

BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

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HEARINGS CLERK  
EPA--REGION 10

IN THE MATTER OF: ) Docket No. RCRA-10-2012-0011  
U.S. Department of Energy ) EXPEDITED SETTLEMENT  
National Energy Technology Laboratory ) AGREEMENT AND  
Albany, Oregon 97321 ) FINAL ORDER  
EPA ID Number OR2141590008 )  
)  
)  
Respondent )  
\_\_\_\_\_ )

**EXPEDITED SETTLEMENT AGREEMENT**

1. The U.S. Environmental Protection Agency ("EPA") is authorized to enter into this Expedited Settlement Agreement ("Agreement") pursuant to Section 3008 of the Resource Conservation and Recovery Act ("RCRA") and 40 C.F.R. § 22.13(b).
2. The U.S. Department of Energy National Energy Technology Laboratory ("Respondent") is the owner or operator of a facility at 1450 Queen Avenue, Albany, Oregon ("Facility"). The EPA inspected the Facility on July 21, 2011. The EPA alleges Respondent violated the following requirements of RCRA and the EPA-approved and authorized Oregon hazardous waste management program (OAR Chapter 340, Divisions 100-120):
  - a. OAR 340-100-0002 incorporates by reference 40 C.F.R. Part 270, which requires the owner and/or operator of a hazardous waste facility that treats, stores, or disposes of dangerous waste to obtain a permit. However, OAR 340-100-0002 also incorporates 40 C.F.R. § 262.34, which allows a generator to accumulate hazardous waste onsite, without a permit, provided that the generator marks containers of hazardous waste with the date on which each period of accumulation begins [40 C.F.R. § 262.34(a)(2)] and the words "Hazardous Waste" [40 C.F.R. § 262.34(a)(3)]. On July 21, 2011, there was a bag containing a rock of mercury ore in the waste accumulation area in Building 19. The rock designated as a hazardous waste. The bag was not marked with the date on which the period of accumulation began and the words "Hazardous Waste," in violation of 40 C.F.R. § 262.34.
  - b. OAR 340-100-0002 incorporates by reference 40 C.F.R. § 273(d)(1), which requires that containers of universal waste lamps be kept closed. On July 21, 2011, two boxes of waste lamps in Building 6 that were being managed as universal waste were not closed, in violation of 40 C.F.R. § 273(d)(1).
3. The EPA has determined and Respondent agrees that settlement of this matter for a civil penalty of one thousand five hundred dollars (\$1,500) is in the public interest. The attached Penalty Calculation Worksheet is incorporated by reference.

4. Payment under this Agreement must be made by electronic funds transfer (EFT) to the EPA through the Intra-Governmental Payment and Collection (IPAC) system, or by cashier's check or certified check payable to the order of "Treasurer, United States of America" and delivered via United States mail 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 the title and docket number of this action.

5. Respondent must deliver via United States mail a photocopy of the check described in Paragraph 4 to the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 10, ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101

and

Jack Boller, RCRA Compliance Officer  
U.S. Environmental Protection Agency  
Region 10, OCE-127  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101

6. The EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
7. Each party shall bear its own costs and fees, if any.
8. In signing this Agreement, Respondent: (1) admits that the EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (2) neither admits nor denies the factual allegations contained herein, (3) consents to the assessment of this civil penalty, and (4) waives any right to contest the allegations contained herein in a hearing or appeal pursuant to Section 3008(b) of RCRA.
9. In signing this Agreement, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violations have been corrected, and (2) the civil penalty has been paid. Respondent is submitting proof of payment of the civil penalty with this Agreement.
10. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.

11. This Agreement is binding on the parties signing below and, in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

IT IS SO AGREED.

**RESPONDENT:**

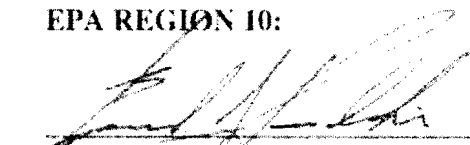
Name (print): BRAD TOMER

Title (print): Chief Operating Officer

Signature: 

Date: 12/7/11

**EPA REGION 10:**



Edward J. Kowalski, Director  
Office of Compliance and Enforcement  
U.S. Environmental Protection Agency, Region 10

Date: 11/18/2011

**IT IS SO ORDERED:**



Thomas Jahnke, Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 10

Date: 12/16/11

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT** in **In the Matter of: U.S. Department of Energy, DOCKET NO.: RCRA-10-2012-0011** was filed with the Regional Hearing Clerk on December 19, 2011.

On December 19, 2011 the undersigned certifies that a true and correct copy of the document was delivered to:

Jack Boller  
US Environmental Protection Agency  
1200 Sixth Avenue, ORC-158  
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 on December 19, 2011, to:

U.S. Department of Energy  
National Energy Technology Laboratory  
1450 Queen Avenue, SW  
Albany, OR 97321-2198

DATED this 19<sup>th</sup> day of December 2011.



\_\_\_\_\_  
Carol Kennedy  
Regional Hearing Clerk  
EPA Region 10