



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

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HEARINGS CLERK
EPA - REGION 10

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-10-2018-0280
This ESA is issued to: Water Environment Services
Clackamas County
150 Beaver Creek Road
Oregon City, Oregon 97045

This Expedited Settlement Agreement (ESA) is being entered into by the U.S. Environmental Protection Agency Region 10 (EPA), by its duly delegated official, and by Water Environment Services, Clackamas County (Respondent) pursuant to Section 113(a)(3) and (d) of the Clean Air Act, 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On December 9, 2016, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

EPA has determined that Respondent violated the Risk Management Program (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Act, as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary ("Summary"), which is hereby incorporated by reference.

SETTLEMENT

In consideration of the penalty assessment factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), and upon consideration of the entire record, the parties enter into the ESA in order to settle the violations described in the enclosed Summary for the total penalty amount of **\$8,700**.

This settlement is subject to the following terms and conditions:

Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein and in the Summary, and consents to the assessment of the penalty as stated above.

Respondent waives its rights to contest the allegations contained herein or in the Summary, to a hearing afforded by Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any.

Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations listed in the enclosed Summary.

Respondent agrees to submit payment in full of the \$8,700 within 30 days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk.

Payment instructions are included on the enclosed "Payment Instructions," which is hereby incorporated by reference.

This original ESA must be sent by certified mail to:

Javier Morales, 112(r) Enforcement Coordinator
Office of Compliance and Enforcement
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop: OCE-101
Seattle, Washington 98101

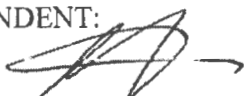
Upon Respondent's submission of the signed original ESA, signature by EPA, and filing with the Regional Hearing Clerk, EPA will take no further civil penalty action against Respondent for the alleged violations of the Act referenced in the Summary. EPA does not waive its right to any other enforcement action for any other violations of the Clean Air Act or any other statute.

If the signed original ESA is not returned to the EPA Region 10 at the above address by Respondent within 45 days of the date of Respondent's receipt of it (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein and in the Summary.

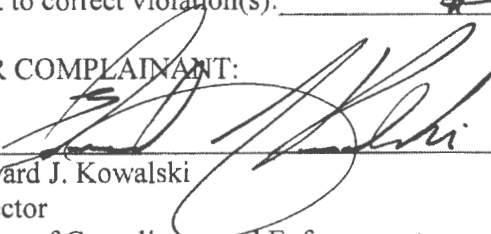
This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

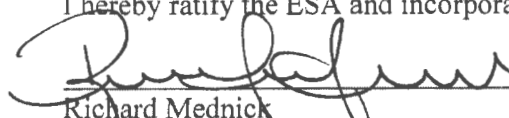
FOR RESPONDENT:

Signature:  Date: 6/18/2018
Name (print): Greg Egerly
Title (print): WRS Operations Manager
Cost to correct violation(s): \$13,000, 200 hours x \$65.00/hr

FOR COMPLAINANT:


Date: 6/20/2018
Edward J. Kowalski
Director
Office of Compliance and Enforcement

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.


Date: 6/27/18
Richard Mednick
Regional Judicial Officer

PAYMENT INSTRUCTIONS

Respondent may pay the penalty by check (mail or overnight delivery), wire transfer, ACH, or online payment. Additional 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

If paid by check, the docket number of the ESA must be included on the check. (The docket number is located at the top of this ESA.)

Concurrently with payment, Respondent must send photocopies of the check, or proof of other payment method to the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
young.teresa@epa.gov

Javier Morales
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
morales.javier@epa.gov



U.S. ENVIRONMENTAL PROTECTION AGENCY

Risk Management Program Inspection Findings and Alleged Violations Summary Region 10

REASON FOR INSPECTION: This inspection is for the purpose of determining compliance with Section 112(r)(7) accidental release prevention requirements of the Clean Air Act, as amended 1990. The scope of this inspection may include, but is not limited to: reviewing and obtaining copies of documents and records; interviews and taking of statements; reviewing of chemical storage, handling, processing, and use; taking samples and photographs; and any other inspection activities necessary to determine compliance with the Act.

FACILITY NAME Tri-City Water Pollution Control Plant		<input type="checkbox"/> PRIVATE # EMPLOYEES: 32	<input checked="" type="checkbox"/> GOVERNMENTAL/MUNICIPAL POPULATION SERVED: 68,459 (2010 census)
FACILITY LOCATION 15941 South Agnes Avenue, Oregon City, Oregon 97045		INSPECTION START DATE AND TIME: July 14, 2017, 08:30 AM	
MAILING ADDRESS 15941 South Agnes Avenue, Oregon City, Oregon 97045		INSPECTION END DATE AND TIME: July 14, 2017, 3:00 PM	
RESPONSIBLE OFFICIAL, TITLE, PHONE NUMBER Daniel Strong, Interim Wastewater Operations Supervisor, (503) 557-2800		EPA FACILITY ID# 1000 0012 1156	
FACILITY REPRESENTATIVE(S), TITLE(S), PHONE NUMBER(S) Daniel Strong, Interim Wastewater Operations Supervisor, (503) 557-2800		INSPECTOR NAME(S), TITLE(S), PHONE NUMBER(S) Peter Phillips, SEE Grantee RMP Lead Inspector, 206-553-1757 Terry Garcia, SEE Grantee RMP Inspector, 206-553-1761 Bob Hales, SEE Grantee RMP Inspector, 206-553-4090 Maren Fulton, E&E Inc., EPA START Contractor	
		INSPECTOR SIGNATURE 	DATE 3-14-18

INSPECTION FINDINGS

IS FACILITY SUBJECT TO RMP REGULATION (40 C.F.R. § 68)?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DATE RMP FILED WITH EPA: 6/22/1999	DATE OF LATEST RMP UPDATE: 7/10/2015	
1) PROCESS/NAICS CODE: 22132	PROGRAM LEVEL: 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input checked="" type="checkbox"/>	
REGULATED SUBSTANCE: Chlorine	MAX. QUANTITY IN PROCESS: 20,000 (lbs.)	

DESCRIPTION OF ALLEGED VIOLATIONS

CAA Section 112(r) and its implementing regulations in 40 C.F.R. Part 68 require an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance (listed in § 68.130) in a process, to develop a Risk Management Plan (RMP) and Risk Management Program.

Three EPA representatives and one EPA contractor inspected the Tri-City Water Pollution Control Plant (WPCP) facility on July 14, 2017. Based upon this inspection the Tri-City WPCP facility is in violation of the following risk management program elements:

- Process Safety Information:** Tri-City WPCP has not documented an evaluation of the consequences of deviation, as required by 40 C.F.R. § 68.65(c)(1)(iv). Tri-City WPCP was unable to provide documentation at time of inspection on the chlorine storage and handling process. On July 31, 2017, Tri-City WPCP provided a V10K V-Notch Chlorinator Operation & Maintenance Manual that has a troubleshooting table for the chlorinators.
- Process Safety Information:** The process safety information does not contain the design codes and standards employed for the equipment in the process, as required by 40 C.F.R. § 68.65(d)(1)(vi). Tri-City WPCP was unable to produce documentation during the inspection. On July 31, 2017, Tri-City WPCP provided stamped 1995 drawings of the plant and 1983 original drawings of the chlorine/bisulfite and scrubber process areas.
- Process Hazard Analysis:** The PHA has not been updated and revalidated by a team every five years after the completion of the initial PHA to assure that the PHA is consistent with the current practices, as required in 40 C.F.R. § 68.67(f). No updated and revalidated PHA was found at time of inspection. On July 31, 2017, Tri-City WPCP provided their 2009 PHA team list that was on file.
- Operating Procedures:** The operating procedures do not address startup following a turnaround, or after emergency shutdown, as required by 40 C.F.R. § 68.69(a)(1)(vii). No documentation on startup operating procedures were provided at time of inspection on the chlorine storage process.
- Operating Procedures:** The operating procedures do not address consequences of deviation, as required by 40 C.F.R. § 68.69(a)(2)(i). No documentation for operating procedures were provided at time of inspection on the chlorine storage process.

DESCRIPTION OF ALLEGED VIOLATIONS (Cont'd)

6. **Operating Procedures:** The operating procedures do not address steps required to correct or avoid deviation, as required by 40 C.F.R. § 68.69(a)(2)(ii). No documentation for operating procedures were provided at time of inspection on the chlorine storage process.
7. **Training:** Tri-Cities WPCP has not documented that each employee involved in operating a process, and each employee before being involved in operating a newly assigned process, has been initially trained in an overview of the process and in the operating procedures, as required by 40 C.F.R. § 68.71(a)(1). Tri-City WPCP was unable to provide initial training documentation for their operators at time of inspection on the chlorine storage process. On July 31, 2017, Tri-City WPCP provided HAZCOM (8/19/15), Handling Hazardous Waste (11/29/16), and LOTO (4/11/17) training documentation for Tom Wilson, Mark Protengeniseir, Scott Hardener, Jerry Newton, Blake Raims, and Mike Arnold. The training documentation did not address the overview of the process and operating procedures.
8. **Training:** Tri-Cities WPCP has not documented that initial training included emphasis on safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks, as required by 40 C.F.R. § 68.71(a)(1). Tri-City WPCP was unable to provide initial training documentation for their operators at time of inspection on the chlorine storage process. On July 31, 2017, Tri-City WPCP provided HAZCOM (8/19/15), Handling Hazardous Waste (11/29/16), and LOTO (4/11/17) training documentation for Tom Wilson, Mark Protengeniseir, Scott Hardener, Jerry Newton, Blake Raims, and Mike Arnold. The training documentation did not address emergency operations including shutdown and other safe work practices such as opening process equipment or piping, confined space entry, and controlled access to process areas.
9. **Training:** In lieu of initial training for those employees already involved in operating a process on June 21, 1999, Tri-Cities WPCP did not certify in writing that the employee has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as specified in the operation procedures, as required by 40 C.F.R. § 68.71(a)(2). No documentation found at time of inspection; on follow-up document request.
10. **Training:** Tri-Cities WPCP has not documented that refresher training has been provided at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process, as required by 40 C.F.R. § 68.71(b). No documentation found at time of inspection; on follow-up document request. On July 31, 2017, Tri-City WPCP provided HAZCOM (8/19/15), Handling Hazardous Waste (11/29/16), and LOTO (4/11/17) training documentation for Tom Wilson, Mark Protengeniseir, Scott Hardener, Jerry Newton, Blake Raims, and Mike Arnold.
11. **Training:** Tri-Cities WPCP has not ascertained and documented in record that each employee involved in operating a process has received and understood the training required, as required by 40 C.F.R. § 68.71(c). No documentation found at time of inspection; on follow-up document request. On July 31, 2017, Tri-City WPCP provided HAZCOM (8/19/15), Handling Hazardous Waste (11/29/16), and LOTO (4/11/17) training documentation for Tom Wilson, Mark Protengeniseir, Scott Hardener, Jerry Newton, Blake Raims, and Mike Arnold.
12. **Training:** The prepared record does not contain the identity of the employee, the date of the training, and the means to verify that the employee understood the training, as required by 40 C.F.R. § 68.71(c). Tri-City WPCP was unable to provide training documentation for their operators at time of inspection on the chlorine storage process. On July 31, 2017, Tri-City WPCP provided HAZCOM (8/19/15), Handling Hazardous Waste (11/29/16), and LOTO (4/11/17) training documentation for Tom Wilson, Mark Protengeniseir, Scott Hardener, Jerry Newton, Blake Raims, and Mike Arnold.
13. **Compliance Audit:** Tri-Cities WPCP has not certified that the stationary source has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed, as required by 40 C.F.R. § 68.79(a). During the inspection, Tri-City WPCP was unable to provide a compliance audit report for an audit that was due June 6, 2016. On July 31, 2017, Tri-City WPCP provided a Process Safety Written Program Audit Report dated November 21, 2011 prepared by Wise Steps, Inc.
14. **Employee Participation:** Tri-Cities WPCP has not developed a written plan of action regarding the implementation of the employee participation required by the Employee Participation section of the RMP checklist, as required by 40 C.F.R. § 68.83(a). Tri-City WPCP was unable to provide documentation at time of inspection on a written plan.
15. **Employee Participation:** Tri-Cities WPCP has not consulted with employees and their representatives on the conduct and development of process hazards analyses and on the development of the other elements of process safety management in chemical accident prevention provisions, as required by 40 C.F.R. § 68.83(b). Tri-City WPCP was unable to provide documentation at time of inspection for the implementation of a written plan.
16. **Employee Participation:** Tri-Cities WPCP has not provided to employees and their representatives access to process hazards analyses and to all other information required to be developed under the chemical accident protection rule, as required by 40 C.F.R. § 68.83(c). Tri-City WPCP was unable to provide documentation at time of inspection for the implementation of a written plan.

DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES?

YES NO

ATTACHED CHECKLIST(S):

PROGRAM LEVEL 1 PROCESS CHECKLIST

PROGRAM LEVEL 2 PROCESS CHECKLIST

PROGRAM LEVEL 3 PROCESS CHECKLIST

OTHER ATTACHMENTS: _____

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Clackamas County Water Environment Services, Docket No.: CAA-10-2018-0280**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

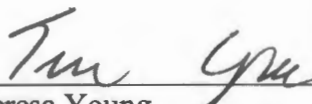
The undersigned certifies that a true and correct copy of the document was delivered to:

Javier Morales, RMP Coordinator
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155, OCE-101
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:

Gregory Eyerly
Operations Manager
Water Environment Services
Clackamas County
150 Beaver Creek Road
Oregon City, Oregon 97045

DATED this 27 day of June, 2018



Teresa Young
Regional Hearing Clerk
EPA Region 10

