Order, and the LEA shall have the right and authority to seek any  
22 and all remedies described below and at law, including, but not limited to, demand for the  
23 remaining civil penalties imposed consistent with Paragraph 5.c. immediately above.

24 7. Waiver of right to request hearing.

25 a. By executing this Stipulated Second Amended Notice and Order, the Site agrees  
26 to waive its right to request a hearing relating to this Stipulated Second Amended  
27 Notice and Order and acknowledges that this Stipulated Second Amended Notice  
28 and Order shall become final fifteen (15) days after the date of issuance, pursuant  
to California Code of Regulations, Title 14, § 18304.2(b).

b. The Site reserves the right to request a hearing on any subsequent amended  
Notice and Order as to the amendments made.



- 1 8. This Stipulated Second Amended Notice and Order may be executed in counterparts with  
2 a facsimile or .PDF copy of any required signature having the same force and effect as  
3 the original signature. All such counterparts shall together constitute one and the same  
4 Stipulated First Amended Notice and Order.
- 5 9. The signatories to this Stipulated First Amended Notice and Order represent that they are  
6 authorized to sign this Stipulated First Amended Notice and Order on behalf of the  
7 parties for whom they are signing.
- 8 10. Upon LEA's confirmation that installation of permanent fire protection infrastructure and  
9 approval of the Fire Marshal described in Paragraph 3 immediately above, and upon  
10 payment of the penalties and costs detailed in Paragraph 5 immediately above, the LEA  
11 shall issue a final amended Notice and Order confirming that all issues have been  
12 corrected and rescinding all prior notices. Such final Notice and Order shall not relieve  
13 the Site of its obligations to comply with all laws, regulations, or other applicable terms  
14 and conditions. The LEA shall, in its sole discretion, reserve the right to issue any  
15 subsequent order necessary to achieve compliance relating to any of the Site's obligations  
16 in this Second Amended Notice and Order or any violations subsequently discovered.

17  
18 **PLEASE TAKE NOTICE THAT PURSUANT TO PUBLIC RESOURCES CODE §§**  
19 **45010.1, 45011, 45014, AND 45023**, if the above actions are not completed or complied with by the  
20 specified dates, the LEA may:

- 21 1. Impose administrative civil penalties in an amount not to exceed \$5,000 for each  
22 violation, for each day the violation continues from the issue date of the original Notice  
23 1. (Public Resources Code § 45010.1.)
- 24 2. Impose administrative civil penalties in an amount not to exceed \$5,000 per day for each  
25 day the Site fails to achieve compliance with the timeframes specified above. (Public  
26 Resources Code § 45011.)
- 27 3. Petition the superior court for injunctive relief to enforce this Notice and Order. (Public  
28 Resources Code § 45014.)

- 1           4. Petition the superior court for civil penalties in an amount not to exceed \$10,000 per day
- 2           for each violation. (Public Resources Code §§ 45023 and 45024.)
- 3           5. Seek suspension and/or revocation of the Site's operating permit, use permit(s), and other
- 4           entitlements and/or operational permissions as allowed by law. (Public Resources Code
- 5           §§ 44305 and 44306.)
- 6           6. Issue a subsequent or amended Notice and Order providing for additional or alternate
- 7           compliance orders, including, but not limited to, suspending landfill operations pursuant
- 8           to Paragraph 17.f. of the Enforcement Agency (EA) Conditions contained in the Site's
- 9           issued permit (Exhibit A).

10           In the event that the owner and/or operator of the Site cannot complete the above activities  
11 within the specified timeframes due to adverse weather or other factors beyond the control of the owner  
12 and/or operator, then the LEA may in writing extend the timeframes based upon those specific factors  
13 provided by the owner and/or operator.

14           Failure to remedy the aforementioned violations by the required dates may result in the LEA  
15 and/or CalRecycle expending available funds to perform any cleanup, abatement, or remedial work  
16 required under the circumstances set forth in Public Resources Code § 45000. If the LEA and/or  
17 CalRecycle expend(s) funds to perform any cleanup, abatement, or remedial work, the LEA and/or  
18 CalRecycle may seek cost reimbursement from responsible parties, pursuant to Public Resources Code  
19 §§ 48020, *et seq.*

20           Failure to allow or provide the LEA, CalRecycle or contractors for the LEA or CalRecycle with  
21 access to enter onto the property of the Site and perform all necessary cleanup, abatement, or remedial  
22 work may result in the LEA pursuing a warrant from the court to permit reasonable access to the  
23 property to perform the activity(ies), pursuant to Public Resources Code § 44100.

24           Nothing in this Stipulated Second Amended Notice and Order shall constitute or be construed as  
25 a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or  
26 future operations. Notwithstanding compliance with the terms of this Stipulated Second Amended  
27 Notice and Order, the owner and/or operator of the Site may be required to take further actions as  
28 necessary to protect the public health, safety, or the environment.

1           The LEA and/or CalRecycle shall not be liable for injuries or damages to persons or property  
2 resulting from acts or omissions by the owner and/or operator of the Site or related parties in carrying  
3 out activities pursuant to this Stipulated Second Amended Notice and Order, nor shall the LEA and/or  
4 CalRecycle be held as a party to any contract entered into by the owner and/or operator of the Site or  
5 their agent(s) in carrying out activities pursuant to this Notice and Order.

6           This Stipulated Second Amended Notice and Order is supported by the declaration of Peter Ex,  
7 Napa County Solid Waste Manager.

8           This Stipulated Second Amended Notice and Order does not relieve the owner and/or operator  
9 from complying with other local, state, and federal requirements, nor does it preclude the LEA or  
10 CalRecycle from taking any and all other actions allowed by law.

11           This Stipulated Second Amended Notice and Order may only be amended in writing signed by  
12 an appropriate representative of the LEA and the operator. The LEA shall, in its sole discretion, reserve  
13 the right to issue any subsequent order necessary to achieve compliance relating to any of the Site's  
14 obligations in this Second Amended Notice and Order or any violations subsequently discovered.

15  
16           **PLEASE TAKE NOTICE THAT:**

- 17           1. By signing this Stipulated Second Amended Notice and Order, you have agreed to waive  
18 your right under Public Resources Code § 44307.
- 19           2. Should any subsequent or additional amended Notice and Order be issued by the LEA,  
20 you have the right to appeal such subsequent or additional amended Notice and Order to  
21 the Hearing Panel. (Public Resources Code § 44307.)
- 22           a. If you wish to appeal a subsequent or additional amended Notice and Order to the  
23 Hearing Panel, you must do so by submitting a written request for a hearing to the  
24 undersigned, together with a statement of issues on which your appeal is based,  
25 within 15 days from the date you receive the subsequent or additional amended  
26 Notice and Order. (Public Resources Code § 44310.)
- 27           b. An appeal of any subsequent or additional amended Notice and Order does not  
28 stay the effect of any provision of the Notice and Order; however, you may

1 petition the Director of CalRecycle, in writing, to stay the effect of a subsequent  
2 or additional amended Notice and Order, or portion thereof, pending the  
3 completion of your administrative appeals. (Public Resources Code § 45017.)  
4

5 [Remainder of page intentionally left blank; signature page follows.]  
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1 This Stipulated Second Amended Notice and Order is issued as of the date on which it is  
2 executed by all parties as set forth below.

3  
4 **LEA**

5  \_\_\_\_\_ Date: 10/18/19

6 David Morrison  
7 Director, Napa County Planning, Building, and Environmental Services  
8 Acting as the Local Enforcement Agency for Napa County  
9 1195 Third St., Suite 210  
Napa, CA 94559

10 Approved as to form:

11  \_\_\_\_\_ Date: 10/18/19

12 John L. Myers, Deputy County Counsel  
13 Attorney for the LEA

14  
15 **SITE**

16  \_\_\_\_\_ Date: 10/18/2019

17 Christy Pestoni  
18 Secretary  
19 Clover Flat Landfill, Inc.

20  \_\_\_\_\_ Date: 10/18/2019

21 Sylvia Pestoni  
22 President  
23 Clover Flat Landfill, Inc.

1 **DECLARATION IN SUPPORT OF NOTICE AND ORDER**


2 I, Peter Ex, declare as follows:

3 1. I am currently employed as Solid Waste Manager by the Napa County Department of  
4 Planning, Building, and Environmental Services (“PBES”). Prior to being appointed as Solid Waste  
5 Manager, I served as Acting Solid Waste Manager for approximately three (3) months. Prior to serving  
6 as Acting Solid Waste Manager, I was employed by PBES for approximately seven (7) years as Senior  
7 Environmental Health Specialist. My duties at PBES, in both positions in which I have served, include  
8 inspecting solid waste facilities and disposal sites in Napa County to determine their compliance with  
9 the Integrated Waste Management Act (Public Resources Code §§ 40000, *et seq.*) (the “Act”) and  
10 CalRecycle regulations issued pursuant to the Act.

11 2. I have personal knowledge of the violations and corrective actions described in this  
12 Stipulated Second Amended Notice and Order through visual observations of the Site during inspections  
13 and meetings with the owner and/or operator conducted on January 29, 2019, February 13, 2019, March  
14 26, 2019, and March 28, 2019, and recurring weekly visits to the Site since March 28, 2019, as well as  
15 other correspondence with the owner and/or operator as described in this Stipulated Second Amended  
16 Notice and Order and all preceding versions of said Notice and Order.

17  
18 I declare under penalty of perjury that the foregoing is true and correct.

19  
20 DATED: 10/24/19

21  
22   
23 \_\_\_\_\_  
24 Peter Ex, Solid Waste Manager, Napa County Planning, Building, and Environmental Services  
25 Acting as the Local Enforcement Agency for Napa County  
26  
27  
28