

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

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EPA--REGION 10

IN THE MATTER OF:)
)
United States Department of Homeland Security)
Coast Guard Base Support Unit Ketchikan)
Ketchikan, Alaska)
EPA ID Number: AK8 69036 0492)
)
Respondent.)
_____)

Docket No. RCRA-10-2011-0135

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”) and 40 C.F.R. § 22.13(b).
2. The U.S. Department of Homeland Security Coast Guard Base Support Unit Ketchikan (“Respondent”) is the owner or operator of a facility at 1300 Stedman Street, Ketchikan, Alaska 99901 (“Facility”). The EPA inspected the Facility on May 27-28, 2010. The EPA alleges Respondent violated the following requirements of RCRA:
 - a. 40 C.F.R § 279.22(c)(1) requires that containers and tanks used to store used oil be labeled or marked clearly with the words “Used Oil.” On May 27, 2010, 69 containers of used oil were not labeled with the words “Used Oil,” in violation of 40 C.F.R. § 279.22(c)(1).
 - b. 40 C.F.R. Part 273 requires that containers of universal waste lamps be labeled [40 C.F.R. § 273.14(e)], closed [40 C.F.R. § 273.13(d)(1)], and that the handler be able to demonstrate the length of the time universal waste has been accumulated [40 C.F.R. § 273.15(c)]. On May 27, 2010, three boxes of universal waste lamps were not labeled, were not closed, and Respondent did not have a record of when accumulation began, in violation of 40 C.F.R. Part 273.
 - c. 40 C.F.R. § 262.34(a)(1)(i) references 40 C.F.R. § 265.174, which requires that areas where containers of hazardous waste are stored be inspected at least weekly. Based on inspection logs, weekly inspections of the 90-day area had not been conducted on 17 occasions since 2007, in violation of a condition set forth in 40 C.F.R. § 262.34(a)(1)(i).
 - d. 40 C.F.R. § 262.42(a)(2) requires that an exception report be submitted when a signed manifest is not returned within 45 days of shipment. Since 2008, exception reports were not submitted for seven manifests that were not returned within 45 days of shipment, in violation of 40 C.F.R. § 262.42(a)(2).

3. The EPA has determined and Respondent agrees that settlement of this matter for a civil penalty of three thousand dollars (\$3000.00) 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 or electronic funds transfer 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

Kristin McNeill, 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.

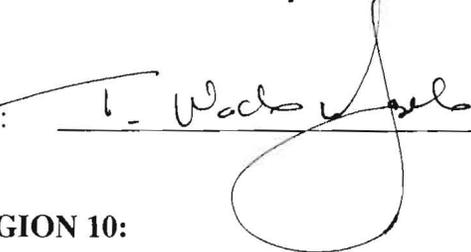
9. In signing this Agreement, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violations have been corrected, and (2) the civil penalty has been paid. Respondent is submitting proof of payment of the civil 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): T. Wade Gesele

Title (print): Commanding Officer

Signature: 

Date: 9/20/11

EPA REGION 10:

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

Date: 9/9/11

IT IS SO ORDERED:


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

Date: 9/22/11

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER** in **In the Matter of: United States Department Of Homeland Security Coast Guard Base Support Unit Ketchikan, Ketchikan, Alaska, DOCKET NO.: RCRA-10-2011-0135** was filed with the Regional Hearing Clerk on September 22, 2011.

On September 22, 2011, the undersigned certifies that a true and correct copy of the document was delivered to:

Margaret B. Silver, Esquire
Office of Regional Counsel
U.S. 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 September 22, 2011, to:

Commander T. Wade Gesele, USCG
United States Department of Homeland Security
Coast Guard Base Support Unit Ketchikan
1300 Stedman Street
Ketchikan, Alaska 99901

DATED this 22nd day of September 2011.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10