IMPERIAL COUNTY

DIVISION OF ENVIRONMENTAL HEALTH

797 MAIN STREET, SUITE B, EL CENTRO, CA 92243

LOCAL ENFORCEMENT AGENCY

IN THE MATTER OF: Imperial Solid Waste Site (Facility No.13-AA-0001), 1705 W. Worthington Road, Imperial, CA. Described by the following legal description: Parcel A of LLA #132, Section 24, Township 15 South, Range 12 East, SBB&M (APN: 034320050)	**AMENDED NOTICE AND ORDER** **NO. EA-2008-03** Public Resources Code Division 30, Section 44106. California Code of Regulations Title 27, Section 20820.

To: County of Imperial
William S. Brunet, Director
Imperial County Department of Public Works
155 South 11th Street
El Centro, CA 92243

PLEASE TAKE NOTICE:

On October 30, 2009, the Imperial County Local Enforcement Agency (LEA) issued Notice and Order EA-2008-03 to the Imperial County Department of Public Works (Operator) directing the Operator to correct violations of 27 CCR 20820 – Drainage and Erosion Control at the Imperial Solid Waste Site within a stipulated timeframe. The Operator was directed in Notice and Order EA-2008-03 to submit a work plan approved by the Regional Water Quality Control Board (RWQCB) and the Local Enforcement Agency (LEA) by February 1, 2009 and to correct the seepage within the disposal footprint by May 15, 2009. The Operator was also directed to obtain necessary approvals to install an access road along the toe of the western slope by May 15, 2009.

On February 2, 2009, the operator submitted an incomplete work plan to the LEA and the RWQCB and a request for additional information was provided to the Operator by the LEA on February 11, 2009 and by the RWQCB on March 13, 2009. The Operator has failed to submit a complete remediation work plan for the Imperial Solid Waste Site within the stipulated deadline and has also failed to obtain necessary approvals to install an access road along the toe of the western slope as directed in Notice and Order EA-2008-03.

Inspections of the site conducted by the Local Enforcement Agency since May 13, 2008, documented that the Imperial Solid Waste Site was in violation of Title 27 CCR § 20820 – Drainage and Erosion Control. Groundwater seepage was observed surfacing within the disposal footprint. Written notices of these violations were provided to the operator.

On October 15, 2008, the California Integrated Waste Management Board placed the Imperial Solid Waste Site in the Inventory of Solid Waste Facilities that Violate State Minimum Standards (Inventory) pursuant to Section 44104 of the Public Resources Code (PRC). Since the Operator of the Imperial Solid Waste Site has repeatedly failed to comply with the requirements of Title 27 of the California Code of Regulations (CCR), the LEA has the authority pursuant to Section 44106(b) of the Public Resources Code to order a compliance schedule to ensure progress will be made to bring the facility into compliance.

On May 15, 2009, the Imperial County Department of Public Works submitted a request to the LEA for an extension to the deadline to submit an approved ground water seepage remediation work plan, to fully implement the monitoring and remediation plan, and to obtain the necessary approvals to install an access road along the toe of the western slope due to the following factors:

1. Permitting and approval delays from the jurisdictional regulatory agencies.
2. The initiation of remediation activities at the site is dependent upon the completion of a public bidding process and local Board of Supervisors approval.
3. A study for the delineation of waters of the U.S. and wetlands must be completed at the site to obtain necessary approvals from regulatory agencies to construct the access road.

The LEA finds that these reasons for an extension to be reasonable and outside of the control of the operator. The LEA hereby amends the timeframes specified in Notice and Order EA-2008-03 to those listed in this Amended Notice and Order.

WHEREAS, the Imperial Solid Waste Site is located at 1705 W. Worthington Road, (approximately 6 miles west of the City of Imperial, California), described as Parcel A of LLA # 132, located in Section 24, Township 15 South, Range 12 East, San Bernardino Baseline and Meridian, Assessor Parcel Number: 034320050;

WHEREAS, the Imperial County Local Enforcement Agency has the authority to act in the capacity of an enforcement agency (EA) for this facility pursuant to the Public Resources Code, Section 43200 et seq., and is so acting; and

WHEREAS, the Imperial County Department of Public Works shall operate the Imperial Solid Waste Site (Facility Number: 13-AA-0001) in accordance with Title 27 of the California Code of Regulations.

THEREFORE, YOU ARE HEREBY ORDERED TO DO THE FOLLOWING:

Complete the following actions on or before the amended dates specified herein:

1. Submit a remediation work plan to correct groundwater seepage located within the disposal footprint.	**September 4, 2009**
2. Correct seepage within disposal footprint to the satisfaction of the RWQCB and the LEA. No waste shall be disposed of within the impacted location.	**December 18, 2009**
3. Obtain necessary approvals to install an access road along the toe of the western slope for ongoing maintenance and erosion control.	**May 14, 2010**

FURTHER NOTICE:

PURSUANT TO PRC SECTIONS 44305, 44306, 45011, 45014, AND 45023, if the above actions are not completed or complied with by the specified dates, the Local Enforcement Agency may:

1. Petition the superior court for injunctive relief to enforce this Notice and Order. [PRC Section 45014]
2. Petition the superior court for civil penalties in an amount not to exceed $10,000 per day for each violation. [PRC Section 45023 and 45024]
3. Impose administrative civil penalties in an amount not to exceed $5,000 per day for each day the facility fails to achieve compliance with the time frames specified above. [PRC Section 45011]
4. Suspend or revoke the Solid Waste Facility Permit. [PRC Sections 44305 and 44306]

In the event the time frames for completion of the above-specified activities cannot be adhered to due to adverse weather or other factors not in the control of the operator, the LEA may extend the time frames based upon those specific factors provided by the operator in writing. Any such extension to the time frames or other amendment to this Notice and Order shall be in the form of an Amended Notice and Order.

Failure to remedy the aforementioned violation(s) by the required date(s) may result in the California Integrated Waste Management Board (CIWMB) expending available funds to perform any cleanup, abatement, or remedial work needed to protect public health and safety or the environment pursuant to Public Resources Code section 48020. If the CIWMB expends funds to perform any cleanup, abatement, or remedial work, the CIWMB may seek repayment from responsible parties pursuant to Public Resources Code 48020 et seq. Moreover, funds so expended by the CIWMB constitute a lien upon the real property owned by any responsible party that is subject to the remedial action, pursuant to Public Resources Code section 48023.5.

Nothing in this Notice and Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations. Notwithstanding compliance with the terms of this Notice and Order, the owner and

operator may be required to take further actions as necessary to protect the public health, safety, or the environment.

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

This Notice and Order is supported by the accompanying declaration of Fernando Villa.

This Notice and Order does not relieve the owner or operator from complying with all other local, state, and federal requirements, nor does it preclude the LEA or the CIWMB from taking any and all other actions allowed by law.

This Notice and Order may only be amended in writing by an appropriate representative of the LEA.

PLEASE TAKE NOTICE THAT:

Pursuant to Title 14 CCR Section 18304(b)(8), the person or entity named in this Notice and Order has the right to appeal this Notice and Order to the Hearing Panel [PRC Section 44307]. A request for a hearing before the Hearing Panel must be filed within 15 days from the date of receipt of this Notice and Order. [PRC Section 44310]

This Notice and Order is issued as of the date set forth below.

Dated: 5-28-09

F Villa

Fernando Villa
Environmental Health Compliance Specialist II
Local Enforcement Agency
Imperial County Public Health Department
Division of Environmental Health

BEFORE THE

IMPERIAL COUNTY DIVISION OF ENVIRONMENTAL HEALTH

LOCAL ENFORCEMENT AGENCY

IN THE MATTER OF: Imperial Solid Waste Site (Facility No.13-AA-0001), 1705 W. Worthington Road, Imperial, CA. Described by the following legal description: Parcel A of LLA #132, Section 24, Township 15 South, Range 12 East, SBB&M (APN: 034320050) **County of Imperial** **William S. Brunet, P.E., Director** **Imperial County Department of Public Works**	**AMENDED NOTICE AND ORDER** **NO. EA-2008-03** **DECLARATION OF FERNANDO VILLA**

I, Fernando Villa, declare that,

1. I am currently, and was at all times referenced herein, employed as an Environmental Health Compliance Specialist II by the Imperial County Public Health Department, Division of Environmental Health, which serves as the Local Enforcement Agency (LEA) for the County of Imperial, as authorized by the California Integrated Waste Management Board.

2. I have personal knowledge that the Imperial Solid Waste Site is in violation of the California Public Resources Code and Title 27, California Code of Regulations as described in attached Amended Notice and Order EA-2008-03.

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

DATED: 5-28-09

F Villa

Fernando Villa
Environmental Health Compliance Specialist II
Local Enforcement Agency