



1.5. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), notification of this action has been given to the Washington State Department of Ecology (“Ecology”).

1.6. Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and the U.S. Department of Energy (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

## **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 will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of RCRA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of RCRA together with the specific provisions of RCRA and the permit and implementing regulations that Respondent is alleged to have violated.

## **III. ALLEGATIONS**

3.1 Respondent is a department of the United States.

3.2 Respondent is a “person” as that term is defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

3.3 At all times relevant to the allegations set forth herein, Respondent is and has been the “owner” and “operator” of the Hanford Facility, located on approximately 586 square miles in southeastern Washington State (the “Facility”), as those terms are defined at 40 C.F.R. § 260.10 and as “operator” is defined in the Washington Administrative Code (“WAC”) at 173-303-040.

3.4 The Facility generated and stored various types of solid waste resulting from, among other things, the production and management of special nuclear materials for the national defense.

3.5 Respondent has been a “generator” of, and has engaged in “storage” of “containers” of materials that are “dangerous waste” at the Facility, as those terms are defined at WAC 173-303-040.

3.6 The Facility submitted a “Notification of Hazardous Waste Activity” to EPA on or about August 14, 1980, which identified the Facility as a hazardous waste generator, hazardous waste transporter, and owner and operator of a hazardous waste treatment, storage and disposal (“TSD”) facility.

3.7 In 1994, Ecology issued the Hanford Facility RCRA Permit, which was issued in conjunction with the Hazardous and Solid Waste Amendments portion of the permit issued by EPA.

3.8 On June 26, 2013, a Consent Agreement and Final Order (“CAFO”) to resolve violations of RCRA that was stipulated and agreed to by Respondent and EPA Region 10, was issued in: In the Matter of U.S. Department of Energy, Richland Washington, Docket No. 10-2013-0113. The CAFO was issued under the authority vested in the Administrator of EPA by Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

3.9 Paragraph 5.1 of the CAFO required Respondent to comply with the terms of the settlement, which included the requirement that Respondent take the corrective action specified in Paragraph 4.4 of the CAFO.

3.10 Paragraph 4.4(b) of the CAFO required Respondent to submit to Ecology a permit modification request in accordance with WAC 173-303-830 for the eight units listed in Paragraph 3.11 of the CAFO that included a written closure plan that satisfies the closure plan requirements at WAC 173-303-610 or, in the event that one or more of the units was duly authorized by a permit for the treatment, storage, and/or disposal of dangerous waste within 120 days of the effective date of the CAFO, then Respondent was required to submit a closure plan for those units to Ecology within 120 days of the effective date of the CAFO that satisfies applicable closure plan permit requirements.

3.11 None of the units listed in Paragraph 3.11 of the CAFO were duly authorized by a permit for the treatment, storage, and/or disposal of dangerous waste within 120 days of the effective date of the CAFO.

3.12 Respondent was therefore required to submit to Ecology a permit modification request in accordance with WAC 173-303-830 for the eight units listed in Paragraph 3.11 of the CAFO that included a written closure plan that satisfied the closure plan requirements at WAC 173-303-610.

3.13 Respondent submitted a permit modification request to Ecology on or about October 24, 2013, that included a written closure plan for the eight units listed in Paragraph 3.11 of the CAFO.

3.14 The submitted closure plan failed to satisfy the closure plan requirements at WAC 173-303-610, including as follows:

- i. The submitted closure plan does not include a detailed description of the methods to be used for removing, transporting, treating, storing, or disposing of all dangerous wastes during closure for each of the eight units listed in Paragraph 3.11 of the CAFO, and fails to identify the type(s) of off-site dangerous waste management units to be used, as required by WAC 173-303-610(3)(a)(iv).
- ii. The submitted closure plan does not include a detailed description of the removal and/or decontamination steps needed at the eight units listed in Paragraph 3.11 of the CAFO, as required by WAC 173-303-610(3)(a)(v).
- iii. The submitted closure plan does not specify the total time required to close each unit, nor does it specify the time required for intervening closure activities which would allow tracking of the progress of partial and final closure, as required by WAC 173-303-610(3)(a)(vii).

3.15 Respondent therefore failed to take corrective action within the time specified in a compliance order issued pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 9628(a).

3.16 In August 2013, EPA authorized representatives conducted a RCRA compliance inspection (“2013 Inspection”).

3.17 EPA has identified a violation of RCRA and the authorized state RCRA program at the Facility’s Liquid Effluent Facility and 200 Area Effluent Treatment Facility (“LERF-ETF”) based on information collected during the 2013 Inspection and other information.

3.18 An owner and operator of a RCRA-regulated dangerous waste TSD facility must have a permit or interim status as required by Section 3005 of RCRA, 42 U.S.C. § 6925, and WAC 173-303-800. In addition, Condition I.A. of the Hanford Facility RCRA Permit, which

was issued in 1994 and remains in effect, prohibits any treatment, storage, or disposal of dangerous waste at the Hanford Facility that is not authorized by the permit or by WAC 173-303-400.

3.19 Some 136 fifty-five gallon containers of radioactive mixed dangerous waste that had been removed from contaminated wastewater were initially stored outdoors inside the ETF fence and within an area designated for storage in the dangerous waste permit. However, after it was discovered that radiation from the containers could reach workers inside the ETF building, the 136 containers were relocated on April 30, 2013, from the authorized storage area to an adjacent area within the ETF fence, but which was not authorized for storage in the dangerous waste permit. The 136 containers were being stored at this location at the time of the inspection on August 20, 2013.

3.20 Respondent stored RCRA-regulated dangerous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925, WAC 173-303-800, and Condition I.A. of the Hanford Facility RCRA Permit.

3.21 Under Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 per day of noncompliance for each violation, issue an order requiring compliance, or both.

#### **IV. TERMS OF SETTLEMENT**

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

4.3. As required by Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), EPA has taken into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is FORTY-FOUR THOUSAND, SEVEN HUNDRED AND TWENTY-TWO DOLLARS (\$ 44,722).

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.

4.5. Payment under this Consent Agreement and the Final Order may be paid by check (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, Missouri 63197-9000

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

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 10, Mail Stop ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101  
[Smith.candace@epa.gov](mailto:Smith.candace@epa.gov)

Kevin Schanilec  
U.S. Environmental Protection Agency  
Region 10, Mail Stop OCE-127  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101  
[Schanilec.kevin@epa.gov](mailto:Schanilec.kevin@epa.gov)

4.7. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement and the Final Order in full by its due date, the entire unpaid balance of penalty shall become immediately due and owing.

4.8. The penalty described in Paragraph 4.3 represents an administrative civil penalty assessed by EPA.

4.9. 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 this document.

4.10. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violations alleged in Part III.

4.11. Each party shall bear its own costs and attorneys fees in bringing or defending this action.

4.12. Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and to appeal the Final Order and/or to confer with the EPA Administrator under Section 6001(b)(2) of RCRA, 42 U.S.C. § 6961(b)(2) on any issue of law or fact set forth in this Consent Agreement and the Final Order.

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

4.14. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

FOR RESPONDENT:

1/12/2015  
Date

Stacy Charboneau  
Signature

STACY CHARBONEAU  
Printed Name

RICHLAND OPERATIONS MANAGER  
Title/Position

FOR COMPLAINANT:

1/21/2015  
Date

Edward J. Kowalski  
Signature

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



BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	
	)	DOCKET NO. RCRA-10-2015-0045
U.S. Department of Energy	)	
Hanford Facility	)	<b>FINAL ORDER</b>
	)	
Benton County, Washington	)	
	)	
Respondent.	)	

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1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegate this authority to the Regional Judicial Officer in EPA Region 10.

1.2. 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.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under RCRA 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 RCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 26<sup>th</sup> day of January, 2015

  
M. SOCORRO RODRIGUEZ  
Regional Judicial Officer  
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: U.S. Department of Energy, Docket No.: RCRA-10-2015-0045**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

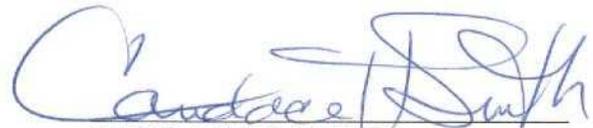
The undersigned certifies that a true and correct copy of the document was delivered to:

Andrew Boyd, Esquire  
U.S. Environmental Protection Agency  
Region 10, Mail Stop ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 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:

Stacy Charboneah, Manager  
U.S. Department of Energy, Richland Operations Office  
P.O. Box 550  
Richland, Washington 99352

DATED this 27<sup>th</sup> day of January, 2015.



CANDACE H. SMITH  
Regional Hearing Clerk  
EPA Region 10

