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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9**

75 Hawthorne Street
San Francisco, CA 94105

In the matter of:	)	U.S. EPA Docket No.
	)	
	)	SDWA 09-2026-0084
I. Kitagawa and Company, Limited,	)	
	)	Proceeding under Section 1423(c)
	)	of the Safe Drinking Water
Respondent	)	Act, 42 U.S.C. § 300h-2(c)
	)	

CONSENT AGREEMENT AND FINAL ORDER

I. AUTHORITIES AND PARTIES

1. The United States Environmental Protection Agency, Region 9 ("EPA") and I. Kitagawa and Company, Limited ("Respondent") (collectively with EPA the "Parties") agree to settle this matter and consent to the entry of this Consent Agreement and Final Order ("CA/FO"). This CA/FO is an administrative action commenced and concluded under Section 1423(c)(1) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. § 300h-2(c)(1), and Sections 22.13(b), 22.18(b)(2) and (3), and 22.45 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits set forth at 40 C.F.R. Part 22 ("Consolidated Rules").

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2. Complainant is, by lawful delegation, the Director of the Enforcement and Compliance Assurance Division of EPA, Region 9. The Administrator of EPA delegated the authority to bring and settle this action under the SDWA to the Regional Administrator of EPA Region 9. In turn, the Regional Administrator further delegated the authority to bring this action and sign a consent agreement settling this action under the SDWA to the Director of the Enforcement and Compliance Assurance Division.
3. Respondent is I. Kitagawa and Company, Limited, a company formed in the State of Hawaii and registered to do business in Hawaii.
4. Where the Parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order. *See* 40 C.F.R. § 22.13(b).
5. The Parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their respective interest and in the public interest.
6. Respondent consents to the terms of this CA/FO, including the assessment of a civil penalty and the performance of the compliance requirements, both as specified below.

II. JURISDICTION AND WAIVER OF RIGHT TO JUDICIAL REVIEW AND HEARING

7. The Parties enter into this agreement for the purpose of resolving claims brought by EPA for alleged violations of the SDWA. Consistent with 40 C.F.R. § 22.18(b), for purposes of the proceeding, Respondent admits the jurisdictional allegations of the CA/FO; neither admits nor denies specific factual allegations contained in the CA/FO; consents to the assessment of any stated civil penalty, and to any conditions specified in the CA/FO; and waives any right to contest the allegations and right to appeal the proposed Final Order accompanying the CA/FO. By signing this CA/FO, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to, any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the CA/FO.
8. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of law or fact set forth in this CA/FO including, but not limited to, its right to request a hearing under 40 C.F.R. § 22.15(c) and Section 1423(c)(3) of the SDWA, 42 U.S.C. § 300h-2(c)(3); its right to seek federal judicial review of the CA/FO pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-06; any right to contest the allegations in this CA/FO; and its right to appeal this CA/FO under Section 1423(c)(6) of the SDWA, 42

U.S.C. § 300h-2(c)(6). Respondent also consents to the issuance of this CAFO without further adjudication.

III. STATUTORY AND REGULATORY AUTHORITY

9. Section 1421 of the SDWA, 42 U.S.C. § 300h, requires that the Administrator of EPA promulgate regulations, which shall include permitting requirements as well as inspection, monitoring, recordkeeping, and reporting requirements, for state underground injection control (“UIC”) programs to prevent underground injection from endangering drinking water sources.
10. Section 1421(d)(1) of the SDWA, 42 U.S.C. § 300h(d)(1), defines “underground injection” as the subsurface emplacement of fluids by well injection and excludes the underground injection of natural gas for purposes of storage and the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.
11. Pursuant to Sections 1421 and 1422 of the SDWA, 42 U.S.C. §§ 300h and 300h- 1, respectively, EPA has promulgated UIC regulations at 40 C.F.R. Parts 124, 144, 146, 147 (Subpart M), and 148.
12. 40 C.F.R. § 144.1(g) provides that the UIC programs regulate underground injection by six classes of wells, and all owners or operators of these injection wells must be authorized either by permit or rule.
13. Section 1401(6) of the SDWA, 42 U.S.C. § 300f(6), and 40 C.F.R. § 144.3 define “contaminant” as any physical, chemical, biological, or radiological substance or matter in water.
14. 40 C.F.R. § 144.3 defines “fluid” as any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.
15. 40 C.F.R. § 144.3 defines “well injection” to mean the subsurface emplacement of fluids through a well.
16. 40 C.F.R. § 144.3 defines “well” to mean, in relevant part, a dug hole whose depth is greater than the largest surface dimension.
17. 40 C.F.R. § 144.3 defines a “cesspool” as a “drywell,” which is a type of “well” that is completed above the water table.

18. 40 C.F.R. § 144.81(2) defines “large capacity cesspools” (“LCCs”) to include “multiple dwelling, community or regional cesspools, or other devices that receive sanitary wastes, containing human excreta, which have an open bottom and sometimes perforated sides.” LCCs do not include single-family residential cesspools or non-residential cesspools which receive solely sanitary waste and have the capacity to serve fewer than twenty (20) persons per day. *Id.*
19. 40 C.F.R. §§ 144.80(e) and 144.81(2) classify LCCs as Class V injection wells.
20. 40 C.F.R. § 144.3 defines Class V injection wells as a “facility or activity” subject to regulation under the UIC program.
21. Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), defines “person” as an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency). *See also* 40 C.F.R. § 144.3.
22. 40 C.F.R. § 144.3 defines “owner or operator” to mean the owner or operator of any “facility or activity” subject to regulation under the UIC program.
23. Pursuant to 40 C.F.R. § 144.82, the “owner or operator” of a Class V well “must comply with Federal UIC requirements in 40 C.F.R. Parts 144 through 147,” and must also “comply with any other measures required by States or an EPA Regional Office UIC Program to protect [underground sources of drinking water.]”
24. 40 C.F.R. §§ 144.84(b)(2) and 144.88 requires owners or operators of existing LCCs to have closed them by April 5, 2005. New LCCs were prohibited as of April 5, 2000. *Id.*
25. Pursuant to Section 1422(c) of the SDWA, 42 U.S.C. § 300h-1(c), and 40 C.F.R. § 147.601, EPA administers the UIC program in the State of Hawaii.
26. Section 1423(a)(2) of the SDWA, 42 U.S.C. § 300h-2(a)(2), provides that any person found to be in violation of any requirement of an applicable UIC program in a state that does not have primacy may be assessed a civil penalty and be subject to an order requiring compliance pursuant to Section 1423(c)(1) of the SDWA, 42 U.S.C. § 300h-2(c)(1).
27. Under Section 1423(c)(1) of the SDWA, 42 U.S.C. § 300h-2(c)(1), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$28,619 for each day of violation, up to a maximum administrative penalty of \$357,729 where penalties are assessed after January 8, 2025, and issue an order requiring compliance.

IV. FACTUAL ALLEGATIONS AND ALLEGED VIOLATIONS

EPA alleges the following facts and violations:

28. Respondent is a company, association and/or partnership and therefore is a “person” within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 144.3.
29. Respondent owns a property (the Captain Cook Property) which is identified as TMK No. 3-8-1-009-011 and encompasses a single commercial building located at 81-6245 Mamalahoa Highway in Captain Cook, Hawaii.
30. Respondent is the “owner” or “operator” of a cesspool at the Captain Cook Property.
31. The cesspool which services the Captain Cook Property meets the regulatory criteria of an LCC, as that term is described at 40 C.F.R. § 144.81(2), in that the cesspool serves multiple dwellings and/or has the capacity to serve twenty (20) or more persons per day.
32. Respondent owns a property (the Waimea Property) which is identified as TMK No. 3-6-4-006-011 and encompasses a single commercial building located at 64-1019 Mamalahoa Highway in Waimea, Hawaii.
33. Respondent is the “owner” or “operator” of a cesspool at the Waimea Property.
34. The cesspool which services the Waimea Property meet the regulatory criteria of an LCC, as that term is described at 40 C.F.R. § 144.81(2), in that the cesspool serves multiple dwellings and/or has the capacity to serve twenty (20) or more persons per day.
35. EPA’s inspection of the Captain Cook and Waimea Properties during June 4-5, 2025 indicated that the alleged LCCs at each property currently receive sanitary waste.
36. Respondent failed to close the alleged LCCs at the Captain Cook and Waimea Properties after April 5, 2005.
37. Each day that Respondent’s failure to close the alleged LCCs at the Captain Cook and Waimea Properties after April 5, 2005, constitutes a violation of 40 C.F.R. §§ 144.84(b)(2) and 144.88.

V. SETTLEMENT TERMS

A. Civil Penalty

38. Section 1423(c)(4)(B) of the SDWA, 42 U.S.C. 300h-2(c)(4)(B), requires the Administrator to take into account the seriousness of the violation, the economic benefit (if any) resulting from the violation, any history of such violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require, when assessing a civil penalty for violations of the SDWA.
39. Within thirty (30) days of the Effective Date of this CA/FO, Respondent must pay a civil penalty of ONE HUNDRED FORTY-EIGHT THOUSAND FOUR HUNDRED SIXTY-EIGHT DOLLARS (\$148,468) as directed in paragraph 40 below.
40. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For any payments made after September 30, 2025, and in accordance with the March 25, 2025 Executive Order on [Modernizing Payments To and From America's Bank Account](#), Respondent shall pay using one of the electronic payments methods listed on [EPA's How to Make a Payment website](#) and will not pay with a paper check.
41. After payment, Respondent shall immediately provide proof of payment to the Regional Hearing Clerk at the following address:

Regional Hearing Clerk
U.S. U.S. Environmental Protection
Agency, ORC-1 75 Hawthorne Street
San Francisco, CA 94105
r9HearingClerk@epa.gov

Respondent shall also send notice of payment and a transmittal letter via email to the EPA Region 9 Enforcement and Compliance Assurance Division's Enforcement Officer and the EPA Region 9 Office of Regional Counsel attorney identified in Paragraph 60.

42. This civil penalty represents an administrative civil penalty and shall not be deductible for purposes of federal taxes. 26 U.S.C. § 162(f).
43. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, in addition to any stipulated penalties due under Paragraphs 50-55, Respondent must pay the following on any penalty amount overdue under this CA/FO: interest accrued on any overdue amount

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from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings; a \$15 handling charge fee each month that any portion of the penalty is more than thirty (30) days past due; and 6% per year penalty on any principal amount ninety (90) days past due.

44. If Respondent does not pay timely the civil penalty due under Paragraph 39 and/or any stipulated penalties due under Paragraphs 50-55, EPA may request the United States Department of Justice bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expense for the collection action under Section 1423(c)(7) of the SDWA, 42 U.S.C. § 300h-2(c)(7). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

B. Compliance Requirements

45. As required by Section 1423(c)(1) of the Act, 42 U.S.C. § 300h-2(c)(1), and consistent with the timeframes set forth below, Respondent shall:
 - a. Within thirty (30) days of the Effective Date of the final CA/FO, provide a status report regarding closure of the LCCs, and thereafter provide a monthly report by the end of the month until the Final LCC Closure Report has been submitted.
 - b. By June 1, 2027, close the LCCs at the Captain Cook and Waimea Properties in accordance with 40 C.F.R. §§ 144.84(b)(2), 144.88(a), and 144.89(a), and all other applicable requirements, including all Hawaii Department of Health ("HDOH") closure, conversion, and/or replacement requirements.
 - i. If Respondent connects to a municipal or private sewer system, then that connection shall comply with all applicable federal, state, and county laws, regulations, and permitting requirements governing connection to the sewer system;
 - ii. Alternatively, if Respondent installs one or more replacement wastewater system, such as Individual Wastewater System ("IWS"), then installation and operation of such system shall comply with all applicable federal, state, and county laws, regulations, and permitting requirements, including those of the HDOH.

- c. Within thirty (30) days of the closure of each of the LCCs, submit to EPA a Final LCC Closure Report which includes the following information for each LCC:
 - i. A description of the process by which the LCC was closed, including the equipment used;
 - ii. Photographic evidence of construction and completion;
 - iii. Identification of the contractor(s) providing the service;
 - iv. A copy of the cesspool backfill closure report; and
 - v. A copy of all approvals related to the closure of the LCCs and any replacement wastewater systems, such as sewer connection or an IWS or, issued by HDOH, the County of Hawaii, or any other agency. Should the applicable agency issue its approval after the Final LCC Closure Report is due, Respondent shall note the pending status and submit the approval to EPA within fourteen (14) days of Respondent's receipt of the approval.
- 46. Where any compliance obligation under this Section requires Respondent to obtain a federal, state, or local permit, approval or waiver, Respondent shall submit timely and complete applications to obtain all such permits or approvals. Respondent may seek relief under the provisions of Section F ("Force Majeure") of this CA/FO for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval related to fulfill such obligation, including Paragraph 45(b)(i) and 45(b)(ii), if Respondent has submitted timely and complete applications to obtain all such permits, approvals or waivers.
- 47. If Respondent fails to comply with the requirements set forth in Paragraph 45 above, EPA may request that the United States Department of Justice bring an action to seek penalties for violating this CA/FO under Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b).

C. Reporting Requirements

- 48. Respondent shall submit progress reports to the EPA Region 9 Compliance Officer each month with the first report within thirty (30) days after the Effective Date of this CA/FO. Subsequent reports shall be due by the end of the month until the Final LCC Closure

Report has been submitted. Each progress report shall detail Respondent's work during the one-month period towards meeting all applicable compliance deadlines.

49. Each progress report must be accompanied with a certification, as described in Paragraph 61 from Respondent's authorized representatives.

D. Stipulated Penalties

50. Respondent shall pay stipulated penalties in accordance with this Section for any violations of this CAFO.
51. If Respondent fails to make the payment specified in Section V.A or fails to comply with the requirements regarding the closure of the alleged LCCs at the properties specified in Section V.B, Respondent agrees to pay in addition to the assessed penalty, a stipulated penalty of \$300 per day per violation for each day the Respondent is late meeting the applicable requirements.
52. If Respondent fails to timely submit any reports, such as those required under Sections V.B or V.C, in accordance with the timelines set forth in this CA/FO, Respondent agrees to pay a stipulated penalty of \$100 for each day after the report was due until Respondent submits the report in its entirety.
53. Respondent agrees to pay any stipulated penalties within thirty (30) days of receipt of EPA's written demand for such penalties. All penalties shall begin to accrue on the first date of noncompliance and shall continue to accrue through the date of completion of the delinquent CA/FO requirement. Respondent will use the method of payment specified in Paragraph 40 and agree to pay interest, handling charges and penalties that accrue for late payment of the stipulated penalty in the same manner as set forth in Paragraph 40.
54. Neither the demand for, nor payment of, a stipulated penalty relieves Respondent of its obligation to comply with any requirement of this CA/FO or modifies or waives any deadlines set forth in this CA/FO.
55. EPA may, in the unreviewable exercise of its discretion, elect to pursue any other administrative or judicial remedies for violations of this CA/FO in addition to or in lieu of assessing stipulated penalties and/or reduce or waive stipulated penalties due under this CAFO.

E. Tax Identification

56. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to annually send to the Internal Revenue Service (“IRS”) a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Respondent’s failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondent shall complete the following actions as applicable.
- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irspdf/fw9.pdf>.
 - b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN.
 - c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Division at sherrer.dana@epa.gov, on or before the date that Respondent’s initial penalty payment is due, pursuant to Paragraphs 39 and 40 of the CA/FO, or within 7 days should the order become effective between December 15 and December 31 of the calendar year. EPA recommends encrypting IRS Form W-9 email correspondence.
 - d. If Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Division with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of a TIN issued by the IRS.

F. Force Majeure

57. For purposes of this CA/FO, *Force Majeure* is defined as any event arising from causes that are beyond the control of Respondent, any entity controlled by Respondent, or Respondent’s contractors, which delays or prevents the performance of any obligation

under this CA/FO, including Paragraph 45(b)(i) and 45(b)(ii), despite Respondent's reasonable best efforts to fulfill the obligation. The requirement that Respondent exercise "reasonable best efforts to fulfill the obligation" includes using reasonable best efforts to anticipate any potential *Force Majeure* event and reasonable best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. Examples of *Force Majeure* events include, but are not limited to, unforeseen environmental, geological, or archaeological conditions; or pandemics, epidemics, or disease, or the failure to obtain, or delay in obtaining a permit, as provided in Paragraph 46 above. Examples of events that are not *Force Majeure* include, but are not limited to, increased costs or expenses of any work to be performed under this CA/FO and normal inclement weather.

58. Respondent shall exercise its best efforts to avoid or minimize any delay and any effects of a delay. If any event occurs which causes or may cause delays meeting the deadlines set forth in this CA/FO, Respondent or its attorney shall, within seventy-two (72) hours of the delay or within seventy-two (72) hours of Respondent's knowledge of the anticipated delay, whichever is earlier, notify EPA points of contact in Paragraph 60 by email. Within fifteen (15) days thereafter, Respondent shall provide in writing the reasons for the delay, the anticipated duration of the delay, the measures taken or to be taken to prevent or minimize the delay, and a timetable by which those measures will be implemented. Failure to comply with the notice requirement of this Paragraph shall preclude Respondent from asserting any claim of Force Majeure.
59. If EPA agrees in writing that the delay or anticipated delay in compliance with this CA/FO has been or will be caused by circumstances beyond the control of Respondent, the time for performance may be extended for the period of the delay resulting from the circumstances causing the delay. In such event, EPA will grant in writing an extension of time. An extension of the time for performing an obligation granted by EPA pursuant to this Paragraph shall not, of itself, extend the time for performing a subsequent obligation.

VI. SUBMISSIONS REQUIREMENTS

60. All reports, notifications, documentation, submissions, and other correspondence required to be submitted by this Order must be submitted to EPA electronically, to the extent possible. If electronic submittal is not possible, submissions may be made by certified mail (return receipt requested). The subject line of all email correspondence must include the facility name, docket number, and subject of the deliverable. All electronically submitted materials must be in final and searchable format, such as Portable Document Format (PDF) with Optical Character Recognition (OCR) applied. Electronic or mailed submissions shall be sent to the individuals identified below:

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Jelani Shareem (ECAD-3-3)
EPA Region 9
Enforcement and Compliance Assurance
Division
75 Hawthorne Street
San Francisco, CA 94105
shareem.jelani@epa.gov

and

David H. Kim (ORC-3-1)
EPA Region 9
Office of Regional Counsel
75 Hawthorne Street
San Francisco, CA 94105
kim.david@epa.gov

61. All reports, notifications, documentation, and submissions must be signed by a duly authorized representative of Respondent and shall include the following statement consistent with 40 C.F.R. § 144.32(d):

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that the qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

62. If Respondent finds at any time after submitting information that any portion of that information is false or incorrect, the signee must notify EPA immediately. Knowingly submitting false information to EPA in response to this CA/FO may subject Respondent to criminal prosecution under Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b), as well as 18 U.S.C. §§ 1001 and 1341.
63. Submissions required by this CA/FO shall be deemed submitted on the date they are sent electronically or on the date postmarked if sent by U.S. mail.

- 64. EPA may use any information submitted in accordance with this CA/FO in support of an administrative, civil, or criminal action against Respondent.
- 65. The information required to be submitted pursuant to this CA/FO is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501 *et seq.*

VII. GENERAL PROVISIONS

- 66. Full payment of the penalty as described in Section V.A., above, and full compliance with this CA/FO as described in Section V.B. shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in Section IV of this CA/FO. Violation of this CA/FO shall be deemed a violation of the SDWA for purposes of Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b).
- 67. The Parties consent to service of this CA/FO by e-mail at the following valid e-mail addresses:

For Complainant:

shareem.jelani@epa.gov

kim.david@epa.gov

For Respondent:

nan@ikitagawa.com

dcodiga@schlackito.com

- 68. This CA/FO, inclusive of exhibits, appendices, and attachments, is the entire agreement between the parties.
- 69. The provisions of this CA/FO shall apply to and be binding upon Respondent, and its respective officers, directors, employees, and successors or assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform their obligations under this CA/FO except for extensions of time to complete such obligations provided by EPA pursuant to Paragraphs 57-59.
- 70. Full compliance with this CA/FO does not in any manner affect the right of EPA or the United States to pursue appropriate injunctive relief or other equitable relief or criminal sanctions for any violation of law, except with respect to the claims described in Section IV that have been specifically resolved by this CA/FO.

71. This CA/FO is not a permit or modification of a permit and does not affect Respondent's obligations to comply with all federal, state, local laws, ordinances, regulations, permits, and orders. Issuance of, or compliance with, this CA/FO does not waive, extinguish, satisfy, or otherwise affect Respondent's obligation to comply with all applicable requirements of the SDWA, regulations promulgated thereunder, or any order or permit issued thereunder, except as specifically set forth herein.
72. EPA reserves any and all legal and equitable remedies available to enforce this CA/FO, as well as the right to seek recovery of any costs and attorneys' fees incurred by EPA in any actions against Respondent for noncompliance with this CA/FO.
73. Unless otherwise specified, the Parties shall each bear their own costs and attorney fees in this action.
74. This CA/FO may be executed and transmitted by facsimile, email, or other electronic means, and in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute an instrument. If any portion of this CA/FO is determined to be unenforceable by a competent court or tribunal, the Parties agree that the remaining portions shall remain in full force and effect.
75. The undersigned representative of each party certifies that he or she is duly and fully authorized to enter into and ratify this CA/FO.
76. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of Section V.B is restitution or required to come into compliance with the law.

VIII. EFFECTIVE DATE

77. Pursuant to 40 C.F.R. § 22.45, this CA/FO will be subject to public notice and comment at least forty (40) days prior to it becoming effective through the issuance of the final order by the Regional Judicial Officer.
78. The parties acknowledge and agree that final approval by EPA of this CA/FO is subject to 40 C.F.R. § 22.45(c)(4), which sets forth requirements under which a person not a party to this proceeding may petition to set aside a consent agreement and final order on the basis that material evidence was not considered.
79. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the final order contained in this CA/FO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

FOR RESPONDENT I. KITAGAWA AND COMPANY, LIMITED.:

Nan I Kitagawa

Nan Kitagawa, President

FOR COMPLAINANT U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 9:

AMY MILLER-
BOWEN

Digitally signed by AMY
MILLER-BOWEN
Date: 2026.08.10 10:57:16
-07'00'

Amy C. Miller-Bowen, Director
Enforcement and Compliance Assurance Division