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HEARINGS CLERK
EPA - REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

North Star Terminal & Stevedore Company, LLC,

Anchorage, Alaska,

Respondent.

DOCKET NO. CWA-10-2018-0261

CONSENT AGREEMENT

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 309(g) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.3. Pursuant to Section 309(g)(1) and (g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(1) and (g)(2)(B), and in accordance with Section 22.18 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and North Star Terminal & Stevedore Company, LLC ("Respondent") agrees to the issuance of, the Final Order attached to this Consent Agreement.

II. PRELIMINARY STATEMENT

2.1 In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which concludes when the Final Order becomes effective.

2.2 The Administrator has delegated the authority to sign consent agreements between EPA and the party against whom a Class II penalty is proposed to be assessed pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”).

2.3 Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the Alleged Violations of the CWA together with the specific provisions of the CWA and the implementing regulations that Respondent are alleged to have violated.

III. ALLEGATIONS

Statutory and Regulatory Background

3.1 The CWA prohibits the “discharge of any pollutants by any person” except, *inter alia*, as authorized by a National Pollutant Discharge Elimination System (“NPDES”) permit. CWA § 301(a), 33 U.S.C. § 1311(a); CWA § 402, 33 U.S.C. § 1342.

3.2 The CWA defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source” and defines “navigable waters” to include “waters of the United States.” CWA § 502(7), (12), 33 U.S.C. § 1362(7), (12).

3.3 The CWA defines a “pollutant” to include, *inter alia*, rock, sand, cellar dirt, biological materials, dredged spoil, and solid waste discharged into water. CWA § 502(6), 33 U.S.C. § 1362(6).

3.4 The CWA defines “point source” to include, inter alia, “any pipe, ditch, channel, tunnel, conduit, well, [or] discrete fissure . . . from which pollutants are or may be discharged.” CWA § 502(14), 33 U.S.C. § 1362(14).

3.5 Waters of the United States include waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; all interstate waters; and all impoundments or tributaries to those waters. 40 C.F.R. § 122.2.

3.6 The CWA specifies that stormwater discharge “associated with industrial activity” (industrial stormwater) includes the discharge from any conveyance which is used for collecting and processing or raw materials storage areas at an industrial plant. Industrial stormwater is a type of pollutant. CWA § 402(p), 33 U.S.C. § 1342(p); 40 C.F.R. §§ 122.26(a)(1)(ii), 122.26(b)(14).

3.7 EPA may issue an NPDES permit for the discharge of any pollutant, or combination of pollutants, subject to certain requirements of the CWA and conditions that EPA determines are necessary. CWA § 402, 33 U.S.C. § 1342.

3.8 An NPDES permit is required for any stormwater “discharge associated with industrial activity.” CWA § 402(p)(2)(B), 33 U.S.C. § 1342(p)(2)(B); 40 C.F.R. § 122.26(a)(1)(ii).

3.9 Pursuant to Section 402(p) of the CWA, EPA promulgated regulations for the NPDES permit requirements for industrial stormwater discharges at 40 C.F.R. § 122.26.

3.10 On September 29, 2008, EPA issued the Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity (“2008 MSGP”) (73 FR 56572). The 2008 MSGP expired on September 29, 2013, but was administratively extended.

3.11 EPA approved the State of Alaska Department of Environmental Conservation's ("ADEC's") application to administer the NPDES Program in 2008. The State's program is called the Alaska Pollutant Discharge Elimination System ("APDES") Program.

3.12 In February 2015, ADEC issued the Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity ("2015 MSGP") pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. The 2015 MSGP became effective on April 1, 2015, and expires on March 31, 2020. The 2015 MSGP replaced the 2008 MSGP.

3.13 The 2008 MSGP and 2015 MSGP authorize and set conditions on the discharge of pollutants from certain industrial activities to waters of the United States. The 2015 MSGP applies to waters of the United States located in the State of Alaska, with the exception of the Indian Reservation of Metlakatla and the Denali National Park and Preserve.

3.14 The 2008 MSGP and 2015 MSGP require facilities engaged in certain industrial activities to apply for permit coverage if stormwater from the facility discharges to a surface water body, or to a storm sewer system that discharges to a surface water body. Permittees are required to comply with the conditions and requirements set forth in the applicable MSGP.

Factual Allegations

3.15 Respondent is a limited liability company duly organized under the laws of the State of Alaska and is therefore a "person" as defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

3.16 The North Star Terminal ("Facility") is a marine cargo shipping and distribution facility located in Anchorage, Alaska. The Facility has a 22-acre physical footprint,

approximately one quarter of which is located under impervious cover. The estimated exposed portion of the Facility is approximately 16.5 acres and is largely permeable gravel drive.

3.17 At all times relevant to this action, Respondent was the owner and/or operator of the Facility.

3.18 The Facility is comprised of a 376-foot long cofferdam dock, cargo storage areas, vehicle and equipment storage areas, a paint tent, a maintenance shop, and an office building. The Facility includes a 150-foot long modular berth/landing craft ramp. Additionally, cranes, forklifts, loaders, and bulldozers are present and operated at the Facility.

3.19 The Facility discharges stormwater off-site via nine catch basins that collect stormwater runoff and direct it to one of two discharge points, designated "Outfall North" and "Outfall South," located in corresponding parts of the Facility. Four catch basins direct runoff to Outfall North and five catch basins direct runoff to Outfall South.

3.20 At all times relevant to this action, the Facility was covered under the 2015 MSGP (permit no. AKR06AC60) or, prior to the issuance of the 2015 MSGP, under the 2008 MSGP (permit no. AKR05DC50).

3.21 The Facility discharges treated stormwater runoff from the Facility's footprint through Outfall North and Outfall South into the Knik Arm of the Cook Inlet.

3.22 The Knik Arm of the Cook Inlet is currently used, was used in the past, or may be susceptible to use, in interstate and foreign commerce. The Knik Arm of the Cook Inlet is therefore a "water of the United States" as defined in 40 C.F.R. § 122.2, and a "navigable water" as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

3.23 The Facility is a point source and/or contains point sources within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2.

3.24 Respondent violated the 2008 MSGP at various times between the first quarter of 2013, accruing at the end of that quarter, and August 13, 2015, the date Respondent began coverage under the 2015 MSGP. Respondent violated the 2015 MSGP at various times between August 13, 2015, the time of inspection, October 4, 2016, and during the first quarter of 2017. These violations were discovered during EPA's October 2016 inspection of the Facility, and upon EPA's review of Respondent's records following the inspection, including its Stormwater Pollution Prevention Plan ("SWPPP"), monitoring data, and annual reports.

Alleged Violations 1–17

(Violations of Part 6.1.8 of the 2008 MSGP and Part 7.1.8 of the 2015 MSGP)

3.25 Paragraphs 3.1 to 3.24 are realleged and incorporated herein by reference.

3.26 Part B.10.A. of the 2008 MSGP states: "Samples and measurements taken for the purpose of monitoring must be representative of the volume and nature of the monitored activity."

3.27 Part 3.1 of the 2015 MSGP states: "A permittee must collect effluent samples from the effluent stream after the last treatment unit before discharge into the receiving waters. Samples and measurements must be representative of the volume and nature of the monitored activity or discharge."

3.28 Parts 6.1.8 of the 2008 MSGP and 7.1.8 of the 2015 MSGP state: "The permittee is only required to monitor allowable non-storm water discharges (as delineated in Part 1.2.3) when they are commingled with storm water discharges associated with industrial activity."

3.29 Part 1.2.3 of the 2015 MSGP lists allowable non-storm water discharges. That list includes “uncontaminated ground water or spring water.”

3.30 At the time of the inspection, the inspector observed discharge from an onsite drinking water well and learned that the discharge from the well commingles with stormwater discharges on a constant basis. Respondent does not monitor the well water.

3.31 Respondent violated Parts B.10.A. and 6.1.8 of the 2008 MSGP eleven times by failing to monitor, on a quarterly basis, allowable non-stormwater discharges that commingle with stormwater discharges from the first quarter of 2013 through the third quarter of 2015. Violations of these parts are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

3.32 Respondent violated Parts 3.1 and 7.1.8 of the 2015 MSGP 6 times by failing to monitor, on a quarterly basis, allowable non-stormwater discharges that commingle with stormwater discharges from the fourth quarter of 2015 through the first quarter of 2017. Violations of these parts are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Alleged Violation 18

(Violation of Part 3.1.1 of the 2015 MSGP)

3.33 Paragraphs 3.1 to 3.24 are realleged and incorporated herein by reference.

3.34 Part 3.1.1 of the 2015 MSGP states: “permittee must select, install, implement and maintain control measures (described in Part 4) at the facility that minimize pollutants in the discharge”

3.35 At the time of inspection, the inspector observed a buildup of sediment at the Facility’s washdown area. A stormwater catch basin, located approximately 25 feet away, had an adsorbent boom placed around the catch basin, but the adsorbent boom was saturated and in

need of maintenance. No other controls were in place at the catch basin to prevent the discharge of vehicle washwater from entering the stormwater collection system.

3.36 Respondent violated Part 3.1.1 of the 2015 MSGP one time by failing to install and maintain control measures to minimize pollutants in the discharge from the Facility's washdown area. Violations of Part 3.1.1 of the 2015 MSGP are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Alleged Violation 19

(Violation of Parts 4 and 4.2.1 of the 2015 MSGP)

3.37 Paragraphs 3.1 to 3.24 are realleged and incorporated herein by reference.

3.38 Part 4 of the 2015 MSGP states, in part: "A permittee must select, design, install, and implement control measures (including best management practices) to address the selection and design considerations in Part 4.1, meet the non-numeric effluent limits in Part 4.2, and meet limits contained in applicable effluent limitations guidelines in Part 4.3."

3.39 Part 4.2.1 of the 2015 MSGP states, in part: "A permittee must evaluate the facility regarding exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff and minimize exposure by either locating these industrial materials and activities inside or protecting them with storm resistant coverings"

3.40 At the time of the inspection, the inspector learned that an area of the Facility had been sub-leased to a company for the stockpiling of scrap metal prior to loading and shipping from the Facility.

3.41 Results from a water sampling event that occurred on July 20, 2015 from a catch basin near the scrap metal loading area, and leading to Outfall South, reflected high concentrations of various metals in the runoff originating in that area.

3.42 No BMPs were in place to prevent metal-laden runoff from entering the catch basin and draining to Outfall South during a rainfall event.

3.43 Respondent violated Parts 4 and 4.2.1 of the 2015 MSGP by failing to design, install, or implement control measures in the form of either locating scrap metal inside or protecting it with storm resistant coverings, or installing or implementing BMPs that would prevent the metal-laden runoff from entering the catch basin. Violations of Parts 4 and 4.2.1 of the 2015 MSGP are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Alleged Violations 20-23

(Violations of Part 2.1.2.9 of the 2008 MSGP and Part 4.2.9 of the 2015 MSGP)

3.44 Paragraphs 3.1 to 3.24 are realleged and incorporated herein by reference.

3.45 Part 3.9 of the Facility's SWPPP states, in part:

At least once per year, all maintenance personnel shall attend a training session that addresses the requirements of this SWPPP. This training, at a minimum, will address:

- i. The Stormwater Pollution Prevention Team structure and responsibilities.
- ii. The duty to informally inspect the area whenever on site for potential pollution sources as part of their good housekeeping responsibilities and BMPs.

3.46 Parts 2.1.2.9 of the 2008 MSGP and 4.2.9 of the 2015 MSGP require Respondent to conduct annual training for employees working in areas where industrial material or activities are exposed to stormwater, or for employees responsible for implementing activities necessary to meet the conditions of the relevant MSGP.

3.47 At the time of the inspection, Mr. Steve Black, Anchorage Operations Manager, informed the inspector that the Facility does not have a specific stormwater training program as described in the SWPPP and had not been conducting annual training.

3.48 Respondent violated Part 2.1.2.9 of the 2008 MSGP two times by failing to implement a specific stormwater training program and failing to conduct annual training in 2013 and 2014. Violations of Part 2.1.2.9 of the 2008 MSGP are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

3.49 Respondent violated Part 4.2.9 of the 2015 MSGP two times by failing to implement a specific stormwater training program and failing to conduct annual training in 2015 and 2016. Violations of Part 4.2.9 of the 2015 MSGP are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Alleged Violation 24

(Violation of Parts 5.2.4 and 5.2.4.2 of the 2015 MSGP)

3.50 Paragraphs 3.1 to 3.24 are realleged and incorporated herein by reference.

3.51 Part 5.2.4 of the 2015 MSGP requires permittees to document areas in a facility where industrial materials or activities are exposed to stormwater.

3.52 Part 5.2.4.2 of the 2015 MSGP states: “A list of the pollutant(s) or pollutant constituents (e.g., crankcase oil, zinc, sulfuric acid, and cleaning solvents) associated with each identified activity. The pollutant list must include all significant materials that have been handled, treated, stored, or disposed, and that have been exposed to storm water in the three years prior to the date the permittee prepared or amended the SWPPP.”

3.53 At the time of the inspection, Mr. Black informed the inspector that several areas of the property covered by the MSGP are sub-leased to other individuals or companies but are included in the Facility's SWPPP. After review of the SWPPP, the inspector found that the document did not include a list of potential pollutants for each area that is sub-leased.

3.54 Respondent violated Parts 5.2.4 and 5.2.4.2 of the 2015 MSGP by failing to document the areas in the Facility where industrial materials or activities are exposed to stormwater and maintaining a list of pollutants associated with the activities. Violations of these parts are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Alleged Violations 25–39

(Violations of Parts 4.1.1 and 4.1.2 of the 2008 MSGP and Parts 6.1.1 and 6.1.2 of the 2015 MSGP)

3.55 Paragraphs 3.1 to 3.24 are realleged and incorporated herein by reference.

3.56 Part 4.1.1 of the 2008 MSGP requires the permittee to conduct inspections of areas of the facility covered by the permit at least quarterly, or in some instances more frequently, as appropriate.

3.57 Part 6.1.1 of the 2015 MSGP requires the permittee to conduct inspections of areas of the facility covered by the permit at least quarterly, or in some instances more frequently, as appropriate.

3.58 Part 4.1.2 of the 2008 MSGP requires the permittee to prepare inspection reports of the routine facility inspections required by Part 4.1.1 of the 2008 MSGP, and mandates that such reports include, but are not limited to: inspection date and time; the name and signature of the inspector; weather information and a description of discharges occurring at the time of the

inspection; documentation of previously unidentified discharges of pollutants; control measures needing maintenance or repairs.

3.59 Part 6.1.2 of the 2015 MSGP states, in pertinent part: “A permittee must document the findings of each routine facility inspection performed and maintain this documentation onsite with the SWPPP At a minimum, the permittees documentation of each routine facility inspection must include: the inspection date and time; the name(s) and signature(s) of the inspector(s); weather information; all observations relating to the implementation of control measures at the facility, any additional control measures needed to comply with the permit requirements; and any incidents of noncompliance observed.”

3.60 At the time of the inspection, Mr. Black stated that he conducts periodic walkthrough inspections related to health and safety, good housekeeping, and some stormwater elements. Documentation for the walkthroughs conducted by Mr. Black was provided to the inspector. The inspector found that the documentation provided for inspection reports was inconsistent with what is shown in the SWPPP and did not meet material minimum requirements of Part 4.1.2 of the 2008 MSGP or Part 6.1.2 of the 2015 MSGP.

3.61 Respondent violated Parts 4.1.1 and 4.1.2 of the 2008 MSGP eleven times by failing to conduct and/or failing to properly report quarterly inspections from the first quarter of 2013 through the third quarter of 2015. Violations of these parts are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

3.62 Respondent violated Parts 6.1.1 and 6.1.2 of the 2015 MSGP four times by failing to conduct and/or failing to properly report quarterly inspections from the fourth quarter of 2015

through the third quarter of 2016. Violations of these parts are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Alleged Violation 40–69

(Violation of Part 4.2.1 of the 2008 MSGP and Part 6.2.1 of the 2015 MSGP)

3.63 Paragraphs 3.1 to 3.24 are realleged and incorporated herein by reference.

3.64 Part 4.2.1 of the 2008 MSGP requires the permittee, on a quarterly basis, to collect a stormwater sample from each of the Facility’s outfalls and conduct a visual assessment of each sample for a range of enumerated characteristics.

3.65 Part 6.2.1 of the 2015 MSGP requires the permittee, on a quarterly basis, to collect a stormwater sample from each of the Facility’s outfalls and conduct a visual assessment of each sample for a range of enumerated characteristics.

3.66 Part 5.2 of the Facility SWPPP states that “visual assessments of stormwater discharges will be conducted by the Facility Manager, or their designee, and documented using the MSGP Quarterly Visual Assessment Form”

3.67 At the time of the inspection, Mr. Black informed the inspector the Facility had not been conducting visual assessments as outlined in the permit.

3.68 Respondent violated Part 4.2.1 of the 2008 MSGP 22 times by failing to collect and conduct visual assessments of stormwater samples quarterly from each of the Facility’s two outfalls from the first quarter of 2013 through the third quarter of 2015. Violations of Part 4.2.1 of the 2008 MSGP are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

3.69 Respondent violated Part 6.2.1 of the 2015 MSGP 8 times by failing to collect and conduct visual assessments of stormwater samples quarterly from each of the Facility’s two

outfalls from the fourth quarter of 2015 through the third quarter of 2016. Violations of Part 6.2.1 of the 2015 MSGP are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Alleged Violations 70–73

**(Violations of Parts 4.3.1 and 4.3.2 of the 2008 MSGP
and Parts 6.3.1 and 6.3.2 of the 2015 MSGP)**

3.70 Paragraphs 3.1 to 3.24 are realleged and incorporated herein by reference.

3.71 Part 4.3.1 of the 2008 MSGP requires the permittee to conduct annual comprehensive site inspections of the Facility.

3.72 Part 4.3.2 of the 2008 MSGP requires the permittee to document the findings of each annual comprehensive site inspection.

3.73 Part 6.3.1 of the 2015 MSGP states, in part: “A permittee must conduct annual comprehensive site inspections while covered under this permit.”

3.74 Part 6.3.2 of the 2015 MSGP states: “a permittee must document the findings of each comprehensive site inspection and maintain this documentation onsite with the SWPPP . . . the permittee must submit this documentation in an annual report”

3.75 At the time of the inspection, the inspector requested documentation of annual site inspections and the Facility did not have and could not produce such documentation.

3.76 Respondent violated Parts 4.3.1 and 4.3.2 of the 2008 MSGP two times by failing to conduct and document annual site inspections of the Facility during the annual reporting periods ending in 2013 and 2014. Violations of these parts are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

3.77 Respondent violated Parts 6.3.1 and 6.3.2 of the 2015 MSGP two times by failing to conduct and document annual site inspections of the Facility during the annual report periods

ending in 2015 and 2016. Violations of these parts are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Alleged Violations 74–101

**(Violations of Parts 6.2.1.1 and 6.2.1.2 of the 2008 MSGP
and Parts 7.2.1.1 and 7.2.1.2 of the 2015 MSGP)**

3.78 Paragraphs 3.1 to 3.24 are realleged and incorporated herein by reference.

3.79 Part 6.2.1.1 of the 2008 MSGP requires the permittee to conduct benchmark monitoring for concentrations of pollutants associated with both the primary and co-located industrial activities taking place within the Facility.

3.80 Part 6.2.1.2 of the 2008 MSGP requires the permittee to conduct benchmark monitoring on a quarterly schedule.

3.81 Part 7.2.1.1 of the 2015 MSGP states, in part: “A permittee must monitor for any benchmark parameters specified for the industrial sector(s), both primary industrial activity and any co-located industrial activities, applicable to the permittees discharge. The industry specific benchmark concentrations are listed in the sector-specific sections of Part 11.”

3.82 Part 7.2.1.2 of the 2015 MSGP states: “benchmark monitoring must be conducted quarterly”

3.83 At the time of the inspection, Facility staff provided the inspector with documentation for a single sampling event on July 28, 2015. The Facility did not have documentation for any other sampling events.

3.84 Respondent violated Parts 6.2.1.1 and 6.2.1.2 of the 2008 MSGP twenty times by failing to conduct quarterly benchmark monitoring for each of the Facility’s two outfalls from

the first quarter of 2013 through the second quarter of 2015. Violations of these parts are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

3.85 Respondent violated Parts 7.2.1.1 and 7.2.1.2 of the 2015 MSGP eight times by failing to conduct quarterly benchmark monitoring for each of the Facility's two outfalls from the fourth quarter of 2015 through the third quarter of 2016. Violations of these parts are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Alleged Violation 102

(Violation of Part 8.2 of the 2015 MSGP)

3.86 Paragraphs 3.1 to 3.24 are realleged and incorporated herein by reference.

3.87 Part 8.2 of the 2015 MSGP states that "the permittee must review the selection, design, installation, and implementation of their control measures to determine if modifications are necessary to meet the effluent limits" if:

The average of four quarterly sampling results exceeds an applicable benchmark. If less than four benchmark samples have been taken, but the results are such that an exceedance of the four-quarter average is mathematically certain (i.e., if the sum of quarterly sample results to date is more than four times the benchmark level) this is considered a benchmark exceedance, triggering this review."

3.88 Part 11.Q.6, Table 11.Q.6-1 of the MSGP provides the sector-specific benchmark monitoring concentration values.

3.89 At the time of the inspection, the inspector determined that the monitoring results from the July 28, 2015, sampling event were high enough that the four-quarter average was mathematically certain. Facility representatives informed the inspector that no control measure review had been performed.

3.90 Respondent violated Part 8.2 of the 2015 MSGP by failing to review control measures to determine if modifications were necessary to meet effluent limits following a benchmark exceedance triggering such review. Violations of Part 8.2 of the 2015 MSGP are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Alleged Violation 103

(Violation of Part 8.3 of the 2015 MSGP)

3.91 Paragraphs 3.1 to 3.24 are realleged and incorporated herein by reference.

3.92 Part 8.3 of the MSGP states, in part, “A permittee must document their discovery of any of the conditions listed in Parts 8.1 and 8.2 within 24 hours of making such discovery. Subsequently, within 14 days of such discovery, the permittee must document any corrective action(s) to be taken to eliminate or further investigate the deficiency, or if no corrective action is needed, the basis for that determination.”

3.93 Part 11.Q.6, Table 11.Q.6-1 of the MSGP provides the sector-specific benchmark monitoring concentration values.

3.94 At the time of the inspection, the inspector determined that the monitoring results from the July 28, 2015, sampling event were high enough that the four-quarter average was mathematically certain. Facility representatives informed the inspector that no corrective action had been taken, and the corrective action deadlines had not been addressed.

3.95 Respondent violated Part 8.3 of the 2015 MSGP by failing to take corrective action following a benchmark exceedance or failing to document why such corrective action was not needed. Violations of Part 8.3 of the 2015 MSGP are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Alleged Violations 104–107

(Violation of Part 7.2 of the 2008 MSGP and Part 9.2 of the 2015 MSGP)

3.96 Paragraphs 3.1 to 3.24 are realleged and incorporated herein by reference.

3.97 Part 7.2 of the 2008 MSGP states: “You must submit an annual report to EPA that includes the findings from your Part 4.3 comprehensive site inspection and any corrective action documentation as required in Part 3.4.”

3.98 Part 9.2 of the 2015 MSGP states: “a permittee must submit an annual report to DEC that includes the findings from their Part 6.3 comprehensive site inspection and any corrective action documentation as required in Part 8.4.”

3.99 At the time of the inspection, Mr. Black told the inspector that North Star has not submitted an annual report during all relevant time periods.

3.100 Respondent violated Part 7.2 of the 2008 MSGP two times by failing to submit requisite annual reporting in 2013 and 2014. Violations of Part 7.2 of the 2008 MSGP are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

3.101 Respondent violated Part 9.2 of the 2015 MSGP two times by failing to submit requisite annual reporting in 2015 and 2016. Violations of Part 9.2 of the 2015 MSGP are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Alleged Violation 108–122

(Violation of Part 7.1 of the 2008 MSGP and Part 9.1 of the 2015 MSGP)

3.102 Paragraphs 3.1 to 3.24 are realleged and incorporated herein by reference.

3.103 Part 7.1 of the 2008 MSGP requires monitoring data collected pursuant to Parts 6.2, 6.3, and 6.2.1.2 of the 2008 MSGP to be submitted to EPA, in the form of discharge

monitoring reports, no later than 30 days after the permittee receives laboratory results for monitored outfalls.

3.104 Part 6.2.1.2 of the 2008 MSGP requires quarterly collection of benchmark samples.

3.105 Part 9.1 of the 2015 MSGP states, in part: "All monitoring data collected pursuant to Parts 7.2 and 7.2.2.3 [of the 2015 MSGP] must be submitted to DEC no later than 30 days (email date or postmark date) after the permittee has received the complete laboratory results for all monitored outfalls for the reporting period."

3.106 Part 7.2 of the 2015 MSGP requires benchmark monitoring to be conducted on a quarterly basis; Part 7.2.2.1 of the 2015 MSGP requires effluent limitations monitoring to be conducted once per year at each of the Facility's identified outfalls.

3.107 Part 9.1 of the 2015 MSGP requires that, if no discharge occurs during the quarterly benchmark monitoring period, the permittee must still submit a discharge monitoring report reflecting that no discharge occurred.

3.108 Administrative review revealed that Respondent has not submitted requisite discharge monitoring reports during all times relevant to this action.

3.109 Respondent violated Part 7.1 of the 2008 MSGP eleven times by failing to submit quarterly discharge monitoring reports from the first quarter of 2013 through the third quarter of 2015. Violations of Part 7.1 of the 2008 MSGP are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

3.110 Respondent violated Part 9.1 of the 2015 MSGP four times by failing to submit quarterly discharge monitoring reports from the fourth quarter of 2015 through the third quarter

of 2016. Violations of Part 9.1 of the 2015 MSGP are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations contained in this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. Pursuant to Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), EPA has taken into account the nature, circumstances, extent, and gravity of the Alleged Violations as well as any economic benefit to Respondent of noncompliance, Respondent's ability to pay, and other relevant factors. After considering all of these factors, EPA has determined, and Respondent agrees, that an appropriate penalty to settle the Alleged Violations is \$54,600.

4.4. Respondent agrees to pay the total civil penalty set forth in Paragraph 4.3 within 30 days of the effective date of the Final Order. 40 C.F.R. § 22.31(c). EPA will provide Respondent with prompt notice of the date the Regional Hearing Clerk files the Final Order, which establishes its effective date.

4.5. Payment under this Consent Agreement and the Final Order may be made by check(s) (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent must note on the check(s) the title and docket number of this action.

4.6. Respondent must send photocopies of the check(s), or proof of other payment method described in Paragraph 4.5 to the Regional Hearing Clerk and EPA Compliance Officer at the following addresses:

Teresa Young, Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, M/S ORC-113
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
Young.Teresa@epa.gov

Raymond Andrews, Compliance Officer
U.S. Environmental Protection Agency
Region 10, M/S OCE-101
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
Andrews.Raymond@epa.gov

4.7. Except as described in Subparagraph 4.8.2, below, each party shall bear its own fees and costs in bringing or defending this action.

4.8. If Respondent fails to pay the penalty assessed by this Consent Agreement in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Such failure may also subject Respondent to a civil action to collect the assessed penalty under the CWA, together with interest, fees, costs, and additional penalties described below. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

4.8.1. Interest: Interest shall accrue from the effective date of the Final Order, at the rate established by the Secretary of the Treasury, and applied to any portion of the assessed penalty which remains unpaid 30 days after the effective date of the Final Order.
CWA § 309(g)(9), 33 U.S.C. § 1319(g)(9); 31 U.S.C. § 3717(a)(1); 40 C.F.R. § 13.11(a)(3).

4.8.2. Attorney's Fees, Collection Costs, Nonpayment Penalty: Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if Respondent fails to pay on a timely basis the penalty set forth in Paragraph 4.3, Respondent shall pay (in addition to any assessed penalty and interest) attorney's fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20% of the aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

4.9. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraph 4.8, represent an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes. 26 U.S.C. § 162(f).

4.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to the terms and conditions of this document.

4.11. Respondent expressly waives any right to contest the allegations and waive any right to appeal the Final Order set forth therein.

4.12. The provisions of this Consent Agreement and Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.13. The above provisions are STIPULATED AND AGREED upon by Respondent and Complainant.

DATED:

FOR RESPONDENT:

2-28-18

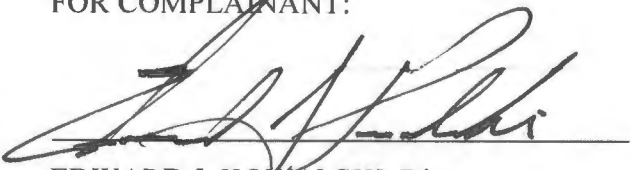


JEFF BENTZ, PRESIDENT
North Star Terminal & Stevedore Co., LLC

DATED:

FOR COMPLAINANT:

4/12/2018



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

North Star Terminal & Stevedore Company,
LLC,

Anchorage, Alaska,

Respondent.

DOCKET NO. CWA-10-2018-0261

FINAL ORDER

Proceedings Under Section 309(g) of the
Clean Water Act, 33 U.S.C. § 1319(g)

1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of the U.S. Environmental Protection Agency (EPA) Region 10, who has in turn delegated this authority to the Regional Judicial Officer in EPA Region 10.
2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.
3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties pursuant to the Clean Water Act (CWA) for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CWA and regulations promulgated or permits issued thereunder.

4. This Final Order shall become effective upon filing.

SO ORDERED this 8th day of May, 2018.



RICHARD MEDNICK
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original attached **Consent Agreement and Final Order in In the Matter of: North Star Terminal & Stevedore Co., LLC, Docket No.: CWA-10-2018-0261**, was filed with the Regional Hearing Clerk on the date below.

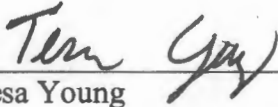
The undersigned certifies that a true and correct copy of the document was delivered to:

William M. McLaren
Office of Regional Counsel
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Jeff Bentz
President and CEO
North Star Terminal & Stevedore Co., LLC
790 Ocean Dock Road
Anchorage Alaska 99501

DATED this 9 day of May, 2018.



Teresa Young
Regional Hearing Clerk
EPA Region 10