

FILED

September 6, 2023

10:06 A.M. PST

U.S. EPA REGION 10
HEARING CLERK

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF:)
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)
)
Naval Undersea Warfare Center Division, Keyport)
610 Dowell Street, Keyport, WA 98345)
EPA ID No. WA1170023419)
)
Respondent)
)
)
_____)

Docket No. RCRA-10-2023-0140

EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER

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”), 42 U.S.C. § 6928, and 40 C.F.R. § 22.13(b).
2. Pursuant to Section 6001(b) of RCRA, 42 U.S. C. § 6961(b), EPA may take enforcement action against departments, agencies, and instrumentalities of the Federal Government in the same manner and under the same circumstances as against any other person.
3. By copy of this letter, the EPA is providing the Washington Department of Ecology with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2), 42 U.S.C. § 6928(a)(2).
4. Naval Undersea Warfare Center Division, Keyport (“Respondent” or “US Navy Keyport”) is the owner or operator of the facility at 610 Dowell Street, Keyport, Washington (“Facility”). The EPA alleges that Respondent violated the following requirements of the RCRA and the EPA approved and authorized Washington State dangerous waste management program.
 - a. Section D-8 of Respondent’s dangerous waste permit, incorporating WAC 173-303-691(2) [40 C.F.R. §264.1056(a)(1)], requires that each open-ended valve or line which contains or contacts dangerous waste with organic concentrations of at least 10 percent by weight shall be equipped with a cap, blind flange, plug, or a second valve.

At the time of EPA’s May 24-25, 2022 inspection (“the inspection”), in Respondent’s Building 1051, inspectors observed that Tanks TSD-101, TSD-102, TSD-103, TSD-104, TSD-105, and TSD-106, which contained or contacted dangerous waste with organic concentrations of at least 10 percent by weight, each had open-ended lines, in violation of Section D-8 of Respondent’s dangerous waste permit.

- b. WAC 173-303-800 requires that the owner/operator of a dangerous waste facility that treats, stores, or disposes dangerous waste must have a permit issued, or obtain a permit, in accordance with WAC 173-303-800 through 173-303-840. WAC 173-303-200(1) allows that

a dangerous waste generator may accumulate dangerous waste on-site without a permit for 90 days or less after the date of generation provided that, among other things, in 90 days or less all such waste is either shipped off-site to a designated facility, placed in an on-site permitted facility, or recycled or treated on-site.

At the time of the inspection, in Respondent's Building 489 90-day central accumulation area, location K0489-12, inspectors observed a container of dangerous waste marked as "Glyptal with F1 Primer". The container had an accumulation start date of February 26, 2022, 102 days prior to the inspection. The container of dangerous waste therefore was accumulated in excess of 90 days. Respondent therefore did not meet the permit exemption condition at WAC 173-303-200(1) and required a dangerous waste permit for storage of this dangerous waste. Respondent did not have a dangerous permit for storage of this dangerous waste, in violation of WAC 173-303-800.

- c. Section F-3b of Respondent's dangerous waste permit states that all exits are to be marked with readily visible lighted signs.

At the time of the inspection inspectors observed that, as documented in Respondent's weekly and monthly Building 1051 inspections records, the exit sign light by Respondent's Drum Wash area was not functioning between the dates June 16, 2021 and May 24, 2022, in violation of the requirement at Section F-3b of Respondent's dangerous waste permit.

5. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$4,500. The attached Penalty Calculation Worksheet is incorporated by reference.
6. In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (6) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b); and (7) consents to electronic service of the filed ESA.
7. The Respondent waives its rights to confer with the Administrator pursuant to section 6001(b)(2) of RCRA, 42 U.S.C. § 6961(b)(2).
8. Within 30 days of the effective date of this Agreement, Respondent shall pay a civil penalty of \$4,500 for the RCRA violations identified in this Agreement. Payments under this Agreement may be made 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 979078
St. Louis, Missouri 63197-9000

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

9. Concurrent with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 8 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10
R10_RHC@epa.gov

Kevin Schanilec
U.S. Environmental Protection Agency
Region 10
schanilec.kevin@epa.gov

10. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Agreement and Final Order and to execute and legally bind Respondent to it.
11. 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.
12. Each party shall bear its own costs and fees, if any.
13. This Agreement and Final Order shall constitute full settlement of the civil claims alleged herein.
14. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state or local income tax purposes.
15. Respondent shall seek all existing funds to meet the requirements of this Agreement. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with RCRA, the applicable regulations thereunder, or this Agreement. Nothing in this Agreement shall be interpreted to require obligations or payment of funds in violation of the Antideficiency Act, 31 U.S.C. 1341.
16. This Agreement is binding on the parties signing below and, in accordance with 40 C.F.R. § 22.31(b), is effective upon filing of the Final Order with the Regional Hearing Clerk for the EPA, Region 10.

IT IS SO AGREED,

RESPONDENT:

Name (print): Terrance Hiatt

Title (print): Environmental Compliance Branch Head

Signature: HIATT.TERRANCE.D. 1167289394
Digitally signed by
HIATT.TERRANCE.D.1167289394
Date: 2023.09.05 11:27:37 -07'00'

Date: 5SEP23

EPA REGION 10:

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

Date: _____

FINAL ORDER

I hereby ratify the Expedited Settlement Agreement and incorporate it by reference. This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall be effective immediately upon filing with the Regional Hearing Clerk for the EPA, Region 10. Such filing will conclude this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED,

Richard Mednick, Regional Judicial Officer
U.S. Environmental Protection Agency, Region 10

Date: _____

Certificate of Service

The undersigned certifies that the original of the attached EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Naval Undersea Warfare Center Division, Keyport, Docket No.: RCRA-10-2023-0140, 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 via electronic mail to:

Kevin Schanilec
U.S. Environmental Protection Agency
Region 10
schanilec.kevin@epa.gov

Terrance Hiatt
Naval Undersea Warfare Center Division, Keyport
610 Dowell Street
Keyport, WA 98345
terrance.d.hiatt.civ@us.navy.mil

DATED this _____ day of _____, 2023.

Regional Hearing Clerk
EPA Region 10